IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.356 OF 2017
(Suresh Bhagwat Jagtap Vs. Jalgaon City Municipal Corporation, Jalgaon, through its Commissioner)
WITH WRIT PETITION NO.368 OF 2017
WITH WRIT PETITION NO.403 OF 2017
WITH WRIT PETITION NO.638 OF 2017
WITH WRIT PETITION NO.644 OF 2017
WITH WRIT PETITION NO.645 OF 2017
WITH WRIT PETITION NO.646 OF 2017
WITH WRIT PETITION NO.648 OF 2017

Mr.V.D.Sapkal, Advocate for the petitioners.
Mr.S.P.Tiwari, AGO for respondent/State.
Rajendra Pandurang Patil, Estt.Supdt. in person for respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/01/2017

PER COURT :

1. In all these petitions, I have passed the following order on 18/01/2017 :-

> *"1. In all these petitions, the judgment impugned is identical to the judgment challenged by similarly situated workmen before this Court in WP No.12153/2016 and other connected matters dated 16/12/2016. It is submitted that for the reasons recorded in the said judgment, all these petitions are to be disposed of with the same directions as these petitions stand on identical set of facts.*
>
> *2. Mrs.Choudhary, learned Advocate, who had appeared on behalf of the Jalgaon city Municipal Corporation in the group of*

matters decided by judgment dated 16/12/2016, submits that she would take instructions by placing a copy of this judgment before the Corporation and would make a statement after receiving instructions.

3. On the request of Mrs.Choudhary, stand over to 23/01/2017.

4. The petitioners are at liberty to privately serve the Corporation through the Commissioner alongwith the copy of this order.

5. Matters to be placed for "passing orders" on 23/01/2017."

2. Mr.Sapkal, learned Advocate for the petitioners submits that the respondent/Municipal Corporation was accordingly served by the petitioners.

3. Mr.Rajendra Pandurang Patil, who is the Establishment Superintendent of the respondent/Corporation is present in the Court. It is stated that this Court had delivered a judgment dated 16/12/2016 in respect of a group of writ petitions. For the reasons stated in the said judgment, all these petitions can be disposed of with the same directions. He further submits that the Corporation has not engaged an Advocate as the same judgment is to be made applicable to these petitions.

4. Considering the above, all these petitions, except WP No.368/2017, are partly allowed by modifying clause 3 of the impugned judgment of the Industrial Court as under :-

> [a] The Corporation shall regularize the services of these litigating petitioners, except the petitioner in WP No.368/2017, based on their seniority and against the posts that are vacant and available.
>
> [b] The above regularization shall be from the dates on which each of these posts has fallen vacant and that shall be the deemed date of regularization of these drivers, who would then be entitled to all consequential monetary benefits from that deemed date.
>
> [c] In the case of those petitioners/drivers for whom the posts may not be available looking at their seniority, the Corporation has already forwarded a complete proposal of all such drivers who are before this Court and even of those who are not before Court, to the Urban Development Department, State of Maharashtra for seeking creation of posts, if they are not available, for grant of regularization to these drivers, as per their seniority.
>
> [d] The proposals received by the concerned Department of the State Government shall be dealt with within a period of 16 weeks thereafter.
>
> [e] Until these litigating drivers are regularized, the Corporation shall be precluded from engaging fresh hands on vacant posts of Drivers.
>
> [f] All these drivers on daily wages would be entitled for parity in pay scale on the basis of the minimum pay scale prescribed

by the Pay Commissions considering the 6th and the 7th Pay Commission, if applicable or at par with the basic pay scale payable to the regular comparable drivers, keeping in view the conclusions of the Hon'ble Apex Court in the State of Punjab V/s Jagjit Singh and others, decided on 26/10/2016.

[g] In the event of any grievance of these drivers including shortfall in payment, they are at liberty to voice their grievance before the appropriate forum for recovery of the said amount.

5. Any backlog if existing or if created due to the regularization of these drivers, shall be cleared by the Corporation while making further appointments in future.

6. In WP No.368/2017, the LR of the deceased complainant before the Industrial Court, is the petitioner. She is the wife of the deceased complainant. The relief granted by the Industrial Court in clause 3 of its order below paragraph No.14, may not be applicable to the instant case since the complainant Nilkanth Namdeo Patil is no more. As such, while partly allowing the said petition, I deem it proper and appropriate to modify clause 3 of the order by directing the Corporation to send a separate proposal of the deceased Nilkanth Namdeo Patil within 4 (four) weeks from today to the Director of Municipal Administration for considering the case of the deceased Nilkanth for arriving at the deemed date of regularization based on

his seniority and therefore accord all consequential monetary benefits to the petitioner / widow which otherwise would have been available to the deceased Nilkanth. It is expected that the competent authority would deal with this case separately and pass a reasoned order in the light of the above.

7. Mr.Sapkal points out that the petitioner/widow had applied to the Corporation for appointment on compassionate basis as the deceased Nilkanth has passed away in an accident on 31/10/2016. He further submits that the eligible legal heirs of some temporary employees of the Corporation have also been granted compassionate appointment. I find that the Corporation would be obliged to decide the request of the petitioner in accordance with its rules applicable and convey its decision in writing to the petitioner/widow so as to enable the petitioner to resort to available remedies in the event her claim is turned down.

8. All these petitions are, therefore, partly allowed.

(RAVINDRA V. GHUGE, J.)