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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**BENCH AT AURANGABAD**

**WRIT PETITION NO.10315/2014**

Municipal Council, Osmanabad  
Through Chief Officer,  
Municipal Council, Osmanabad.  
...Petitioner...

**Versus**

Bebi w/o Marga Shitole,  
Age 42 yrs., Occ. Service &  
Household,  
Tq. & Dist. Osmanabad.  
Through  
C.N. Shinde, Secretary  
Marathwada Lal Bawta Kamgar  
Union Trade Union Office,  
Jalkot Road, Udgir,  
Tq. Udgir, Dist. Latur.  
...Respondent...

**WITH**

**WRIT PETITION NO. 12000 OF 2015**

Municipal Council, Osmanabad  
Through Chief Officer,  
Municipal Council, Osmanabad.  
...Petitioner...

**Versus**

Bebi w/o Marga Shitole,  
Age 43 yrs., Occ. Service,  
R/o Bhim Nagar, Osmanabad.  
Tq. & Dist. Osmanabad.  
...Respondent...

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.....

Shri R.V. Naiknavare, Advocate. for petitioner.

Shri A.V. Patil-Indrale, Advocate for respondent.

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**CORAM: RAVINDRA V. GHUGE, J.**

**DATE: 11.02.2016**

**ORAL JUDGMENT :**

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

2] The issue in between the petitioner – establishment and the respondent – employee is as regards regularization of her services and grant of incidental and consequential reliefs. The Industrial Court by its judgment dated 12.8.2003 has granted regularization upon completion of 240 days in the continuous employment with the petitioner – establishment. Said judgment is impugned, though belatedly.

3] The petitioner – establishment has granted regularization to the services of 25 employees including the respondent herein with effect from 31.10.2001. On identical facts in the matter of *Municipal Council*,

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*Osmanabad* (the same petitioner herein) v. *Vikas Machindra Mane & others* in Writ Petition Nos.5427/1996, 5428/1996 and 1645/1997, this Court has come to a conclusion by its judgment dated 26.11.2015 that since the posts were created and the daily wagers as like the respondent herein were absorbed as permanent employees from 31.10.2001, the judgments of the Industrial Court were modified by maintaining the date of permanency as 31.10.2001.

4] In the light of the above, I have no reason to take a different view in this matter.

5] However, Shri Patil, learned Advocate for the respondent in both these matters, has vehemently opposed the challenge to the judgment of the Industrial Court dated 12.8.2003 by filing these petitions on 24.9.2014 and 8.12.2015. He fairly states that notwithstanding the fact that all other identically situated daily wagers have been granted permanency and benefits incidental thereto with effect from 31.10.2001, under fortuitous circumstances on account of there being no challenge by the petitioner to the judgment of the Industrial Court dated 12.8.2003, the respondent stood entitled for

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permanency after completion of 240 days as a daily wager.

6] I am of the view that the Courts are expected to take a consistent view in identical set of facts. It is under fortuitous circumstances that the petitioners slept over the judgment dated 12.8.2003.

7] In the light of the above, the impugned judgment of the Industrial Court dated 12.8.2003 in Complaint (ULP) No.201/1998 stands modified. The directions issued by the Industrial Court are modified as under:-

"The respondent shall be entitled for regularization with effect from 31.10.2001 and shall be entitled for retiral / pensionary benefits as and when the occasion may arise by considering her initial date of joining as a daily wager and shall be entitled for monetary benefits incidental and consequential to regularization."

8] As regards the aspect of filing the petitions belatedly, the petitioner - Council shall pay costs of Rs.15,000/- to the respondent within a period of six weeks from today.

9] As a consequence of this judgment, Criminal

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(ULP) No.7/2012 shall be disposed of by the Labour Court.  
10] The writ petitions are, therefore, partly  
allowed and Rule is made partly absolute in the above  
terms.

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