

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.205 OF 2010
WITH
CIVIL APPLICATION NO.258 OF 2010

1, Datta Pandurang Gaikwad,
2. Arun Gauravnath Late,
3. Dinesh Nandlal Dhareya,
All R/o.Kalyan (E).

Appellants

versus

1. Kalyan Dombivali Municipal Corporation
2. The Commissioner,
Kalyan Dombivali Municipal Corporation.

Respondents

WITH
LETTERS PATENT APPEAL NO.206 OF 2010
WITH
CIVIL APPLICATION NO.135 OF 2015

1. Datta Pandurang Gaikwad,
2. Arun Gauravnath Late,
3. Dinesh Nandlal Dhareya,
All R/o.Kalyan (E).

Appellants

versus

1. Kalyan Dombivali Municipal Corporation
2. The Commissioner,
Kalyan Dombivali Municipal Corporation.

Respondents

Mr.Yogendra M.Pendse for Appellant.

Mr.A.S.Rao for Respondents.

Ms.Neha S.Bhide, Govt.Pleader with Mr.O.A.Chandurkar, Additional
Govt.Pleader, Mr.Aditya R.Deolekar, AGP for Respondent State in LPA.205/2010.

Ms.Neha S.Bhide, Govt.Pleader with Mr.O.A.Chandurkar, Additional
Govt.Pleader, A.A.Alaspurkar, AGP for Respondent State in LPA.206/2010.

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

DATE: 6th February 2026

P.C.

1. These Letters Patent Appeals are filed by the Appellant, employee of Respondent no.1 Kalyan Dombivali Municipal Corporation, assailing the judgment and order dated 7th June 2010 passed on Writ Petition Nos.443 of 2010, 565 of 2010 and 901 of 2010.

2. At the outset we may refer to the orders passed by the Division Bench on these Letters Patent Appeals wherein this Court categorically observed that the Appellants except Appellant nos.6, 11 and 19 the other Appellants did not have any grievance and the appeal of the other Appellants accordingly was permitted to be withdrawn. Thus, the adjudication of these appeals is now confined only in respect of Appellant Nos.6, 11 and 19.

3. We may also observe that the issue which has remained for consideration is very narrow, and almost all the issues are settled except the grievance of Appellant nos.6, 11 and 19 in regard to regularization and as to whether they would be entitled for the benefits to pay scale with effect from 1999 and/or the benefits which were granted to the other Appellants with effect from 2011.

4. Considering the submissions as advanced in the present appeals, the orders passed by this Court on these appeals dated 13th November 2025 and 30th January 2026 are required to be reproduced, which read thus :

“Order dated 13th November 2025 :

1. As observed by us in the earlier order out of the total 25 number of appellants, only appellant Nos.6, 11 and 19 are pursuing this appeal. We are informed that during the pendency of the appeal, regularization was granted which was the original grievance of the appellants, and they ought to be regularized in the services of the Kalyan-Dombivali Municipal Corporation. When a query was made by us as to whether such regularization is accepted or not, insofar as one of the appellants is concerned i.e. appellant No.11, we are informed that he had given an undertaking dated 18 February 2013 in which he has categorically stated that the regularization dated 15 February 2013 “is not binding on him” and only as a matter of technicality he is filing such undertaking. He has submitted the undertaking with the Municipal Corporation.

2. Insofar as other two appellants are concerned i.e. appellant Nos.6 and 19, no such undertakings have been placed on record. It appears that they have accepted their regularization and in our opinion, if that be so, further grievance ought not to remain if such regularization is unconditionally accepted.

3. Be that as it may Mr.Pendse, learned Counsel for appellants has vehemently contended that the undertaking of appellant No.11 needs to be construed as he is accepting the regularization vide order dated 15 February 2013 being without prejudice to the rights and contentions to pursue the appeal. However, in our opinion, once appellant No.11 has stated that the regularization order is not binding on him, whether factually he is abided by such undertaking, is now required to be informed to the Court. Let the same be placed on record on affidavit. Also the Municipal Corporation is permitted to file an affidavit as appellant No.11 has maintained his position as to what existed prior to 15 February 2013. Let such affidavits be placed on record on or before the adjourned date of hearing.

4. We shall proceed to hear the parties on the adjourned date of hearing.

5. Stand over to **20 November 2025**.

6. In the meantime, list of dates, convenience compilation as also the proposition which are sought to be advanced, be placed on record.”

“Order dated 30th January 2026 :

1. Stand over to **6 February 2026 (FOB)** to enable Mr. Rao to place on record an additional affidavit on behalf of the Kalyan Dombivali Municipal Corporation, setting out the persons who are similarly placed as the appellants who were granted benefits from the year 2011, and their length of service reckoned from the year 1999. His contentions is that once a large number of employees were granted such benefits, why an exception should be made insofar as the three appellants are concerned, particularly when some of the appellants in the present appeal have also accepted the position of being entitled to monetary benefits from the year 2011.

2. Let the aforesaid details be placed on record by way of the additional affidavit, and copy of the same be served on Mr. Pendse, learned advocate for the appellants, well in advance. We shall hear the parties on the adjourned date of hearing.”

