



(Reportable)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12935 OF 2023

BHAGWAT NAGRAJ PATIL,
(Deceased through his L.Rs.)
BAYJABAI BHAGWAT PATIL,
Age : 72 years, Occu: Household,
R/o Vikhran, Tq.Erandol,
Dist. Jalgaon.

...PETITIONER

VERSUS

1. THE STATE OF MAHARASHTRA
Through its: Secretary,
Revenue and Forest Department,
Mantralaya Mumbai-32.
2. The Dy. Conservator of Forest,
Jalgaon Forest Division Jalgaon.

...RESPONDENTS

**WITH
WRIT PETITION NO. 12940 OF 2023**

NANA PANDIT PAWAR,
Age : 50 years, Occu: Nil,
R/o Lakh Post Khurd, A/P Nandra,
Tq.Pachora, Dist. Jalgaon.

...PETITIONER

VERSUS

1. THE STATE OF MAHARASHTRA
Through its: Secretary,
Revenue and Forest Department,
Mantralaya Mumbai-32.

2. The Dy. Conservator of Forest,
Jalgaon Forest Division Jalgaon.

...RESPONDENTS

**WITH
WRIT PETITION NO. 12944 OF 2023**

TUKARAM BHAGA PAWAR,
Age : 74 years, Occu: Nil,
R/o Padmalaya, Tq.Erandol,
Dist. Jalgaon.

...PETITIONER

VERSUS

1. THE STATE OF MAHARASHTRA
Through its: Secretary,
Revenue and Forest Department,
Mantralaya Mumbai-32.
2. The Dy. Conservator of Forest,
Jalgaon Forest Division Jalgaon.

...RESPONDENTS

**WITH
WRIT PETITION NO. 12950 OF 2023**

YUVRAJ MATORAJ THAKARE,
(Deceased through his L.Rs.)
KALABAI YUVRAJ THAKARE (BHIL),
Age : 51 years, Occu: Household,
R/o Kurhad (Kh.) Tq.Pachora,
Dist. Jalgaon.

...PETITIONER

VERSUS

1. THE STATE OF MAHARASHTRA
Through its: Secretary,
Revenue and Forest Department,

Mantralaya Mumbai-32.

2. The Dy. Conservator of Forest,
Jalgaon Forest Division Jalgaon.

...RESPONDENTS

**WITH
WRIT PETITION NO. 12952 OF 2023**

PRAKASH MAHADU PATIL,
Age : 72 years, Occu: Nil,
R/o Asankheda, Tq.Pachora,
Dist. Jalgaon.

...PETITIONER

VERSUS

1. THE STATE OF MAHARASHTRA
Through its: Secretary,
Revenue and Forest Department,
Mantralaya Mumbai-32.
2. The Dy. Conservator of Forest,
Jalgaon Forest Division Jalgaon.

...RESPONDENTS

**WITH
WRIT PETITION NO. 12957 OF 2023**

PREMRAJ BUDHA PATIL,
(deceased through his L.Rs.)
BEBABAI PREMRAJ PATIL,
Age : 72 years, Occu.: Household,
R/o Umarde, Erandol (Rural),
Tq.Erandol, Dist. Jalgaon.

...PETITIONER

VERSUS

1. THE STATE OF MAHARASHTRA
Through its: Secretary,
Revenue and Forest Department,

Mantralaya Mumbai-32.

2. The Dy. Conservator of Forest,
Jalgaon Forest Division Jalgaon.

...RESPONDENTS

**WITH
WRIT PETITION NO. 114 OF 2024**

GULAB BUDHAN PATEL,
(deceased through his L.Rs.)
Taj Bi Shekh Gulab Musalman
Age: 73 years, Occu. Nil,
R/o. Kurhad Bk. Kurhad Tq. Pachora,
Dist. Jalgaon-424202.

...PETITIONER

-VERSUS-

1. THE STATE OF MAHARASHTRA
Through its: Secretary,
Revenue and Forest Department,
Mantralaya Mumbai-32.
2. The Dy. Conservator of Forest,
Jalgaon Forest Division Jalgaon.

...RESPONDENTS

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Shri Badribishan A. Darak, Advocate for the Petitioners.
Shri V.M. Kagne, AGP for Respondent Nos.1 and 2/State.

