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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 233 OF 2008
IN
WRIT PETITION NO. 436 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Tulashiram Rama Khutade .... Respondent

WITH
LETTERS PATENT APPEAL NO. 207 OF 2008
IN
WRIT PETITION NO. 7436 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Ramaji Kalu Borase .... Respondent

WITH
LETTERS PATENT APPEAL NO. 209 OF 2008
IN
WRIT PETITION NO. 446 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Budha Pandu Mondhe .... Respondent

WITH
LETTERS PATENT APPEAL NO. 214 OF 2008
IN
WRIT PETITION NO. 448 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Deoram S. Sunwate and anr. .... Respondents

WITH
LETTERS PATENT APPEAL NO. 235 OF 2008
IN
WRIT PETITION NO. 7656 OF 2000

The Divisional Manager, Forest

Development Corporation, Nashik …. Appellant
v/s.
Shivaji Vaman Sabale …. Respondent

WITH
LETTERS PATENT APPEAL NO. 215 OF 2008
IN
WRIT PETITION NO. 7453 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Chandar Bhorji Mirka …. Respondent

WITH
LETTERS PATENT APPEAL NO. 236 OF 2008
IN
WRIT PETITION NO. 7445 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Kalu Ramji Khade …. Respondent

WITH
LETTERS PATENT APPEAL NO. 237 OF 2008
IN
WRIT PETITION NO. 421 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Deoram Sitaram Jadhav …. Respondent

WITH
LETTERS PATENT APPEAL NO. 238 OF 2008
IN
WRIT PETITION NO. 418 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Pandurang Rajaram Chaudhary …. Respondent

WITH
LETTERS PATENT APPEAL NO. 239 OF 2008
IN
WRIT PETITION NO. 7663 OF 2000

The Divisional Manager, Forest

Development Corporation, Nashik .... Appellant
v/s.
Shri. Sitaram Vitthal Raut .... Respondent

WITH
LETTERS PATENT APPEAL NO. 240 OF 2008
IN
WRIT PETITION NO. 7665 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Shri. Tulashiram Rawaji Khadam .... Respondent

WITH
LETTERS PATENT APPEAL NO. 241 OF 2008
IN
WRIT PETITION NO. 7666 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Namdeo Tulshiram Raut .... Respondent

WITH
LETTERS PATENT APPEAL NO. 242 OF 2008
IN
WRIT PETITION NO. 7658 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Muralidhar Yewaji Jadhav .... Respondent

WITH
LETTERS PATENT APPEAL NO. 243 OF 2008
IN
WRIT PETITION NO. 7659 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Shri. Bhika Gangaram Dalavi .... Respondent

WITH
LETTERS PATENT APPEAL NO. 244 OF 2008
IN
WRIT PETITION NO. 7664 OF 2000

The Divisional Manager, Forest

Development Corporation, Nashik …. Appellant
v/s.
Soma Kalu Wagale …. Respondent

WITH
LETTERS PATENT APPEAL NO. 245 OF 2008
IN
WRIT PETITION NO. 413 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Kashinath Rama Choudhary …. Respondent

WITH
LETTERS PATENT APPEAL NO. 246 OF 2008
IN
WRIT PETITION NO. 7441 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Jagan Santu Gaikwad …. Respondent

WITH
LETTERS PATENT APPEAL NO. 247 OF 2008
IN
WRIT PETITION NO. 428 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Kalu Janu Kakad …. Respondent

WITH
LETTERS PATENT APPEAL NO. 248 OF 2008
IN
WRIT PETITION NO. 7437 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Deoram Shivaram Sumbar …. Respondent

WITH
LETTERS PATENT APPEAL NO. 249 OF 2008
IN
WRIT PETITION NO. 458 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant

v/s.
Shri. Kisan Arjun Valavi …. Respondent

WITH
LETTERS PATENT APPEAL NO. 250 OF 2008
IN
WRIT PETITION NO. 432 OF 2001

The Divisional Manager, Forest265
Development Corporation, Nashik …. Appellant
v/s.
Shri. Deoram Pandu Khotare …. Respondent

WITH
LETTERS PATENT APPEAL NO. 251 OF 2008
IN
WRIT PETITION NO. 454 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Ramdas Sakharam Bhoya …. Respondent

WITH
LETTERS PATENT APPEAL NO. 252 OF 2008
IN
WRIT PETITION NO. 440 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Kisan Lahanu Gangode …. Respondent

WITH
LETTERS PATENT APPEAL NO. 253 OF 2008
IN
WRIT PETITION NO. 7452 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Keshav Rama Waghmare …. Respondent

