

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.1843 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Baban Hussain Dhale (Dead)  
Through his LR  
Kalinda W/o Baban Dhale,  
Age-45 years, Occu-Nil,  
R/o. Sindhphal, Tq.Tuljapur,  
Dist.Osmanabad,
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai
3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.
4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad
5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1858 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

## VERSUS

1. Manik Sakharam Ranmali,  
Age-58 years, Occu-Service,  
R/o.Motizara Vibhag,  
New bypass Road, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai
3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.
4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad
5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1844 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

## VERSUS

1. Dhondabai Bhagwan Khandade,  
Age-49 years, Occu-Service,  
R/o. Shukrawar Peth,  
Matang Nagar, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,
2. The State of Maharashtra,  
Through the Secretary,

Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.
4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad
5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1845 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Khaled Ejaj Ahmad Siddiqui,  
Age-46 years, Occu-Service,  
R/o.Ayodhyanagar, Motizara Vibhag,  
New Bypass road, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai
3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1846 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Prakash Uddhav Kadam (Dead)  
Through his LR  
Meena W/o Prakash Kadam,  
Age-46 years, Occu-Nil,  
R/o."Siddhant", Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,

2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1847 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Sumanbai Shahu Hajare (Dead)  
Through her LR  
Dhananjay Sudhakar Nikam,  
Age-25 years, Occu-Nil,  
R/o.Matang Nagar, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai
3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.
4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad
5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1848 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Kalu Vishwanath Bhanji (Dead)  
Through his LR  
Dhiraj Kalu Bhanji,  
Age-26 years, Occu-Nil,  
R/o.Matang Nagar, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai
3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.
4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad
5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1849 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Yashwant Pandurang Kambale,  
Age-51 years, Occu-Service,  
R/o. Shukrawar Peth,  
Matang Nagar, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad
2. The State of Maharashtra,  
Through the Secretary,

Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1850 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Shivaji Ankush Sonwane (Dead),  
Through his LR,  
Viveknanda W/o Shivaji Sonwane,  
Age-36 years, Occu-Nil,  
R/o.Zopadpatti, Sindhphal,  
Tq.Tuljapur, Dist.Osmanabad

2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1851 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

## VERSUS

1. Babruwan Bhimrao Rochkari (Dead),  
Through his LR,  
Babasaheb Babruwan Rochkari,  
Age-24 years, Occu-Nil,  
R/o. Hudco, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad

2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS



WITH  
WRIT PETITION NO.1852 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Vidya Sudhakar Kambale,  
Age-44 years, Occu-Service,  
R/o. Matang Nagar, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai
3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.
4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad
5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1853 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Suman Mohan Shinde,  
Age-54 years, Occu-Service,

R/o Papnash Tirth,  
Zopadpatti Vibhag, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad

2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1854 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Rangnath Bandoba Hangargekar,  
Age-52 years, Occu-Service,  
R/o Near Municipal Council, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad

2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1855 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Shobha Balu Kambale,  
Age-48 years, Occu-Service,  
R/o Matang Nagar, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad

2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1856 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Balasaheb S/o Bhimrao Jadhav,  
Age-54 years, Occu-Service,  
R/o Hudco, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai
3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.
4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad
5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1857 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Sayabu Annappa Siddhaganesh,  
Age-55 years, Occu-Service,  
R/o.Near Municipal Council, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai
3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.
4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad
5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1859 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Suresh s/o Nagnath Mane,  
Age-49 years, Occu-Service,  
R/o Bhimnagar, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad
2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1860 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Manik Shankarrao Dongare,  
Age-65 years, Occu-Retired,  
R/o. Shukrawar Peth,  
Salunkhe Galli, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad

2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,

Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

WITH  
WRIT PETITION NO.1861 OF 2015

Municipal Council Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad,  
Through its Chief Officer

PETITIONER

VERSUS

1. Vitthal S/o Vishwambhar Londhe,  
Age-46 years, Occu-Service,  
R/o Matang Nagar, Tuljapur,  
Tq.Tuljapur, Dist.Osmanabad

2. The State of Maharashtra,  
Through the Secretary,  
Urban Development Department  
Mantralaya, Mumbai

3. The Deputy Director,  
Municipal Administration,  
State Transport Service Building,  
3<sup>rd</sup> floor, Sir Pochkhanwala Road,  
Warli Mumbai-25.

4. The Divisional Commissioner,  
i.e. the Regional Director,  
Municipal Administration,  
Aurangabad Region, Aurangabad

5. The Collector i.e. the Assistant Director,  
Municipal Administration, Osmanabad

RESPONDENTS

Mr.K.K.Kulkarni, Advocate for the petitioner.  
Mr.S.B.Ghute, Advocate for respondent No.1.  
Mr.D.R.Korde, AGP for respondent Nos.2 to 5.

( CORAM : RAVINDRA V. GHUGE, J.)

DATE : 26/02/2015

ORAL JUDGMENT :

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

2. The issues involved in these petitions are identical and all these respondents have been before the Industrial Court at Latur in various complaints filed under the M.R.T.U. and P.U.L.P. Act, 1971 (For short, the State Act). By a common judgment and order dated 21/07/2014, all these complaints have been allowed only as against the petitioner / Municipal Council herein and have been dismissed as against respondent Nos. 2, 3, 4 and 5.