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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRADE, JJ.**

DATE :- 28th August, 2024

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*):-

1. Rule. Rule is made returnable forthwith and heard finally by the consent of the parties.

2. With the assistance of the learned Advocates, we have gone through the petition paper book and the affidavit in reply filed on behalf of the Deputy Conservator of Forest in each of these matters.

3. Shri Pravin A., Deputy Conservator of Forest, Jalgaon Forest Department, Jalgaon, is present in the Court and has tendered the original file for our perusal. Though he is the Respondent in these matters, an affidavit in reply on his behalf has been filed by the Assistant Conservator of Forest, who does not explain as to why Respondent No.2 has not filed the affidavit. It is only stated that he is authorized by the Deputy Conservator of Forest to file the affidavit.

4. The learned AGP Shri Kagne submits that the State is Respondent No.1 and the Deputy Conservator of Forest is

Respondent No. 2. The Assistant Conservator of Forest has filed the affidavit on behalf of both these parties. Such submission cannot be countenanced.

FACTUAL BACKGROUND OF THESE CASES

5. The facts, as they emerge from the record, are undisputed. Each of these Petitioners had approached the Industrial Court, either at Nashik or at Jalgaon, by filing their ULP Complaints under Section 28(1), read with Items 6, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, (for short, 'The MRTU and PULP Act'). It is also undisputed that after the Industrial Court was established at Jalgaon, some of the matters, which were filed in 1997, were transferred to Jalgaon and were registered in 1999. It is also undisputed that all these Complaints were partly allowed. It was declared by the Industrial Court that the Forest Department had indulged in unfair labor practices under Item 6 and 9 of Schedule IV of the MRTU and PULP Act. Monetary benefits on the principle of 'Equal Wages For Equal Work' were directed to be paid.

6. The Deputy Conservator of Forest, Jalgaon along with the Range Forest Officer, preferred Writ Petition No.1368/2005 (*The State of Maharashtra and others vs. Ramesh Narayan Patil*) and other connected petitions before the Single Judge Bench of this Court for challenging the judgments of the Industrial Court. Keeping in view the law laid down by the Honourable Supreme Court in *Bangalore Water and Sewerage Board vs. A. Rajappa and others, (1978) 2 SCC 213* and the judgment of this Court [Coram : A. S. Oka (as His Lordship then was) and M. S. Sonak JJ.] in the matter of *Chief Conservator of Forest, Pune (T) and another vs. Janabai Sonaba Sarpale, 2019 II CLR 28*, it was declared by the Single Judge, vide judgment dated 14.03.2022, that the Social Forestry Department is an industry. The objection of the Forest Department that the Complaints were not maintainable before the Industrial Court, was negated.

7. It is also an admitted position that, neither did the Forest Department prove before the Industrial Court that any of these Employees were working under the Employment Guarantee Scheme (EGS), nor could the Forest Department

establish before the Single Judge Bench that these workers were working under EGS. Paragraph Nos.4, 5 and 6 of the judgment of the Single Judge dated 14.03.2022 (supra), read thus:-

- “4. *The learned Advocate for the petitioner turns to his second limb of submissions that all these respondents were appointed as temporary Mazdoor or Forest Guards and they were working under the Employment Guarantee Scheme (EGS). He has vehemently contended that this court has consistently taken a view that workers working on EGS cannot seek reinstatement, regular employment or permanency in service. A specific stand was taken in the written statement that these workers are working under EGS.*
 5. *I have perused the record available, with the assistance of the learned Advocates for the respective sides. It is obvious that the petitioner has merely taken a stand that these workers were working under EGS. However, no record has been produced before the Labour Court. No documents indicating that these workers were working under the EGS have been produced.*
 6. *It requires no debate that there are special Cells in various Departments in the State of Maharashtra to deal with EGS employees. A specific officer is entrusted with handling the department of the EGS. All EGS employees are issued with cards indicating their identity and the fact that they are working under EGS. Their payments are made through the EGS funds. Their attendance and pay register are maintained by the officer handling the EGS Department. None of these documents were produced before the labour court and as such the labour court rightly concluded that, besides a mere statement in written statement, there was no evidence to support/substantiate the claim of the petitioners that these respondents were working in EGS.”*
8. It was further held in paragraph Nos. 7 to 10 of the

