

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

WRIT PETITION NO. 2995 OF 2017

Dagubai Dangal Patil

.. Petitioner

Versus

The Municipal Council Nandurbar

Through Its CEO and others

.. Respondents

Shri. K. C. Sant, Advocate for the Petitioner.

Shri. D. S. Bagul, Advocate for the Respondent No. 1

Shri. Vaishali N. Patil-Jadhav, A.G.P. for Respondent Nos. 2 and 3.

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATED : 20th April, 2018

PER COURT:

. Mr. Sant, learned counsel for the petitioner submits that the petitioner's services were regularised and were made permanent under order dated 06.11.2004. The petitioner had completed nine (09) years and six (06) months of service. Earlier to 06th November, 2004, the petitioner was working on daily wages since 1992. The learned counsel submits that the service rendered by the petitioner on daily wages can be counted as half for the purpose of the pension as per Rule 57 of the Maharashtra Civil Services (Pension) Rules. The learned counsel also relies on Rule 33 of the M. C. S.

Pension Rules to state that six (06) months period can be condoned by the respondents. The learned counsel further submits that, the petitioner has given representation to the respondent No. 1 to consider the case of the petitioner, however the same is not yet considered.

2. Mr. Bagul, the learned counsel for the respondent No. 1 submits that, Rule 57 may not inure to the benefit of the petitioner in view of the order dated 06th November, 2004 and conditions enumerated therein. Even Rule 57 of the M. C. S. Pension Rule would not apply in view of the condition laid down in the order of regularization dated 06th November, 2004. The petitioner having retired on attaining age of superannuation, Rule 33 of the M. C. S. Pension Rules also would not be available.

3. We are not entering into the debate, as the petitioner has already given representation to the respondent No. 1, the respondent No. 1/Chief Officer, shall take decision upon representation of the petitioner on its own merits, in accordance with rules and policy, expeditiously and preferably within a period of three months from today. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

ass/wp 2995.17

[S. V. GANGAPURWALA, J.]