WITH
LETTERS PATENT APPEAL NO. 254 OF 2008
IN
WRIT PETITION NO. 7667 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant

v/s.
Nareyan Pandu Shingade …. Respondent

WITH
LETTERS PATENT APPEAL NO. 255 OF 2008
IN
WRIT PETITION NO. 7444 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Raghunath Janu Pawar …. Respondent

WITH
LETTERS PATENT APPEAL NO. 256 OF 2008
IN
WRIT PETITION NO. 434 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Rajendra Vasant Karpe …. Respondent

WITH
LETTERS PATENT APPEAL NO. 257 OF 2008
IN
WRIT PETITION NO. 453 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shailesh Anirudh Sharma …. Respondent

WITH
LETTERS PATENT APPEAL NO. 258 OF 2008
IN
WRIT PETITION NO.412 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Subhas Chandar Sonar …. Respondent

WITH
LETTERS PATENT APPEAL NO. 259 OF 2008
IN
WRIT PETITION NO. 416 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant

v/s.
Shri. Soma Chimana Chaudhari …. Respondent

WITH
LETTERS PATENT APPEAL NO. 234 OF 2008
IN
WRIT PETITION NO. 439 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Santu Ragho Lahare …. Respondent

WITH
LETTERS PATENT APPEAL NO. 275 OF 2008
IN
WRIT PETITION NO. 426 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Tulshiram Kakdu Dagale …. Respondent

WITH
LETTERS PATENT APPEAL NO. 260 OF 2008
IN
WRIT PETITION NO. 7455 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Changdeo Waman Pawar …. Respondent

WITH
LETTERS PATENT APPEAL NO. 261 OF 2008
IN
WRIT PETITION NO. 7451 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Deoram Kalu Dhonnar …. Respondent

WITH
LETTERS PATENT APPEAL NO. 262 OF 2008
IN
WRIT PETITION NO 7440 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant

v/s.
Chandar Hari Mahale …. Respondent

WITH
LETTERS PATENT APPEAL NO. 263 OF 2008
IN
WRIT PETITION NO. 414 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Kashinath Khandu Raundal …. Respondent

WITH
LETTERS PATENT APPEAL NO. 264 OF 2008
IN
WRIT PETITION NO. 427 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Nandkumar Jagan Waghmare …. Respondent

WITH
LETTERS PATENT APPEAL NO. 265 OF 2008
IN
WRIT PETITION NO. 7430 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Prabhakar Narayan Amodkar …. Respondent

WITH
LETTERS PATENT APPEAL NO. 266 OF 2008
IN
WRIT PETITION NO. 7448 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Narayan Fulsing Patil …. Respondent

WITH
LETTERS PATENT APPEAL NO. 267 OF 2008
IN
WRIT PETITION NO. 7653 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant

v/s.
Ayub Makbul Khatik …. Respondent

WITH
LETTERS PATENT APPEAL NO. 282 OF 2008
IN
WRIT PETITION NO. 435 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Lahanu Arjun Pawar …. Respondent

WITH
LETTERS PATENT APPEAL NO. 268 OF 2008
IN
WRIT PETITION NO. 7428 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Rajendra Pandurang Sonawane …. Respondent

WITH
LETTERS PATENT APPEAL NO. 269 OF 2008
IN
WRIT PETITION NO. 7655 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Fakira Baldar Tadvi …. Respondent

WITH
LETTERS PATENT APPEAL NO. 270 OF 2008
IN
WRIT PETITION NO. 7671 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Sanjay Kisan Sonawane …. Respondent

WITH
LETTERS PATENT APPEAL NO. 271 OF 2008
IN
WRIT PETITION NO. 420 OF 2001

The Divisional Manager, Forest

Development Corporation, Nashik .... Appellant
v/s.
Dinkar Raghunath Gangode .... Respondent

WITH
LETTERS PATENT APPEAL NO. 272 OF 2008
IN
WRIT PETITION NO. 7439 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Manohar Valu Shingade .... Respondent

WITH
LETTERS PATENT APPEAL NO. 289 OF 2008
IN
WRIT PETITION NO. 7438 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Waman Balu Gawali .... Respondent

WITH
LETTERS PATENT APPEAL NO. 290 OF 2008
IN
WRIT PETITION NO. 455 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Shri. Soma Bhau Pakhane .... Respondent

WITH
LETTERS PATENT APPEAL NO. 291 OF 2008
IN
WRIT PETITION NO. 7672 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Dharma Sakharam Pawar .... Respondent

WITH
LETTERS PATENT APPEAL NO. 295 OF 2008
IN
WRIT PETITION NO. 7661 OF 2000

The Divisional Manager, Forest

Development Corporation, Nashik .... Appellant
v/s.
Keshav Amruta Chaudhary .... Respondent

