

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 911 /2015

(Manohar s/o Motiramji Ghuse and another vs. The State of Maharashtra and others)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

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Mr. S.D.Malke, Advocate for the petitioners
Mr. S.N.Bhattad, Advocate for the Respondent No.2

**CORAM : SMT. VASANTI A. NAIK &
A.I.S.CHEEMA, JJ.**

DATED : 8th September, 2015.

Heard.

By this petition, the petitioners seek a direction to the respondents to grant permanency to them as they have worked for more than ten years with the respondent no.2-Municipal Corporation.

The petitioners were appointed as Labourers/Mazdoors on daily wages by the respondent no.2-Corporation, some time in the year 1996. In view of the request made by the Corporation for regularizing the services of some of their employees, as many as 85 daily wagers/Mazdoors were regularized in the year 2004. However, hundreds of daily wagers were not regularized and the respondent No.2-Corporation sent a proposal to the State Government for regularizing the services of the other employees, in the year 2005. The petitioners continuously made representations to the

Nagpur Municipal Corporation seeking their regularization. Though the proposal of the petitioners for regularization was remitted by the respondent-Corporation to the State Government in the year 2006, the State Government did not decide the same till the petition was filed. The Writ Petition was filed by the petitioners on 18.2.2015 when they were about to retire in the month of March, 2015. The petitioners have sought the regularization of their services as they have put in more than ten years of service.

Shri S.N. Bhattad, the learned counsel for the Corporation states that during the pendency of the Writ Petition, the State Government has, by a resolution dated 16.6.2015, permitted the regularization of 92 employees. It is stated that in pursuance of the Government Resolution dated 16.6.2015, the respondent -Corporation has regularized the services of about 90 employees with effect from 13.7.2015. It is stated that an appointment order is issued to the concerned employees and they are temporarily appointed on the Class IV posts mentioned in the appointment order in various departments of the Nagpur Municipal Corporation. It is stated that the appointment is given effect from the date of the issuance of the appointment order dated 13.7.2015/ the date on which the employees have joined their duties. It is stated that the petitioners have attained the age of superannuation in the month of March 2015 and hence an appointment order cannot be issued in favour of the petitioners. It is stated that since the past services of the other employees are not regularized, the

petitioners cannot seek their regularization - appointment in the services of the Municipal Corporation.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioners cannot be granted. If the Respondent-Corporation had sent the proposal for regularization of services of their employees to the State Government in 2006, and if the State Government had not decided the proposal for regularization within a reasonable time, it was necessary for the petitioners to file appropriate proceedings for a direction to the State Government to decide the proposal, at the earliest. The petitioners, however, waited for nearly ten years till they attained the age of superannuation. Just a month before their superannuation, the petitioners have filed the Writ Petition seeking a direction to the respondents to regularize their services. After the petitioners were superannuated the Government granted permission to regularize the services of 92 employees working in the Corporation and in pursuance of the said resolution the respondent-Corporation issued appointment orders in favour of the employees, thereby appointing them on Class IV posts, with effect from 13.7.2015, on temporary basis. In the circumstances of the case, a direction cannot be issued to the Respondent -Corporation to regularize the services of the petitioners after they have attained the age of superannuation.

Since the relief sought by the petitioners cannot

be granted, the Writ Petition is dismissed, with no order as to costs.

JUDGE

JUDGE

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