IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1962 OF 1997

Jalgaon Municipal Council,
Jalgaon. Through its
Chief Officer.

...PETITIONER

-VERSUS-

Milind Kashinath Jagtap,
Age : 31 years, Occupation :
residing at 28 Ramdas Peth,
Jalgaon.

...RESPONDENT

WITH
WRIT PETITION NO.1963 OF 1997

Jalgaon Municipal Council,
Jalgaon. Through its
Chief Officer.

...PETITIONER

-VERSUS-

Sk.Rais Sk.Gayas,
Age : Major, Occupation :
residing at 9/B, Iqbal Housing
Society, Meharun Taluka and
District Jalgaon.

...RESPONDENT

WITH
WRIT PETITION NO.1964 OF 1997

Jalgaon Municipal Council,
Jalgaon. Through its
Chief Officer.

...PETITIONER

-VERSUS-

Eknath Shravan Patil,
Age : Major, Occupation :
residing at 118 Ram Peth,
Jalgaon.

...RESPONDENT

WITH
WRIT PETITION NO.1965 OF 1997

Jalgaon Municipal Council,
Jalgaon. Through its
Chief Officer.

...PETITIONER

-VERSUS-

Ramesh Dattatraya Shankhpal,
Age : Major, Occupation :
residing at Rampeth, Bhoite Lane,
Jalgaon.

...RESPONDENT

WITH
WRIT PETITION NO.1966 OF 1997

Jalgaon Municipal Council,
Jalgaon. Through its
Chief Officer.

...PETITIONER

-VERSUS-

Ramesh Bhawdu Dhande,
Age : Major, Occupation :
residing at C/o Shri S.P.Attarde,
House No.79, B-Shrikrishna Colony,
Shivkrupa Building, Jalgaon.

...RESPONDENT

WITH
WRIT PETITION NO.1967 OF 1997

Jalgaon Municipal Council,
Jalgaon. Through its
Chief Officer.

...PETITIONER

-VERSUS-

Bhimrao Baburao Patil,
Age : Major, Occupation :
residing at Turkheda,
Post Veedgaon, Taluka and
District Jalgaon.

...RESPONDENT

...

Advocate for Petitioner : Shri P R Patil.
Advocate for Respondent in Writ Petition No.1964/1997 : Shri L.V.Sangit h/f Shri S.V.Dixit.

Advocate for Respondents in WP Nos.1962/1997 and 1965/1997 : Shri K.S.Patil (ABSENT).
Advocate for Respondent in WP Nos.1963/1997, 1966/1997 and 1967/1997 : Shri R.R.Patil (ABSENT).

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th December, 2016

Oral Judgment :

1 In all these petitions, the Jalgaon Municipal Council, which is now the Jalgaon City Municipal Corporation, is aggrieved by the judgments and awards delivered by the Labour Court which are as under:-

Sr.No.	Writ Petition No.	Name of Employee/ Respondent	Reference (IDA) No.	Date of Award
1	1962/1997	Milind Kashinath Jagtap	No.11/94	01/01/96
2	1963/1997	Sk.Rais Sk.Gayas	No.16/94	06/01/96
3	1964/1997	Eknath Shravan Patil	No.21/95	27.03.1996

4	1965/1997	Ramesh Dattatraya Shankhpal	No.10/94	20.08.1996
5	1966/1997	Lomesh Bhawdu Dhande	No.21/94	16.10.1996
6	1967/1997	Bhimrao Baburao Patil	No.17/94	04/11/96

2 All these petitions were admitted by this Court on 12.06.1997. However, interim relief was not granted to the Petitioner.

3 I have considered the strenuous submissions of Shri Patil, learned Advocate on behalf of the Petitioner and Shri Sangit, learned Advocate on behalf of the Respondent in Writ Petition No.1964/1997. Despite service and causing an appearance on behalf of rest of the Respondents, none appeared on 01.12.2016. None appear even today.

4 Shri Patil has strenuously submitted that the Labour Court could not have delivered the impugned awards without considering as to whether, the appointments of these Respondents were in accordance with Section 76 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (for short “the 1965 Act”). He submits that unless the procedure for selection and appointment is not followed under Section 76 of the 1965 Act, no reliefs can be granted to any of these Respondents as they do not have a right to claim reinstatement or continued employment.

5 Shri Patil further points out that amongst the Respondents, one employee is a Technical Supervisor, one is a Mukadam and one is a Health Inspector. They are not “workmen” within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 and as such, their cases could not have been maintained before the Labour Court.

6 Shri Patil has placed before me the Chart with regard to these Respondents/ Employees as on date. The same is marked as Exhibit X for identification. It, therefore, appears that all these Respondents, pursuant to the refusal of interim relief by this Court, have been reinstated by the Petitioner/ Establishment and they are presently in employment. They were denied back wages as they have filed the Purshis before the Labour Court and were only granted continuity in service.

7 In the light of the above, these Writ Petitions could be disposed of by considering the issue of wages from the date of the awards till the date of actual reinstatement. I am not considering the submissions of the Petitioner on other counts as recorded above for the reason that all these Respondents have now settled in employment. It also needs to be noted that the issue of regularization is not before this Court in these matters.

8 Shri Sangit strenuously prays for back wages from the date of the award. I am, however, not inclined to accept the said submission for the reason that the Respondents had given up the claim for back wages and pursuant to the publication of the award, within one month these Respondents have been reinstated after this Court did not grant interim relief in June, 1997. Rather than reopening the entire dispute in between the parties, ends of justice would be met by disposing of these Writ Petitions with the observation that the Respondents would not be entitled for back wages till their dates of reinstatement. However, they are entitled for continuity as has been granted by the Labour Court.

9 In the light of the above, this Writ Petitions are partly allowed. Without causing interference in the impugned awards, the Respondents would be precluded from claiming back wages from the date of the awards till the dates of their reinstatement since they have already been reinstated in service and have settled in employment.

10 Rule is made partly absolute in the above terms.

kps (**RAVINDRA V. GHUGE, J.**)