

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 522/2016

(RAJKUMAR BABURAO GEDAM VERSUS MUNICIPAL COUNCIL, BHANDARA & OTHERS)

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

Court's or Judge's orders

Mrs. R.D. Raskar, counsel for the petitioner.
 Shri M.I. Dhattrak, counsel for the R-1.
 Mrs. K.R. Deshpande, counsel for the R-1 & 2.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JULY 18, 2016.

By this writ petition, the petitioner seeks a direction to the respondent no.1-Municipal Council to forward the proposal for regularizing the services of the petitioner on the post of Gardner, to the Director of Municipal Administration. A direction is sought against the Director of Municipal Administration to grant necessary approval to the regularization of the services of the petitioner.

The petitioner was working in Municipal Council, Bhandara since the year 1986 on daily wages. Since the petitioner had completed 240 days of service in a calendar year and the respondent no.1-Municipal Council had not regularized the services of the petitioner on the post of Gardner, the petitioner had filed a complaint before the Industrial Court. The said complaint was allowed by the order dated 28.01.2002 and it was held by the Industrial Court that the Municipal Council had indulged in unfair labour practices. The Industrial Court directed the Municipal Council to grant permanency to the services of the petitioner. The order of the Industrial Court was challenged by the Municipal Council in Writ Petition No.3372 of

2003. This Court had, by the order dated 24.09.2013, partly allowed the writ petition and modified the order of the Industrial Court directing the Municipal Council to regularize the services of the petitioner. This Court directed the Municipal Council to send the proposal for regularization of the services of the petitioner, to the Director of Municipal Administration, as required by the provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. It is the case of the petitioner that despite the said direction, the Director of Municipal Administration is not regularizing the services of the petitioner.

Shri Dhattrak, the learned counsel for the respondent no.1-Municipal Council, states that the proposal for regularizing the services of the petitioner has been transmitted by the Municipal Council to the Director of Municipal Administration as per the orders of this Court.

Mrs. Deshpande, the learned Assistant Government Pleader appearing on behalf of the Director of Municipal Administration, states that there are no sanctioned posts of Gardner in the Municipal Council and unless the State Government grants approval for the creation of the posts, as financial assistance is to be secured by the Municipal Council from the Government, the Director of Municipal Administration cannot regularize the services of the petitioner. It is stated that the Director of Municipal Administration has forwarded the requisite proposal for creation of the new post of Gardner and regularization of the services of the petitioner to the State Government for appropriate action and it would now be for the State Government to take a decision on the proposal sent by the Director of Municipal Administration to the State Government.

In the circumstances of the case, we partly allow the writ petition. Since a post of Gardner is not available with the Municipal Council presently and/or was not available when the order was passed by the Industrial Court, the Director of Municipal Administration has asked the State Government to pass appropriate order on the proposal for regularization of services of the petitioner by creating a new post. It is rightly stated on behalf of the Director of Municipal Administration that since the creation of a new post would create financial burden on the State Government, prior approval of the State Government would be necessary before the Director of Municipal Administration passes an order on the proposal of the petitioner. In the circumstances of the case, it would be necessary to direct the State Government to decide the proposal that is tendered by the Director of Municipal Administration to the State Government on 22.06.2016, at the earliest.

In view of the aforesaid, we dispose of the writ petition with a direction to the State Government to decide the proposal that is submitted by the Director of Municipal Administration to the State Government on 22.06.2016, at the earliest and positively within a period of four months.

Order accordingly. No costs.

JUDGE

JUDGE

CERTIFICATE

I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.

Uploaded by: Rohit D. Apte.

Uploaded on : 21.07.2016.