WITH
LETTERS PATENT APPEAL NO. 296 OF 2008
IN
WRIT PETITION NO. 7657 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Shri. Jayram Sitaram Ahire .... Respondent

WITH
LETTERS PATENT APPEAL NO. 297 OF 2008
IN
WRIT PETITION NO. 7660 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Shri. Subhas Shankar Dhumase .... Respondent

WITH
LETTERS PATENT APPEAL NO. 298 OF 2008
IN
WRIT PETITION NO. 7446 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Shivram Gangaram Raut .... Respondent

WITH
LETTERS PATENT APPEAL NO. 299 OF 2008
IN
WRIT PETITION NO. 425 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik .... Appellant
v/s.
Shri. Shivaji Mahadu Borse .... Respondent

WITH
LETTERS PATENT APPEAL NO. 300 OF 2008
IN
WRIT PETITION NO. 7435 OF 2000

The Divisional Manager, Forest

Development Corporation, Nashik …. Appellant
v/s.
Pandurang Mahadu Pawar …. Respondent

WITH
LETTERS PATENT APPEAL NO. 301 OF 2008
IN
WRIT PETITION NO. 429 OF 2001

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Kalu Jiva Bagul …. Respondent

WITH
LETTERS PATENT APPEAL NO. 302 OF 2008
IN
WRIT PETITION NO. 7662 OF 2000

The Divisional Manager, Forest
Development Corporation, Nashik …. Appellant
v/s.
Shri. Vijay Udaysingh Girase …. Respondent

Mr. Ashwinikumar R. Kapadnis for Appellant
Mr. Kiran Bapat, Senior Advocate aw Mrs. Pavitra Manish aw Mr. Madhur Surana aw Mr. S.A. Mulla for Respondent in LPA/233/2008, LPA/207/2008, LPA/209/2008, LPA/214/2008, LPA/235/2008, LPA/215/2008, LPA/236/2008, LPA/237/2008, LPA/238/2008, LPA/239/2008, LPA/240/2008, LPA/242/2008, LPA/245/2008, LPA/247/2008, LPA/248/2008, LPA/249/2008, LPA/250/2008, LPA/251/2008, LPA/252/2008, LPA/254/2008, LPA/255/2008, LPA/256/2008, LPA/257/2008, LPA/258/2008, LPA/259/2008, LPA/234/2008, LPA/275/2008, LPA/261/2008, LPA/262/2008, LPA/265/2008, LPA/266/2008, LPA/282/2008, LPA/268/2008, LPA/269/2008, LPA/271/2008, LPA/272/2008, LPA/289/2008, LPA/290/2008, LPA/291/2008, LPA/296/2008, LPA/299/2008, LPA/300/2008, LPA/301/2008.
Ms. Pavitra Manesh i/b Mr. M.S. Topkar for Respondent in LPA/241/008, LPA/243/2008, LPA/244/2008, LPA/246/2008, LPA/253/2008, LPA/260/2008, LPA/263/2008, LPA/264/2008, LPA/267/2008, LPA/270/2008, LPA/295/2008, LPA/297/2008, LPA/298/2008, LPA/302/2008.
Mr. A.I. Patel, Addl. G.P. aw Mr. Ketan Joshi, "B" Panel Counsel for the state in LPA/233/2008.

Ms. Tanu N. Bhatia, AGP for State in LPA/207/2008.
Ms. M.S. Bane, AGP for the State in LPA/209/2008.
Mr. S.L. Babar, AGP for the State in LPA/214/2008.
Ms. M.P. Thakur, AGP for the State in LPA/235/008.
Mr. R.S. Pawar, AGP for the State in LPA/215/2008.
Dr. Dhruti Kapadia, AGP for the State in LPA/250/2008.

CORAM : G. S. KULKARNI &
AARTI SATHE, JJ.

RESERVED ON : 28 NOVEMBER, 2025
PRONOUNCED ON: 24 DECEMBER, 2025

Judgment (Per G. S. Kulkarni, J.) :-

1. This batch of Letters Patent Appeals assails a common judgment and order dated 13 June 2001 rendered by the learned Single Judge on a clutch of petitions, hence, they are being disposed of by this common judgment. At the outset, we need to observe that the impugned judgment and order passed by the learned Single Judge confirms the orders passed by the Industrial Court. Hence, the concurrent findings of the Courts against the appellant is the subject matter of consideration in these appeals.

2. The facts are identical, insofar as all these writ petitions decided by the learned Single Judge are concerned, except that the respondents/employees in the respective writ petitions were appointed by the appellant as watchmen on different dates. There is no dispute in regard to the dates of their appointment and in fact, a seniority list of all the appointees was prepared and placed on record before the Industrial Court as also the learned Single Judge.