3. Since the facts involved are almost identical and the complaints have been decided by a common judgment, that I have taken up all these matters together and heard the learned Advocates for their final disposal.

4. There were 19 complaints before the Industrial Court filed u/s 28(1) of the State Act. The petitioners and respondent Nos. 2 to 5



were alleged to have committed unfair labour practices (ULP) under Item 5 and 9 of Schedule IV of the State Act. A declaration of ULP was sought and consequential reliefs of permanency and incidental benefits from 01/10/1993 were claimed.

5. All the complainants, who are respondent No.1 in all these petitions, were working as "Clerks" or "Safai Kamgar" with the petitioner. Their dates of engagements are mentioned in their complaints.

6. The petitioner passed a resolution dated 19/12/1985 in its General Meeting and therefore sent a proposal to the State Bodies for approval of 19 posts. It is not in dispute that the approval to the said 19 posts was accorded on 24/06/1993. Similarly, Resolution No.226 was passed so as to grant permanency to the daily rated employees on the approved posts. As such, all the concerned workmen were bestowed with the status of permanency on 01/10/1993.

7. All the workmen have contended that post permanency, they were getting all the benefits in terms of pay scale, dearness allowance, yearly increment as per the Sixth Pay Commission, prior to filing of the ULP complaints.

8. Respondent No.3 herein passed an order on 02/11/2004 declaring that the said workmen would be treated as "Permanent Employees" from 06/05/2000. Similarly, respondent No.4 herein passed an order on 05/04/2005 introducing certain new conditions while directing that the workmen should be made permanent from 06/05/2000. A similar order was passed by the petitioner herein.

9. Being aggrieved with these orders, the complaints have been filed alleging that unilateral alteration in the date of permanency and imposition of new conditions would amount to a recurring cause of action.

10. After the recording of evidence was concluded and after hearing the litigating sides, the Industrial Court has delivered the impugned judgment dated 21/07/2014.

11. The contention of Mr.Kulkarni, learned Advocate for the petitioner is that the complaints were barred beyond 90 days from the date of alleged cause of action. Since the service conditions are altered long ago, the complaints were untenable in law and item 9 of Schedule IV was not attracted.

12. The last submission made by the petitioner, as recorded hereinabove, needs to be discarded at the very outset. The date of permanency of the workmen, which is 01/10/1993, having been unilaterally altered and postponed to 06/05/2000 by imposing new conditions on the said workmen (thereby restricting their benefits flowing from their confirmation w.e.f. 01/10/1993), needs to be construed as a continuous violation of their service conditions without any opportunity of hearing. This act would therefore fall within the scope of Item 9 of Schedule IV. Failure to implement any settlement, agreement or award under Item 9 of Schedule IV, has been time and again interpreted by this Court. Alteration or violation of service conditions is held to attract Item 9 of Schedule IV. However, it needs mention that the petitioner has not committed the said act. It has only implemented the directions of the State Authorities.

13. It is not in dispute that none of the complainants have canvassed violation of Section 9A of The Industrial Disputes Act, 1947 as regards the requirement of a notice of change while altering their service conditions. Schedule IV to the Industrial Disputes Act, 1947 has been specifically introduced u/s 9A. The unilateral alteration of the service conditions and introduction of new

conditions could have therefore attracted Section 9A, but for the respondent employees having not chosen to invoke the said provision in their cases.

14. The next submission of the petitioner is that the complaint has been dismissed as against respondent No.3, 4 and 5 which renders the complaint inconsequential as the orders impugned and the act of introducing new service conditions was not at the behest of the petitioner. This submission does not deserve consideration for the reason that the Industrial Court has ultimately and rightly observed that the petitioner should have sent a complete proposal to the State Government for approval by pointing it out to the State Government that the workmen concerned were in fact already bestowed with permanency w.e.f. 01/10/1993.

15. Learned Advocate for the respondents/workmen has submitted that the fact of permanency having been granted to the workmen from 01/10/1993, was suppressed by the petitioner and therefore the State Government imposed new conditions on the premise that the workmen were being granted status of permanency w.e.f. 06/05/2000. He further submits that it was canvassed before the Industrial Court that the Government was unaware of the fact that

the workmen were already permanent in employment and an approval was required in order to ensure parity in wages with similarly situated and comparable employees.

16. He further points out the observations of the Industrial Court in paragraph No.18 and 19 wherein the Industrial Court has made specific observations about the petitioner having not forwarded the proposals of the workmen complete in all respects.