judgment dated 14.03.2022 (supra), as under:-

- “7. *Record reveals that these workers have been working on daily wages for more than three decades. Some joined in 1986 and some joined in 1988. Most of them have superannuated. The impugned judgments have been delivered by the Industrial Court, Jalgaon in 2003. Since these matters were admitted, the respondent/original complainants were continued in employment on daily wages and have been kept away from the benefits incidental and consequential to regularization, since, this court stayed the direction of the Industrial Court granting them permanency.*
8. *In view of the above, I do not find that the impugned judgment of the Industrial Court could be termed as being perverse or erroneous. The Industrial Court has rightly followed the law laid down in the Chief Conservator of Forests and another Vs Jagannath Maruti Kondhare reported in (1996) 2 SCC 293 wherein it was directed that if posts are not available, parity in wages on the basis of the principle of “Equal pay for equal wages”, has to be followed.*
9. *In view of the above, these petitions are dismissed. Rule is discharged.*
10. *Needless to state that the respondents would be entitled to the benefits of difference in wages as was directed by the Industrial Court. Considering that these respondents have been working for more than three decades and many of them have superannuated, the petitioner-Deputy Conservator of Forest Jalgaon Forest Division shall forward the proposals of these respondents to the appropriate authorities for considering grant of regularization and a deemed date of regularization. Such proposals shall be prepared on or before 30-06-2022 and shall be forwarded to the Principal Secretary Forest Department. Said department shall consider these proposals as expeditiously as possible and in any case on or before 31-11-2022. The eligible candidates would be granted deemed dates of regularization with all*

monetary benefits incidental and consequential thereto.”

9. It is, thus, apparent that the Petitioners before us were proved to be working for more than three decades. These are concurrent findings of the Industrial Court as well as the Single Judge Bench of this Court. It is in this backdrop that the Single Judge Bench directed the Forest Department to forward the proposals of these Petitioners for regularization, grant of deemed date of regularization and the payment of regular pay-scale/ arrears in the light of the law laid down by the Honourable Supreme Court in **Chief Conservator of Forest and another vs. Jagannath Maruti Kondhare, (1996) 2 SCC 293.**

ISSUES INVOLVED IN THESE CASES

10. The controversy in these matters begins at this stage. Shri V.V.Hoshing, Deputy Conservator of Forest, Jalgaon Forest Department, (hereinafter ‘DCF’), submitted the proposal dated 25.06.2022, to the Conservator of Forest (Territorial), Dhule, wherein, he has practically sat over the judgment of the Industrial Tribunal as well as the judgment of the Single Judge Bench of the High Court, by stating that 15 out of 16 proposals do not

deserve consideration since they never worked for 240 days in a year and several of them worked under the Employment Guarantee Scheme (EGS). Such report of the DCF is not only unconscionable, but an attempt to over bear the conclusions of the Industrial Court and the High Court. It is for this purpose that we have reproduced the conclusions of the Single Judge Bench herein above.

11. Though we are not taking this issue any further, it is apparently an act of overreach by the DCF, which has the trappings of a willful disobedience of the order of this Court. On the basis of this tainted proposal, the Conservator of Forest (Territorial), Dhule has forwarded the proposal to the Principal Secretary, Forest and Revenue Department, State of Maharashtra. Thereafter, the DCF informed each of these Petitioners with the communication dated 01.05.2023, that regularization cannot be granted to these Petitioners since they do not fulfill the requirements of the Government Resolutions dated 31.01.1996 and 16.10.2012.

12. The learned AGP submits that in both these

Government Resolutions, it is provided that regularization would not be granted if the criteria of completion of 240 days in any scheme other than EGS, was not fulfilled by any of these Petitioners. We are of the view that, when there are concurrent findings that these Petitioners have continuously worked for 3 decades. The DCF has forwarded incorrect information to the State. This is the reason why we have drawn the conclusion that the Deputy Conservator of Forest, Jalgaon sat on the conclusions of the Industrial Court and the Single Judge Bench despite concurrent findings that these Petitioners were working continuously for almost three decades.

13. We are pained to record that out of these Petitioners before us, four have passed away and their legal heirs are on record. Except one Petitioner, all have retired from service. Reversing the clock for directing the Government to reconsider their cases for regularization and grant the deemed dates of regularization when many of these Petitioners have left this world and some of the widows on record are almost 75 years of age, would be an impracticable and cumbersome exercise. Moreover, if further inappropriate orders are passed by the Forest

Department and the desired result, which was expected by the two Courts which delivered judgments in these matters, is not achieved, these Petitioners would have to continue with further litigation.