3. The common appellant in all these appeals namely the Forest Development Corporation Ltd., is the original petitioner, in the writ petitions filed before the learned Single Judge. It is not in dispute that the appellant is a Corporation/an entity formed by the State of Maharashtra and is fully within its control as the law would recognize including the same to be a 'State' within the meaning and purview of Article 12 of the Constitution.

4. The genesis of the present proceedings arises from the ninety nine complains filed under Section 28 of the The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, "**MRTU & PULP Act'**) by the respondents before the Industrial Court at Nashik alleging that the appellant had indulged in unfair labour practices against the respondents under Item 6, 9 and 10 of Schedule IV of the MRTU & PULP Act. The respondents were appointed by the appellant as watchmen. Such appointments, which are not in dispute, were during the period from the year 1977 to 1992. The relevant facts in regard to the dates of appointments, the details of joining date, period of working days etc. as also the *inter se* seniority of the respective respondents as placed on record of the Industrial Court are not in dispute.

5. The respondents' case before the Industrial Court, in alleging unfair labour practices was to the effect that the respondents were working with the appellant without any break in service since from the respective dates of joining service with the appellant, and had completed more than 240 days "year after year", hence, the appellant was under an obligation to regularize the services of the respondents having completed more than 240 days, being engaged on daily wages for 'years

together'. The respondents contended that considering the settled position in law, they were entitled to the benefits of permanency and the benefits which are given to the permanent employees of the appellant. It is also contended that the work in question being awarded to the respondents was permanent and perennial, however, the respondents were not being absorbed in the permanent employment, with an intention to deprive them the status and benefits of permanency

6. The appellant opposed each of the complaints by filing written statements. The case of the appellant basically was of denial. It was the appellant's case that the appellant was registered under the Companies Act and it was under the full control of the Maharashtra Government, hence it was not a department of the State Government. It was, however, contended that the implementing agency for the appellant was the State Government, as various schemes of the State Government were being implemented by the appellant and that the appellant was being managed from the funds received under such schemes. It was hence contended that there was no question of any permanency to be granted to the respondents. It was next contended that if the scheme was to be continued and the workers being continued for more than 240 days, that did not mean that the work was continuously available with the appellant. Hence, the claim of regularization or permanency as made by the respondents, ought not to be accepted. It was also contended by the appellant that accepting the respondent's case would amount to their back door entry in the service of the appellant, which was not permissible.

7. The Industrial Court considering the rival contentions as also the documentary and oral evidence on its record, rendered a common judgment dated 31 July 2000 on the complaints filed by the said workmen whereby it was held that the respondents had proved that the appellant had committed unfair labour practice under items 6, 9 and 10 of Schedule IV of MRTU & PULP Act. Accordingly, the complaints filed by the respondents were allowed. The Industrial Court recorded clear findings of fact that it was undisputed that since the date of joining, the respondents were continuously working with the appellant without any break and certainly they had completed more than 240 days in each year. The appellant's case that it was wholly dependent on the State Government was not accepted by the Industrial Court. In such context, the Industrial Court recorded clear findings that the contention of the appellant having no source of income and lack of sufficient funds to regularize the complainants, when tested on evidence, was not an acceptable plea. The Industrial Court observed that there was arbitrariness to the extent that while making the appointment, the respondents were not being informed that they were engaged under a particular scheme and further after completion of a particular scheme they would be terminated. It was observed that the respondents were in long continuous service of the appellant, was a finding recorded by the Industrial Court. Considering the clear position in law in the context of the respondent being in service of the appellant on year to year basis under such scheme of the appellant, the complaints were allowed by declaring that the appellant had committed unfair labour practice under items 6, 9 and 10 of Schedule IV of MRTU & PULP Act. Accordingly, the

appellant was directed to stop and desist from engaging such unfair labour practices with a further direction to the appellant to give status and benefits of permanency to the respondents from 01 April, 1998 and arrears of consequential benefits be paid to them from the said date.

8. The orders passed by the Industrial Court were challenged in the writ petitions in question which fell for consideration before the learned Single Judge. It is on such writ petitions by a detailed common judgment, as impugned in the present appeals, the petitions have been dismissed being devoid of merits and with costs. Thus, there are concurrent findings against the appellant of both the forums below, namely, of the Industrial Court and thereafter of the learned Single Judge.

9. Before we delve on the rival contentions as urged on behalf of the parties, we find from the record that although the impugned judgment and order is dated 13 January 2001, the appeals appear to have been filed in the year 2008. Be that as it may, the appeals have remained pending and, although they came to be dismissed for non-prosecution, they were subsequently restored and are now being disposed of by this common judgment.