17. The Industrial Court, considering the evidence before it, has issued the following directions :-

*“1. Com/ULP/Nos.3/2012 to 13/2012 and Com/ULP/Nos.15, 16, 22, 23, 100, 101, 149 and 150 of 2012 are dismissed against respondent Nos. 1 to 3 and partly allowed against respondent No.4.*

*2. It is hereby declared that respondent No.4 has engaged in unfair labour practice within the scope of Item No.9 of Schedule-IV of the MRTU and PULP Act, 1971 and respondent No.4 is directed to cease and desist from unfair labour practice.*

*3. The respondent No.4 is directed to prepare complete proposal in all respect to make all complainants permanent in employment with all benefit w.e.f. 01/10/1993 and send the same to the Government within two months from today for approval and it is for the Government to consider the said*

*proposal in accordance with Law.”*

18. This Court, in similar set of facts, delivered a judgment dated 11/12/2014 in Writ Petition Nos.11257/2014 and other connected matters. It is concluded that the Municipal Council, which does not have the powers to create or sanction posts, cannot be held guilty of unfair labour practices under Items 5 and 9 of Schedule IV of the State Act. In the instant cases as well the petitioner is the same Municipal Council. The Industrial Court has not made any declaration as regards ULP under Item 5 of Schedule IV against the petitioner.

19. The petitioner has relied upon the judgment of this Court in the matter of Prakash Cotton Mills Ltd., Vs. Chandrakant Maruti and others, 2005(1) Mh.L.J. 1105 and in the matter of Maharashtra Rajya Shetki Mahamandal Karmachari Sanghatana Vs. M.D. Maharashtra State Farming Corporation Ltd., and another, 2006(1) Mh.L.J. 223. It is pointed out that this Court has held that the foundation of an unfair labour practice under Item 9 of Schedule IV lies in the failure of the employer to implement a settlement, agreement or award.

20. Mr.Kulkarni, learned Advocate for the petitioner points out that

the workman in complaint ULP No.16/2012 (Babruvahan Bhimrao Rochakari), in ULP No.22/2012 (Kalu Vishwanath Bhanji), in ULP No.23/2012 (Sumanbai Shahu Hajare) and in ULP No.150/2012 (Shivaji Ankush Sonawane), have all passed away prior to the institution of the complaint. Their legal representatives have filed the complaint and hence these 4 complaints are untenable in Law. I am unable to accept the said contention for the reason that the demise of these employees would not lay to rest the unsustainable act of the respondents of altering their service conditions.

21. Mr.Kulkarni further submits that two employees in ULP No.100/2012 (Baban Husain Dhale) and ULP No.101/2012 (Prakash Uddhav Kadam) have passed away during the pendency of their complaints. Mr.Kulkarni further points out that two employees in complaint ULP No.12/2012 (Manik Sakharam Ranmali) and ULP No.13/2012 (Manik Shankarrao Dongare) have retired on 30/04/2013 and 28/02/2006 respectively. Grievance is that all these 8 complaints should have been dismissed. I am not acceding to the said request for the reason that I am upholding the directions issued by the Industrial Court in Clause 3 of the impugned judgment and order.

22. I have held that alteration in service conditions would be covered by Item 9 of Schedule IV. The facts in the case of Prakash Cotton Mill (supra) were in relation to a demand for permanency without there being any settlement or agreement between the parties. In the instant case, it is not disputed that the concerned workmen were granted permanency w.e.f. 01/10/1993 and the same was unilaterally altered and the date of permanency was unilaterally postponed to 06/05/2000 by the State authorities by imposing new service conditions on the concerned workmen. The said alteration is however not at the behest of the petitioner.

23. In so far as the Maharashtra Rajya Shetki judgment (supra) is concerned, the Union had sought an auto applicability of the notification dated 01/10/1988 issued by the State Government for revising the pay scales of its employees. The Union demanded that the said notification should be made applicable to the employees of the respondent Corporation. This Court had concluded that the respondent/Corporation is not an entity of the State Government and the said notification would not become automatically applicable. The facts being distinct and different, ratio laid down would not be applicable to this case.



24. In the light of the above, these petitions are partly allowed. The declaration of ULP under Item 9 of Schedule IV of the State Act against the petitioner is set aside. The directions of the Industrial Court in clause No.3, reproduced hereinabove, are confirmed.

25. The petitioner is, therefore, directed to submit the complete proposals of all the respondents/workmen in this petition to the Government and Appropriate Authorities within a period of 2 (two) months from today. Upon receipt of the said proposals, the Government / Appropriate Authorities shall decide the said proposals taking into account the fact that the respondents / employees have already been made permanent w.e.f. 01/10/1993, within a period of 4 (four) months thereafter.

26. Rule is made partly absolute in the above terms. No costs.

27. The learned Advocate for the petitioner, at this stage, prays for stay to the judgment delivered today.

28. Learned Advocate for the respondents/workmen vehemently opposes the said request on the ground that the judgment of the Industrial Court dated 21/07/2014 has been challenged by the

petitioner after a passage of more than 6 months, on 27/01/2015. The said judgment was not stayed during this period. This Court has merely upheld clause/direction No. 3 of the said judgment and has set aside declaration of ULP against the petitioner.

29. It is undisputed that the impugned judgment of the Industrial Court was not stayed by this Court and was in operation from 21/07/2014. I have partly allowed the petitions setting aside the declaration of ULP against the petitioner. I have granted the petitioner 2 (two) months time to submit the proposals and 4 (four) months time to the Government Authorities to decide them post receipt of the said proposals. As such, request for staying this judgment is rejected.

( RAVINDRA V. GHUGE, J.)