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THE STATE OF MAHARASHTRA

v.

DEORAO AND ANR. ETC.

DECEMBER 7, 1995

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[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Service Law :

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Daily wages workers—Absorption of on regular basis—Respondents working as daily wage workers in Forest Department in State of Maharashtra for over 8 years—Claim for absorption on regular basis—Department stating that workers were over-aged and also lacking physical standard prescribed under scheme of absorption—Held respondents be absorbed as and when vacancies arise—Age relaxation be given—Relaxation in physical standard would also be given if found marginally short of minimum prescribed.

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The State Government of Maharashtra filed the present appeal against the orders of the State Tribunal passed in respect of the workers engaged as Assistant Plantation Officer, Ropvan Kotwals and Clerks on daily wage basis, who had approached the Tribunal on termination of their services by the State Government. On the directions given by this Court, the State Government formulated a scheme whereunder the daily wage workers were to be absorbed on regular basis. Under the scheme the Government fixed minimum educational qualification, age and physical standard for absorption of temporary workers. The State Government filed affidavit stating that 62 Assistant Plantation Officers, 9 Clerks and 31 Ropvan Kotwals who were qualified under the scheme had already been absorbed. However, 42 Ropvan Kotwals who had already put in 8 years of service from the initial date of appointment were still to be absorbed. It was stated that though they possessed the minimum educational qualification prescribed, since they were over-aged and lacking in physical standard as prescribed under the scheme, they could not be absorbed.

Disposing of the appeals, this Court

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HELD : The appropriate officer would conduct physical examination of the left over candidates and if they are marginally short of the minimum prescribed, their cases would be considered and they would be absorbed if

there are vacancies in any of the schemes under the Forest Department. However, if there are no vacancies, they would be absorbed as and when the vacancies arise. They will not be entitled to back wages from the date of the protection given by the Tribunal till the date of absorption. As and when there is any work to be done on daily wage basis they would be engaged as per rules or instructions. If they become over aged at the time of recruitment, necessary age relaxation also be given. All the proceedings pending in the Tribunal stand closed. [321-B-C; D-E]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 11901 of 1995 Etc.

From the Judgment and Order dated 20.10.93 of the Bombay High Court in R.P. No. 559 of 1992.

With

C.A. No. 11092 of 1995.

K. Madhava Reddy and S.M. Jadhav for the Appellants.

S.V. Deshpande for the Respondents.

The following Order of the Court was delivered :

Delay Condoned. Leave granted.

On September 4, 1995, we issued the following directions :

"It is stated by Sh. K. Madhava Raddy, learned senior counsel appearing for the State that the Government had not duly approved the recommendations made by the Committee. But with modifications, certain procedure has been prescribed for absorption of such of those candidates like the respondents appointed in the Forest Department. It is also stated that those two respondents having been found eligible according to the Scheme, they have been absorbed. It is brought to our notice that the persons claiming similar reliefs have filed the petitions in the Tribunal and also the contempt proceedings against the State for non-implementation. In that situation, the appropriate course would be that the State should file an affidavit by the competent Officer enclosing the

A Scheme evolved for workmen. Then we would be in a position to consider the cases and pass appropriate orders. Mr. Madhava Reddy seeks for and is granted four weeks time for filing the affidavit. It would be open to the counsel appearing in the Tribunal to bring this order to the notice of the Tribunal and the Tribunal would do the needful. List after four weeks."

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Pursuant thereto, the appellant have framed Scheme for absorption of all these temporary candidates working as Assistant Plantation Officers, Ropvan Kotwals and clerks. Under the above scheme, we are informed that 62 Assistant Plantation Officers and 9 Clerks who were qualified under the Scheme, have already been absorbed. Even out of 73 Ropvan Kotwals, 31 candidates have already been absorbed. What remains are only 42 candidates. It is seen that under the Scheme the criteria prescribed are as under :

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"13. It is submitted that the following eligibility criteria regarding reappointment of the terminated Ropvan Kotwals has been applied in deciding their eligibility/non-eligibility :

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(a) The names of the candidates for the post of Ropvan Kotwal must come through the Government approved agencies like the Employment Exchange, the Social Welfare officer, etc.

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(b) The candidate for the post of Ropvan Kotwal must fulfil the following conditions at the time of recruitment;

(i) He must have passed VII Standard Examination.

(ii) He must not be over 28 years of age (Relaxation of 5 years is granted in case of backward class candidate).

(iii) He must meet the following physical standards;

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1. Height : Minimum 163 cm.

2. Chest : Minimum 79 cm.

Inflated minimum 84 cm.

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3. Minimum inflation
of Chest : 5 cm. "

We cannot find fault with the scheme as framed by the appellant. A
But however, the facts remain that 42 Ropvan Kotwals had already put in
about eight years of service from the initial dates of appointment. It is
stated by Mr. Deshpande, the learned counsel appearing for the respon-
dents that they passed the 8th standard examination prescribed. It would
appear that they were over aged at the date of initial appointment and B
some of them did not prescribe the minimum Height of 163 cms. and
expansion of Chest at 79 cms. as prescribed under the Scheme. We cannot
straightaway give directions for absorption of them. We direct the ap-
propriate officer to examine them, conduct physical examination of them
and if they are marginally short of, the minimum prescribed under the
Scheme, their cases would be considered and absorbed. When we asked C
the counsel for the State, on instructions, it is stated by Mr. S.M. Jadhav
that as at present there are no vacancies existing. Shri S.V. Deshpande
stated that there were advertisements made calling for fresh recruitment
but may be in some other scheme. In whatever scheme that may be in
operation, if they are eligible to that scheme, the case of the left over D
candidates also would be considered and appropriate orders may be made.
It is denied by the counsel for the State. If there are no advertisements
made as contended for, as and when the vacancies arise, their cases would
be considered and absorbed. They will not be entitled to backwages from
the date of the protection given by the Tribunal till the date of absorption.
As and when there is any work to be done on daily basis, they would be E
engaged as per rules or instructions. If they become over aged at the time
of recruitment, necessary age relaxation also be given. All the proceedings
pending in the Tribunal stand closed.

The appeals are accordingly disposed of. No costs.

R.P.

Appeal disposed of.