10. On behalf of the appellant, limited submissions are advanced by Mr. Kapadnis, learned counsel in assailing the concurrent findings. The following submissions are made on behalf of the appellant:

i. The respondents were appointed on a temporary basis. They were well aware of the risks and uncertainty of an employment under the

employment guarantee scheme, despite which they were claiming permanency in proceedings before the Industrial Court. Considering the nature of the scheme under which they were appointed, they were not entitled for regularization, as there were no sanctioned posts. Consequently, there was no question of absorption. The appellant is unwarrantedly required to suffer a monetary loss.

ii. The impugned order passed by the Industrial Court and as confirmed by the learned Single Judge in fact grants backdoor employment to the respondents, for such reason, the findings on unfair labour practice as recorded by the Industrial Court and confirmed by the learned Single Judge need to be interfered.

iii. The impugned order erroneously interprets the decision of the Supreme Court in **Chief Conservator of Forests & Anr. vs. Jagannath Maruti Kondhare**[1]. The Industrial Court as also the learned Single Judge has not appreciated that the appellant is not an industry and there was no relationship of an employer and employee and for such reason, the complaints filed by the respondents itself were not maintainable.

iv. In any event, granting of regularization cannot be a matter of course when there were no posts available, hence the respondents/complainants could not have been granted permanency. Such proposition is supported relying on the decisions of the Supreme Court in **Mahatma Phule vs.**

1 AIR 1996 SC 2898

Nashik Zilla Kamgar[2]; Ahmednagar Zilla vs. Dinkar Rao Kalyanrao Jagdale[3] and Delhi Development Horticulture vs. Delhi Administration[4].

11. On the other hand, Mr. Kiran Bapat, learned senior counsel for the respondents-workmen has prayed for dismissal of the appeal by contending that the finding of facts as recorded by the Industrial Court are rightly not interfered by the learned Single Judge in the impugned judgment and order. He further submits that none of the contentions as urged on behalf of the appellants deserve consideration, as on facts, the unfair labour practice had stood proven and primarily when for years together the respondents were working every year for 240 days in a year. The submission is to the effect that even the seniority list of the respondents was prepared and the work was perennially made available. It is hence submitted that all the essential requirements to consider the plea of the respondents for regularization, having completed 240 days, was rightly appreciated and granted by the Courts below. It is his further submission that the findings in regard to the appellant being an independent entity although founded by the Government of Maharashtra and being a distinct legal entity incorporated under the Companies Act, 1956, certainly was a factor in considering that the appellant was an independent establishment, which granted such employment to the respondents and for years together provided work, i.e., work was taken for a period of 240 days on year to year basis from the respondents. He submits that the finding in this regard as recorded by the learned Single Judge recognizing the

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2 (2001) 7SCC 346

3 (2001) 7 SCC 356

4 AIR 1992 SC 789

appellant to be an independent establishment, which had appointed the respondents/workmen, has remained unassailed. It is next submitted that such findings are neither factually incorrect much less perverse, as also the findings as recorded by the Industrial Court and the High Court in law in no manner whatsoever is assailed, so as to make out any case for interference in the present appeal. In supporting such contention Mr. Bapat has placed reliance on the recent decision of the Supreme Court in Jaggo v. Union of India[5].

Analysis and Conclusion

12. We have heard learned Counsel for the parties. With their assistance, we have perused the record. At the outset, we may observe that this is a case where there are concurrent findings of facts and law as recorded by the Industrial Court as also by the learned Single Judge. The indisputed fact that there being no dispute that the appellant is qualified as an employer within the definition of "industry" as defined under Section 2(j) of Industrial Disputes Act, 1947. As also the respondents at all material times fell in the definition of "workman" as defined under Section 2(s) of the Industrial Disputes Act, as observed by the Industrial Court as also the learned Single Judge.

13. The second most significant aspect which is not in dispute, is that the respondents had worked on daily wages for 15 to 20 years continuously for 240 days from the date of their joining as also indicated in the seniority list by the appellant. All the respondents worked on the post of 'watchman'.

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5 2024 SCC OnLine SC 3826

14. The question was whether the work discharged by the respondents was permanent and perennial in nature, and was examined by the Industrial Court as also by the learned Single Judge. It was concurrently held that although the appellant was implementing various schemes introduced by the State Government of afforestation, this was a work perennially available with the appellant as granted to each of the respondent/workman's on year to year basis. There is a clear finding of fact that the appellant was established as an undertaking of the Government of Maharashtra, it being a registered Government Company under the Companies Act, 1956. The business of the appellant was the development of potential productive forest areas through intensive management, in accordance with the policy decisions of the Government. It was established as a permanent corporation. In such circumstances, it was not in dispute that the services of respondents / complainants were required to be engaged continuously year after year by the appellant/corporation which being a separate and independent legal entity/juristic person, as observed by the forums below.