CONCLUSIONS

14. It is in the above backdrop that the learned Advocate for the Petitioners, submits on instructions, that in few cases, this Court has granted Rs.1,00,000/- (One Lakh) compensation per year of service put in by a daily wager working in the Forest Department. He prays for adequate compensation to these Petitioners in lieu of regularization, deemed date of regularization, pension, gratuity and the outstanding difference of wages payable on the principle of 'Equal Wages for Equal Work' in the light of the judgment delivered in ***Jagannath Kondhare (supra)***, which would be acceptable to these Petitioners.

15. We have perused the judgments delivered by the Honourable Supreme Court in similar circumstances in (a) ***Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal, 2013 LLR 1009, (b)***

Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, (2013) 5 SCC 136, (c) BSNL Vs. Man Singh, (2012) 1 SCC 558, and (d) Jagbir Singh Vs. Haryana State Agriculture Marketing Board, (2009) 15 SCC 327. The compensation granted by the Honourable Supreme Court in these matters was in between 2009 to 2013. It is more than 10 to 12 years that have passed by after the said quantification of compensation.

16. Considering the above cited reports, we are of the view that it would be impracticable to remit all these matters back to the Government for reconsideration. As noted above, further litigation cannot be ruled out. All these Petitioners, commenced their litigation journey in 1997 and it is almost 27 years that they are in litigating in Courts. Many of them have passed away. It is high time that we should give a quietus to this litigation. We have taken into account these factors for considering the request of the learned Advocate for the Petitioners to grant *lump sum* compensation to these Petitioners/ legal heirs.

17. The learned AGP submits, on instructions, that the Forest Department is in a financial stringency and they have no funds to pay even difference of wages. The proposal for payment of wages of difference is also pending.

18. Since the difference of pay-scale is also not paid to these Petitioners and since there are concurrent findings that they have worked for three decades, except the Petitioner (Nana Pandit Pawar) in Writ Petition No.12940/2023, who has put in 2 decades, we conclude that the Forest Department/Respondent No.1 herein shall pay *lump sum* compensation of Rs. 10,00,000/- (Ten Lakhs) to these Petitioners (except Nana Pandit Pawar) or to their legal heirs in case of death of the original Petitioners, in lieu of regularization, gratuity, retiral benefits, the difference in payment of salary, if not yet paid, etc..

19. **These Writ Petitions are, therefore, partly allowed in terms of the above conclusions.** The amount of Rs.10,00,000/- (Ten Lakhs) per Petitioner employee or his legal heir in case of death of the original Petitioner, except the Petitioner (Nana Pandit Pawar) in Writ Petition No.12940/2023,

shall be deposited in this Court, on or before 30.09.2024.

20. Insofar as Writ Petition No.12940/2023 filed by the Petitioner Nana Pandit Pawar is concerned, he is 50 years of age. The learned Advocate for the Petitioner submits that Nana Pandit Pawar is also nearing his retirement and presently, is not allotted any work. He was also before the Industrial Court and the Single Judge Bench of this Court and has succeeded in litigation. It can be construed that he has worked for than 20 years. He is also willing to accept *lump sum* compensation and give a quietus to this litigation.

21. Hence, in the case Nana Pandit Pawar in Writ Petition No.12940/2023, we are granting a *lump sum* compensation of Rs.7,50,000/- (Seven Lakhs Fifty Thousands). This amount shall also be deposited in this Court on or before 30.09.2024.

22. We would not grant extension of time for depositing the amount. The Petitioners or the legal representative before us are permitted to withdraw the said amounts without conditions,

under due identification by the learned Advocate for the Petitioners. A copy of their Adhar Card and/or Election Commission Voter Identity Card, duly attested by the concerned Petitioner/ legal heir shall be placed on record along with the application for withdrawal of the amount.

23. Even if the Model Code of Conduct is declared, it would not be an impediment for implementing this order and for depositing the amounts in this Court.

24. Rule is made partly absolute in terms of the above directions.

kps **(Y. G. KHOBRADE, J.)** **(RAVINDRA V. GHUGE, J.)**