

PANDURANG HARIBA SUL AND OTHERS ..PETITIONERS

THE COMMISSIONER, MUNICIPAL CORPORATION, LATUR AND
OTHERS ..RESPONDENTS

**CORAM : S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.**
DATED : 24th OCTOBER, 2018.

1. Mr. Biradar, learned counsel for the petitioners submits that the petitioners are working with the respondent since the year 1995. They had filed ULP before the Industrial Court for regularization of their services from May 1995 and December 1995, so also prayed to release their salary from 01.01.1996 as per 5th Pay Commission. One of the employee Mr. Rajendra Kishve has been granted the benefit of 5th Pay Commission from 01.01.1996. On or about 07.09.2011 the meeting of standing committee took place. In the said meeting the Resolution No.76 is passed to regularize the services of the employees since 01.01.1995. The petitioners withdrew the ULP, as the resolution was passed to regularize the services of the petitioners since 01.01.1996.

2. The learned counsel submits that the petitioners submitted representation, however the same is not considered. The other persons who had filed ULP No.326 of 2004 are given the benefits of regularization since the initial date. Mr. Rajendra Kishve, who is granted the benefit and subsequently the benefit was withdrawn has filed Writ Petition No.13069 of 2017 and this Court had stayed recovery. According to the learned counsel, the respondents are estopped now by the principle of estoppel to deny the benefit to the petitioners since the year 1995-1996.

3. Mr. Irpatgire, learned counsel for the respondent submits that the posts of Mukadam for the first time are sanctioned on 06.06.2003 and the petitioners are regularized from the said date. Wrongly benefit was granted to Rajendra Kishve, the same is withdrawn.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. It appears that under the Resolution dated 06.06.2003, nine posts of Mukadam are sanctioned.

6. It would not be possible for this Court to direct regularization of services on the posts that are not sanctioned. One of the condition for

regularization would be that the petitioners should be working on sanctioned posts. As the posts for the first time are sanctioned on 06.06.2003 and the petitioners have been regularized from 06.06.2003, the request of the petitioners for regularization since year 1995-1996 cannot be considered.

7. As far as the case of Mr. Rajendra Kishve is concerned, the respondent contends that the benefit was given to him wrongly and the order granting benefit was recalled. In light of that the writ petition is filed by Mr. Rajendra Kishve bearing Writ Petition No.13069 of 2017, wherein the Court has stayed the recovery.

8. In the present case the petitioners are seeking the benefit of regularization since the year 1995-1996. In absence of the post being sanctioned prior to 06.06.2003, the benefit of regularization to petitioners cannot be granted from the year 1995-1996 and the petitioners have already been granted regularization from the 6.6.2003.

9. In view of the above, writ petition is disposed of. No costs.

(R. G. AVACHAT)
JUDGE

Devendra/October-18

(S. V. GANGAPURWALA)
JUDGE

Devendra
Nandkumar
Kale

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