15. The learned Single Judge has categorically observed that merely because the appellant was executing and implementing the schemes for the Government, that will not alter the jural relationship between the appellant (employer) and the respondents (workmen) employed by the appellant. Hence, a clear employer–employee relationship existed between the appellant and the respondent, which does not absolve the appellant from complying with the requirements of law. When a worker continues in employment for years together and completes 240 days of service in each year, certainly legal rights accrued to each of such

workmen/respondents, entitling them of regularization or permanency, by virtue of the continuous nature of the work extracted from them. Learned Counsel for the appellant is not in a position to dispute such findings. In fact when called upon as to which are the specific findings with which the appellant would have quarrel, our attention has not been drawn to any findings, which the appellant would seek interference in the present appeal. As noted hereinabove, the contentions as urged on behalf of the appellant are quite general in nature.

16. We do not find that the observations of the learned Single Judge referring to the decision of the Supreme Court in **Chief Conservator of Forests & Anr. vs. Jagannath Maruti Kondhare** (supra) were in any manner misplaced. On perusal of the said decision, it is clear that the Supreme Court was dealing with the Forest Department of the State Government implementing the scheme at Panchgaon Parwati as framed by it intending to fulfill the recreational and educational aspirations of public as also undertaking social forestry work meant for the preservation of forests and environment could not be regarded as a part of sovereign function of the State, hence for the workers who were engaged to perform work under the said scheme, there was no embargo to invoke the provisions of the Industrial Disputes Act as also Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, (for short '**MRTU & PULP Act**'). The Supreme Court held that the department of the State Government is an industry and the employees employed on daily wages were covered and protected by the State Acts. Learned Single Judge, in our opinion,

has rightly applied the said decision of the Supreme Court in the facts of the present case.

17. We are not persuaded to accept the contention as urged on behalf of the appellant that there is any error of fact or law in the findings as recorded by both the forums in considering the benefits being awarded to the respondents by virtue of their continuous service as recognized by Section 25B of the Industrial Disputes Act. We also do not find merit in the contention as urged on behalf of the appellant that the Industrial Court as also the learned Single Judge have not appropriately appreciated the issue that there being no sanctioned posts, hence, there could not be any regularization as directed by the Industrial Court. In our opinion, such contention has been rightly negatived by the learned Single Judge by considering the law laid down by the Supreme Court in **Chief Conservator of Forests & Anr. vs. Jagannath Maruti Kondhare** (supra) as also considering the provisions of Section 30 of the MRTU & PULP Act, 1971 which empowers the Court to grant declaration as granted by the Industrial Court in the present case considering the mandate of what is contemplated in Item 6 Schedule IV of the MRTU & PULP Act. Also the Industrial Court having recorded clear findings that the work performed by the respondents was permanent in nature and a perennial one, in the facts and circumstances, it was appropriate for the Court to issue directions of the nature as issued, to declare that the appellant has committed unfair labour practice and as a consequence thereto, the respondents were rightly held to be the permanent employees. In these circumstances, the contention as urged on behalf of the appellant that it was incumbent for the

Industrial Court as also the learned Single Judge to consider that there was no sanctioned post, was quite misconceived, as observed by both the forums below. Also there was no scope for such plea to be tenable, considering the cumulative scheme of Sections 30 and 32 of the MRTU & PULP Act. Thus, there being clear findings of fact that the work performed by the respondent was of a perennial and permanent nature, the appellant's plea of there being no sanctioned post would certainly be of no consequence, in the Industrial Court granting declaration of unfair labour practice and awarding regularization.

18. Insofar as the decisions as cited on behalf of the appellant in case of **Delhi Development Horticulture vs. Delhi Administration (supra), Mahatma Phule vs. Nashik Zilla Kamgar** (supra) and **Ahmednagar Zilla vs. Dinkar Rao Kalyanrao Jagdale** (supra) are concerned, in the facts of the present case, these judgments are not applicable.

