

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5727 OF 2011
WITH
CIVIL APPLICATION NO.6970 OF 2016
WITH
CIVIL APPLICATION NO.10784 OF 2016

Pravin Shankar Koli,
Age-39 years, Occu-Service,
R/o Daily Market, Tuljapur Temple,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon

– PETITIONER

VERSUS

1. Chief Officer,
Municipal Council,
Bhusawal, Dist.Jalgaon,
2. The Director,
Municipal Administration,
Mumbai

– RESPONDENTS

WITH
WRIT PETITION NO.5730 OF 2011
WITH
CIVIL APPLICATION NO.10785 OF 2016

Anil Narayan Pawar,
Age-40 years, Occu-Service,
R/o New Area Ward,
Tuljapur Temple, Daily Market,
Bhusawal, Dist. Jalgaon

– PETITIONER

VERSUS

1. Chief Officer,
Municipal Council,
Bhusawal, Dist.Jalgaon,
2. The Director,

Municipal Administration,
Mumbai

– RESPONDENTS

WITH
WRIT PETITION NO.5735 OF 2011
WITH
CIVIL APPLICATION NO.10783 OF 2016

Ramesh Rama Gunjal,
Age-43 years, Occu-Service,
R/o New Area Ward,
Tuljapur Temple, Daily Market,
Bhusawal, Dist. Jalgaon

– PETITIONER

VERSUS

1. Chief Officer,
Municipal Council,
Bhusawal, Dist.Jalgaon,
2. The Director,
Municipal Administration,
Mumbai

– RESPONDENTS

Mr.S.P.Tiwari, Advocate for the petitioners.
Mr.S.D.Kaldade, AGP for respondent/State.
Mr.G.V.Wani, Advocate for respondent No.1.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 30/09/2016

ORAL JUDGMENT :

1. All these 3 petitions have been admitted by this Court and by way of an interim relief, these 3 petitioners have been continued in employment as Drivers. The communication Exhibit “X” placed on record, vide which the respondent/Municipal Council has indicated

that there are 54 vehicles presently with the Municipal Council and only 11 posts of driver have been sanctioned. Mr.Wani had made a statement which was recorded in the order dated 11/01/2012 that the Municipal Council has already moved a proposal to the Director of Municipal Administration, Mumbai seeking increase in the post of drivers.

2. I have heard the learned Advocate for the petitioners/ employees and Mr.Wani for the Municipal Council. Issue is as regards claim for permanency. All the 3 ULP complaints filed by the petitioners have been dismissed by the Industrial Court, Jalgaon by the impugned judgments.

3. This Court, in the matter of Municipal Council, Tuljapur Vs. Baban Hussain Dhale, WP No.1843/2015 alongwith a group of 15 writ petitions has already taken a view by judgment dated 26/02/2015 that the Industrial Court cannot direct the Municipal Council to create posts, in as much as, the Municipal Council can submit a proposal to the Director of Municipal Administration seeking absorption of the employees by seniority on the posts as and when they would be made available. Similar view has been taken in the matter of Mukhyadhikari, Nagar Parishad, Tuljapur Vs. Vishal

Vijay Amrutrao and a group of about 25 petitions by judgment dated 11/12/2014 in WP No.11257/2014 and other connected matters.

4. It is undisputed that these petitioners are still working as Drivers and have put in more than 15 years in service of the respondent/Municipal Council. Considering this situation, I deem it appropriate to dispose of these petitions and adopt the same view as has been taken in the matters of Municipal Council, Tuljapur in the similar facts circumstances and direct the Municipal Council to prepare the proposal of those drivers who are similarly situated as like the petitioners strictly on the basis of their seniority and forward the said proposals to the Municipal Administration, Mumbai which would decide the said proposals in respect of the absorption of the petitioners strictly on the basis of seniority and on the basis of availability of posts.

5. In the light of the above, these petitions are partly allowed with the following directions :-

[a] Respondent No.1/Municipal Council, Bhusawal shall prepare proposals of all such drivers who are similarly situated as like the petitioners on the basis of their seniority within a period of 3 months, considering that the Municipal Council is facing elections.

- [b] After the proposals as above are submitted to respondent No.2/ Director of Municipal Administration, Mumbai, they shall be considered for absorption of the drivers on the basis of their seniority and availability of posts within a period of 4 months.
- [c] The decision taken by respondent No.2 shall be communicated to the Municipal Council as well as these petitioners expeditiously.
- [d] In the event, the petitioners are aggrieved by the decision of respondent No.2, they would be at liberty to seek redressal of their grievance, as may be permitted in law.

6. Rule is made partly absolute in the above terms.

7. All pending civil applications, therefore, stand disposed of in the light of the above.

(RAVINDRA V. GHUGE, J.)