

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

WRIT PETITION NO.5383 OF 1998

Municipal Council, Latur,
through It's Chief Officer.

**...PETITIONER
(Orig. Respondent)**

VERSUS

1. Shri Devidas Mohanrao Hande,
Age: Adult, Occu: Service.
2. Shri Govind Manikrao Jadhav,
Age: Adult, Occu: Service.
3. Shri Nagorao Keshavrao Sopate,
Age: Adult, Occu: Service.
4. Shri Shivaji Narsing Kore,
Age: Adult, Occu: Service.
5. Shri Mahamad Zindalal Shaikh,
Age: Adult, Occu: Service.
6. Shri Pandurang Kishanrao Dongare,
Age: Adult, Occu: Service.
7. Shri Subhash Sdashiv Bidave,
Age: Adult, Occu: Service.
8. Shri Sahadev Kondiba Borade,
Age: Adult, Occu: Service.
9. Shri Sopan Nivrutti Dalavi,
Age: Adult, Occu: Service.

10. Shri Ishwar Namdevrao Ambegave,
Age: Adult, Occu: Service.
11. Shri Shukracharya Shrirang Pawar,
Age: Adult, Occu:Service.
12. Jyotiram Maruti Bhosale,
Age: Adult, Occu:Service.
13. Shri Angad Namdevrao Atkere,
Age: Adult, Occu:Service.
14. Kalavant Maheboob Dastagir,
Age: Adult, Occu:Service.
15. Balu Limbaji Kambale,
Age: Adult, Occu:Service.
16. Shivaji Venkatrao Mane,
Age: Adult, Occu:Service.
17. Manik Sopan Borade,
Age: Adult, Occu:Service.
18. Murlidhar Vishwanath Haundarane,
Age: Adult, Occu:Service.
19. Dattatraya Balbhim Kshirsagar,
Age: Adult, Occu:Service.
20. Subhash Ganpat Pandit,
Age: Adult, Occu:Service.
21. Shivaji Apparao Kawale
Age: Adult, Occu:Service.
22. Ratan Limbaji Suryawanshi,
Age: Adult, Occu:Service.
23. Gopal Waghoji Bansode,
Age: Adult, Occu: Service.

24. Dyandev Tatyrao Shinde,
Age: Adult, Occu:Service.

**...RESPONDENTS
(Orig. Complainants)**

...
Mr. A.P.Deshmukh, Advocate, h/f Mr. V.D.Hon, Senior
Advocate, for the petitioner.
Mr.P.R.Patil, Advocate, for respondent nos. 1 to 24.

...
CORAM: P.R.BORA, J.

DATE : April 26th, 2017

ORAL JUDGMENT:

1. The Municipal Council, Latur, has filed the present petition against judgment and order passed by the Industrial Court at Solapur in Complaint (ULP) No.232/1997. The present respondents had preferred the aforesaid complaint before the Industrial Court seeking benefits of permanency. Vide order dated 22nd July, 1998, the complaint was allowed with the following order:

"I. The complaint is hereby allowed in toto, as prayed.

II. The Respondent is hereby directed to issue an order of permanency to the Complainants and all

consequential and monetary benefits to the Complainants arrived out of the said permanency w.e.f. 21.3.1997.

II. No order as to costs. "

Taking exception to the said order, the present petition is filed.

2. On 6th of March, 1999, this Court has passed the following order in the present matter:

" It appears that during the pendency of this petition or before the filing of the petition, the order passed by the Industrial Court, which has been challenged in this petition has already been implemented in as much as an order dated 20.08.1998 has been issued by which all the respondent Nos. 1 to 24 have been appointed and the said appointment has been said to be subject to the decision of this Court. In view of this, stay only to the extent of payment of back wages."

Copy of the order dated 20th August, 1998 issued by the petitioner Municipal Council is existing on record. It reveals that the petitioner Municipal Council, in pursuance of the order passed by the Industrial Court in Complaint (ULP) No.232/1997 gave provisional appointments to the

respondents herein who were complainants in the original complaint on the post of Security Guards in the Octroi Department on the pay scale of Rs.775-1150.

3. In absence of any contrary evidence on record, it has to be presumed that the respondents must have worked on the strength of the aforesaid order dated 20th August, 1998, and also must have received the wages in the pay scale. Had there been any non compliance, the respondent employees would certainly have approached this Court making grievance in that regard or would have filed application / complaint under Section 48 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. Since no such information is brought on record, it can reasonably be inferred that the respondent employees did work on the strength of the order issued by the petitioner Municipal Council on 20th August, 1998 till they attained the age of superannuation. The chart which is available on record containing particulars as about the respondent employees reveals that majority of these employees must have attained the age of superannuation. Out of 24 employees,

possibly only 3/4 employees may be still in service. In view of the fact that on the strength of the order impugned in the present petition the respondents have worked with the petitioner Municipal Council on the pay scale for years together, it does not appear to me that there is any propriety now in entering into the merits of the petition filed in exception of the order passed by the Industrial Court. In such circumstances, I do not see any reason for causing interference in the order passed by the Industrial Court in so far as the direction issued to the Petitioner Municipal Council to issue appointment orders to the respondents in the regular pay scale.

In so far as the further order passed making the respondent employees entitled for all consequential and monetary benefits, it appears to me that it would meet the ends of justice if the order, to the extent of monetary benefits, is set aside. It is, therefore, clarified that the respondent employees may not be entitled for the monetary benefits of the period prior to 20th of August, 1998, however, the services rendered by the respondent employees before 20th of August, 1998, shall be counted

for the purpose of retiral benefits, if any, to which the respondent employees are entitled to.

With the observations as above, the writ petition stands disposed of. Rule made absolute in above terms.

(P.R.BORA)
JUDGE

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AGP/5383-98wp