19. Insofar as the reliance placed on behalf of the petitioner on the decision of the **Delhi Development Horticulture vs. Delhi Administration** (supra), the same is not well founded in the facts of the present case. In such decision, the Supreme Court was concerned with a writ petition filed under Article 32 of the Constitution which itself is the distinguishing factor from the facts of the present case. The case concerned several schemes which were to provide income to those who are living below the poverty line and particularly during the periods when they are without any source of livelihood and, therefore, without any income whatsoever. Thus, the intention of the scheme was not the intention which was relevant for the schemes with which the Industrial Court was concerned in the

present case, which is a forestation and other forest activities by creating a proper corporation like the appellant which is a registered company. In the present case in regard to the legal requirement of the respondents establishing basic rights of 240 days of continuous employment and not only for one year but for several years, was the subject matter of consideration. Learned Counsel for the appellant is certainly not urging a proposition that the Supreme Court in that decision dispelled the requirement of 240 days of continuous working being not relevant as attracted in the case in hand. Such is not the proposition which can be derived from the judgment. It cannot be in the present cases, an adjudication on the factual matrix was held before the Industrial Court on the basis of oral and documentary evidence, factual findings of all essentials in law being fulfilled of an unfair labour practice in view of the continued employment rendered to the respondents for years together, eminently fulfilling the statutory norms of not only 240 days of continuous employment for one year but for years together, a relief was granted to the respondents. It is these findings which are confirmed by the learned Single Judge. In this view of the matter, the decision in **Delhi Development Horticulture** (supra) would not assist the appellant.

20. In ***Mahatma Phule v. Nashik Zilla Kamgar*** *(supra)*, the issue before the Supreme Court concerned the challenge to qualified daily wages awarded in an application under Section 33-C(2) of the Industrial Disputes Act. In that context, the Supreme Court observed that when no sanctioned posts were available for absorbing the workmen, the status of permanency could not be granted in the absence of such posts. Therefore, the High Court's decision of not granting

permanency and extending wages and other benefits applicable to permanent employees, was held to be erroneous. Hence, this decision would not be applicable to the present case.

21. Insofar as the reliance on behalf of the appellant on the decision in **Ahmednagar Zilla Shetmajoor Union vs. Dinkar Rao Kalyanrao Jagdale**[6] is concerned, the same is certainly not applicable in the present facts. In the said case although the issue was of the Industrial Tribunal allowing the complaint filed by the workmen for absorption on completion 240 days of service with the appellant therein, when the Government had sanctioned only 36 posts. The respondents in whose favour the regularization was granted were workmen who were appointed and worked over and above the sanctioned post. It is in such context, the Supreme Court observed that for absorption as regular employees, existence of the post in such circumstances was mandatory. Further the work in question was only seasonal work and it is in such context, the observations in paragraph 3 on which reliance is placed on behalf of the appellant. The present facts are completely distinct and hence, such decision would not assist the appellant. These are not the facts in our case. In such context we may also observe that the decision would be required to be understood and the binding force derived only on the basis of the facts before the Court and in the context of such facts, the decision which was rendered by the Court on issues which had actually fell for consideration of the Court for the *ratio decidendi* to become applicable. In such context, we may also refer to the decision of the Supreme Court in **Union of India & Ors. Vs.**

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6 (2001)7 SCC 356

Dhanwanti Devi & Ors.[7] on to the law of Precedents, the Supreme Court made the following observations:

> "9. Before adverting to and considering whither solatium and interest would be payable under the Act, at the outset, we will dispose of the objection raised by Shri Vaidyanathan that Hari Kishan Khosla's case is not a binding precedent nor does it operate as ratio decidendi to be followed as a precedent and *per se per incuriam.* It is not everything said by a Judge who giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the *ratio decidendi*. According to the well settled theory of precedents, every decision contain three basic postulates - [i] findings of material facts, is the inference which the Judge draws from the direct, or perceptible facts; [ii] statements of the principles of law applicable to the legal problems disclosed by the facts; and [iii] judgment based on the combined effect of the above. A decision is only an authority for what it actually decides. What is of the essence in decision is its ratio and not every observation found therein not what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein. The enunciation of the reason or principle on which a question before a court has been decided is alone binding between the parties to it, but it, is the abstract ratio decidendi, ascertained on a consideration of the judgment in relation to the subject matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution. A deliberate judicial decision arrived at after hearing an argument on a question which arises in the case or is put in issue may constitute a precedent, no matter for what reason, and the precedent by long recognition may mature into rule of *stare decisis*. It is the rule deductible from the application of law to the facts and circumstances of the case which constitutes its ratio decidendi.
>
> 10. Therefore, in order to understand and appreciate the binding force of a decision is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided. No judgment can be read as if it is a statute. A word or a clause or a sentence in the judgment cannot be regarded as a full exposition of law. Law cannot afford to be static and therefore, Judges are to employ an intelligent in the use of precedents. … … …"