5. It is in such backdrop that the proceedings are placed before us today. In pursuance of the aforesaid order dated 30th January 2026, on behalf of Respondent no.1 Kalyan Dombivali Municipal Corporation (KDMC), an affidavit of Vasanti Dattatray Thombre, Additional Municipal Commissioner, is placed on record, *inter alia*, pointing out the correct factual position insofar as the decision as taken by Respondent no.1 KDMC is concerned, and which was taken by General Body unanimously in respect of the employees. The relevant portion of the affidavit is noted below :

“4. I say that during the pendency of the present appeal, the General Body of the Corporation, vide their resolution passed in the General Body dt.17.3.2011, regularized the services of some Class IV employees including the appellants w.e.f. 1.12.1999 (date of sanction of establishment Schedule), however without any financial benefits from 1999 to 2011, except counting the said period from 1999 to 2011 for the retirement benefits. The General Body also resolve that all employees availing the benefit of the resolution shall furnish the undertaking that they will withdraw the litigations if any filed in this regard. The General Body further resolved to relax necessary educational qualifications prescribed under the Recruitment Rules for the said posts. The Municipal Corporation challenged the said Resolution of the General Body to the extent of relaxing the Educational Qualification on the ground that the General Body has no power to relax the educational qualifications before the Government u/s.451 of MMC Act. The Municipal Commissioner while implementing the resolution granted the pay scale in force as on 2011.

5. I say that all appellants except Appellants nos.6, 11 and 19 have withdrawn their appeals. The remaining appellants taken the benefit of regularization with an exception that the said acceptance is subject to the result of the present appeal.

6. I say that during pendency of the present appeal this Hon'ble Court vide order in W.P No.1493/2020 filed by Jeevan Bhoir and others, directed the Municipal Commissioner, to decide the representation of the petitioners in the said petition. The Municipal Corporation, pursuant to the said order of the Hon'ble Court, vide his order dt.18.5.2022, directed regularization of some other employees

on the same lines as that of the General Body, however directed the Administration to fix pay scale of the regularized employees in accordance with law.

7. I say that, in view of the said directions of the Municipal Commissioner, the Administration carried out pay fixation of the employees including the present 3 appellants with effect from 1999 and thereafter granted notional increments of the pay scaled up to 2011 or the date of regularization wherever necessary to bring the uniformity amongst the employees.

8. I say that so far as the appellant no.6 Shri Datta Gaikwad is concerned, the case of the appellant falls in to the group of 17 employees, in which the Body relaxed the educational qualification under the Recruitment Rules, the said resolution was send for cancellation to the state government u/s.451 of the MMC Act. The Government of Maharashtra pleased o reject the request of the Municipal Commissioner and confirmed the decision of the General Body. In view of the said order of the State Government, Shri Gaikwad and 16 others were granted regularization w.e.f. 24.11.2018 and accordingly Shri Gaikwad has been granted the pay scale and other benefits.

9. I say that as stated herein above, except Shri Gaikwad remaining all other employees including applicants no.11 and 19, pay has been fixed with effect from 9.12.1999 and after granting notional increments up to 2011, pay scales have been upgraded upto the date of regularization.

10. I say that, in view of what has been stated hereinabove, it is submitted that the present reliefs sought in the present appeal are substantially granted by the Respondents.

11. For the reasons stated hereinabove the present appeal is devoid of merits may kindly be dismissed.”

6. Considering the stand taken by the KDMC in the said affidavit, it is clear that the KDMC has carried out pay fixation of employees from 9th December 1999 and thereafter granted notional increments of the pay scale up to 2011 and pay scales of the employees were upgraded upto the date of regularization so as to bring about uniformity of the Appellants with other employees. Also, it is clear

that insofar as Appellant no.6 Datta Gaikwad was concerned, he was one amongst 17 other employees in respect of whom the General Body relaxed the educational qualifications under the recruitment rules and the said Resolution was sent for confirmation/approval of the State Government under Section 451 of Maharashtra Municipal Corporations Act. The State Government, however, did not accept the request of Municipal Commissioner and did not confirm the decision of General Body. As a consequence thereof, the Appellant no.6 and 16 others were granted regularization with effect from 24th November 2018 and accordingly Appellant no.6 Datta Gaikwad was granted pay scale and other benefits. This position is categorically set out in the affidavit filed by Vasanti Thombre, Additional Commissioner, that except Appellant no.6 Datta Gaikwad, pay of all other Appellants including Appellant Nos.11 and 19 was fixed with effect from 9th December 1999 and they were granted notional increments up to 2011, and their pay scales have been upgraded upto the date of regularization.

7. Having heard the learned counsel for the parties and perused the record and the affidavit filed by Vasanti Thombre, Additional Commissioner of KDMC, we are of the opinion that insofar as Appellant no.6 Datta Gaikwad is concerned, he also needs to be granted parity in accordance with the decision as taken by the General Body of KDMC whereby notional increments of pay scale up to 2011 or till the date of regularization have been granted to the other employees. Merely because of the decision of the State Government, the Appellant no.6 Datta Gaikwad was subjected to regularization only in the year 2018, although his case was not different from other employees who were granted such benefit in 2011. In

this view of the matter, and considering the applicability of the principles of parity as enshrined under Article 14 of the Constitution, we are of the opinion that Appellant no.6 Datta Gaikwad needs to be granted similar benefits like other employees, as particularly set out in paragraph 7 of the affidavit of Vasanti Thombre. This exercise shall be undertaken by the KDMC within a period of one month from today.

8. Insofar as other grievances of Appellant nos.11 and 19 are concerned, we keep open all such contentions of these Appellants to make a representation to the Municipal Commissioner. If any such representation is made, the same shall be decided in accordance with law and without being influenced by this order.

9. In the light of the aforesaid observations, further adjudication of the present proceedings is not called for. Both the Letters Patent Appeals are disposed of in the above terms. No costs.

10. In view of disposal of Letters Patent Appeals, the pending Review Petition and Civil Applications do not survive and stand disposed off.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)