ARUNA SANDEEP TALWALKAR
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1818 OF 2024

Digambar Janappa Kolekar. … Petitioner
Versus
State of Maharashtra & Ors. … Respondents.

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Mr. Ashutosh Kulkarni a/w. Ms. Vrushali Maindad a/w. Ms. Surbhi Kulkarni, Mr. Kunal Rathod, for the Petitioner.

Mr. M.M. Pabale, AGP for Respondent Nos. 1 to 5/State.

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CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.

DATE : 30th JANUARY, 2025

P.C. :

1. The Petitioner has approached this Court for seeking permanency in employment as VanMajur (Forest Guard) on the ground of having completed 240 days in continuous employment with effect from 1/4/1996.

2. We find that the present Petitioner had approached the Industrial Court in Complaint(ULP) No. 479 of 1996. By Judgment dated 18th October, 2001 his complaint was dismissed and he was not granted permanency. The contention of the Petitioner is that as he was

engaged by the department even after the dismissal of his Complaint and he has been in the employment for the last 23 years, based on this period of service that a right to pay for permanency accrues to him.

3. It is trite's law that an employee has to prove completion of 240 days in the continuous and uninterrupted service of the employer, 12 months preceding to any date of reference. Moreover, it is also settled that in Government/Semi-Government/State Instrumentalities/Public Sector undertakings, mere completion of 240 days does not give a right to permanency. In such circumstances, the onus and burden would be on the Petitioner to prove on the basis of oral and documentary evidence that he is eligible for permanency. This is possible before the Industrial Court under the M.R.T.U. & P.U.L.P. Act, 1971 or under the provisions of Industrial Disputes Act, 1947.

4. By keeping open the aforesaid legal remedy, this **Petition is disposed off.**

(ASHWIN D. BHOBE, J.) (RAVINDRA V. GHUGE, J.)