7 (1996)6 SCC 44

22. We may also observe that the learned Single Judge has rightly held that the case of the respondents would stand squarely covered by the decision of the Supreme Court in **Chief Conservator of Forests & Anr. vs. Jagannath Maruti Kondhare** (supra). The relevant observations as made by the Supreme Court in the said decision are required to be noted, which read thus:

> 21. Shri Dholakia would not agree to this submission as, according to him, the item in question having not stopped merely by stating about the employment of persons as casuals for years being sufficient to describe the same as unfair labour practice, which is apparent from what has been in the second part of the item, it was the burden of the workmen to establish that the object of continuing them for years was to deprive them of the status and privileges of permanent employees. Ms. Jaising answers this by contending that it would be difficult for any workmen to establish what object an employer in such a matter has, as that would be in the realm of his subjective satisfaction known only to him. She submits that we may not fasten a workman with such a burden which he cannot discharge.
>
> 22. We have given our due thought to the aforesaid rival contentions and, according to us, the object of the State Act, *inter alia*, being prevention of certain unfair labour practices, the same would be thwarted or get frustrated if such a burden is placed on a workman which he cannot reasonably discharge. In our opinion, it would be permissible on facts of a particular case to draw the inference mentioned in the second part of the item, if badlis, causals or temporaries are continued as such for years. We further state that the present was such a case inasmuch as from the materials on record we are satisfied that the 25 workmen who went to Industrial Court of Pune (and 15 to Industrial Court, Ahmednagar) had been kept as casuals for long years with the primary object of depriving them the status of permanent employees inasmuch as giving of this status would have required the employer to pay the workmen at a rate higher than the one fixed under the Minimum Wages Act. We can think of no other possible object as, it may be remembered that the Pachgaon Parwati Scheme was intended to cater to the recreational and educational aspirations also of the populace, which are not ephemeral objects, but par excellence permanent. We would say the same about environment-pollution-care work of Ahmednagar, whose need is on increase because of increase in pollution. Permanency is thus writ large on the face of both the types of work. If, even in such projects, persons are kept in jobs on casual basis for years the object manifests itself; no scrutiny is required. We, therefore, answer the second question also against the appellants."

23. Mr. Bapat would be correct in placing reliance on the decision of the Supreme Court in **Jaggo v. Union of India** (supra). Such decision also dispels the contention as urged on behalf of the appellant of any backdoor entry of the

respondents/workmen. The Supreme Court considering the decision of the Constitution Bench of the Supreme Court in **Secretary, State Of Karnataka vs Umadevi And Ors.**[8] made the following significant observations, which are aptly applicable in the present situation:-

> **"21.** The High Court placed undue emphasis on the initial label of the appellants' engagements and the outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment : continuous, long-term service, indispensable duties, and absence of any *mala fide* or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.
>
> 22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.
>
> 23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration 6 encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.
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> **24.** The landmark judgment of the United State in the case of *Vizcaino* v. *Microsoft Corporation*7serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine

8 AIR 2006 SUPREME COURT 1806

employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of "Temporary" Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.
- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.
- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

- **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

- **Denial of Basic Rights and Benefits:** Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.

26. While the judgment in *Uma Devi* (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in *Uma Devi* (supra) to argue that no vested right to regularization exists for temporary employees, overlooking

> the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.
>
> **27.** In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."

24. We may also observe that, by Government Resolution dated 16 October 2012, the State Government regularized the services of similarly placed workers who had been appointed between 1 November 1989 and 31 October 1994, on the ground that they had completed 240 days of service for five consecutive years, in accordance with the Government Resolution dated 31 January 1996. The respondents, however, though similarly situated, were not extended the same benefit. No policy decision was taken in their favour, possibly because they had already succeeded before the Industrial Court as well as before the learned Single Judge of this Court, and the present proceedings were pending.

25. As rightly contended by Mr. Bapat, this was an additional factor that ought to have weighed with the State Government in adopting a similar approach in respect of the respondent(s). Unfortunately, the State chose to contest the present appeals despite having taken a contrary position for similarly placed employees during an earlier period. In our opinion, it would have been appropriate for the

Government to extend a similar policy decision in favour of the respondents in the present proceedings. However, that has not been done.

26. In the light of the above discussion, we find that there is no merit in these appeals. They are accordingly rejected.

27. The respondents/workmen shall be given all the benefits of the orders passed by the Industrial Tribunal and as confirmed by the learned Single Judge, as expeditiously as possible, within eight weeks from the date a copy of this order is made available.

28. At this stage learned Counsel for the appellants has prayed that the interim order be kept in operation. However, considering the facts of the case and that the respondents-employees have suffered for so many years, we reject the request.

(AARTI SATHE, J.) (G. S. KULKARNI, J.)