IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14052 OF 2017

Sarita Ashok Tambe .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14006 OF 2017

Digambar Rangrao Surwe died
Through Lrs. Bharti Digambar Surwe .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14007 OF 2017

Yusuf Shaikh Chand .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14008 OF 2017

Suresh Hiraman Thakre died
Through Lrs. Jijabai Suresh Thakre .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14009 OF 2017

Subhash Rajaram Bhangale .. Petitioner
Versus

The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14010 OF 2017

Shaikh Munir Sk. Chand .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14011 OF 2017

Sudhakar Sakharam Gaikwad .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14012 OF 2017

Prabhakar Ramchandra Chaudhari .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14013 OF 2017

Prakash Daulat Dhake .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14014 OF 2017

Vatsalabai Dahnsing Patil .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14015 OF 2017

Nirmala Chabu Pawar .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14016 OF 2017

Santosh Mukunda Patil .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14017 OF 2017

Prabhakar Ramchandra Badhe .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14018 OF 2017

Nathu Laxman Patil .. Petitioner
Versus
The State of Maharashtra and another .. Respondents.

WITH
WRIT PETITION NO. 14019 OF 2017

Mohammad Ayyub Shaikh Yakub died
Through Lrs. Nuan Bi Shaikh Yakur .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14020 OF 2017

Prabhakar Dhondu Shewale .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14021 OF 2017

Lotu Jhagdu Patil .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14022 OF 2017

Chunilal Daulat Patil .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14023 OF 2017

Kashinath Harchand Chaudhari .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14024 OF 2017

Prakash Manga Bharmbe .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH

WRIT PETITION NO. 14025 OF 2017

Ashok Ramdas Sonar .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14026 OF 2017

Balasaheb Sakharam Suryawanshi .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14027 OF 2017

Pandurang Ramchandra Koli .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14028 OF 2017

Gulab Lala More .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14029 OF 2017

Sitaram Tukaram Bari .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14030 OF 2017

Pradip Kashinath Bhavsar .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14031 OF 2017

Laxman Gangaram Mali .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14032 OF 2017

Bhaskar Dattu Gaikwad .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14033 OF 2017

Anil Prabhakar Natekar .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14034 OF 2017

Pralhad Bhila Patil .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14035 OF 2017

Pandurang Narayan Koli .. Petitioner
Versus

The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14036 OF 2017

Pralhad Damu Baviskar .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14037 OF 2017

Vithal Sonu Koli .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14038 OF 2017

Prakash Nathu Chaudhari died
Through Lrs. Devkabai Prakash Chaudhari.. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14039 OF 2017

Salim Abdul Karim .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14040 OF 2017

Vikas Kisan Patil .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14041 OF 2017

Yashwant Puna Thakre .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14042 OF 2017

Kashinath Malu Salukhe .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14043 OF 2017

Raghunath Bhagwan Sapkale .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14044 OF 2017

Dagadu Namdeo Marathe .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14045 OF 2017

Tulsiram Nathu Jamdale .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH

WRIT PETITION NO. 14046 OF 2017

Madhav Onkar Koli .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14047 OF 2017

Ashok Shankar Patil .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14048 OF 2017

Shalini Vasant Deole .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14049 OF 2017

Ramkrushna Bhika Bhoi .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14050 OF 2017

Ganesh Ramdas Marathe .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14051 OF 2017

Suresh Bhila Chaudhari .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14053 OF 2017

Subhash Yashwant Marathe .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14054 OF 2017

Subhash Narayan Yeolekar .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14055 OF 2017

Subhash Khandu Amodkar .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14056 OF 2017

Chandrakant Sonu Sapkale died
Through Lrs. Kalpana Chandrakant Koli.. Petitioner
Versus
The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 14057 OF 2017

Subhash Ratan Patil .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri P. V. Barde, Advocates a/w Shri. Girish Nagori, Advocate for the Petitioner in all matters.
Shri. A. S. Shinde, A.G.P. for Respondent No. 1 in all matters.
Shri P. R. Patil, Advocate for the Respondent No. 2 in all matters.

CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALE, JJ.
DATE : 14TH FEBRUARY, 2018.

FINAL ORDER :

. The petitioners are aggrieved by the communication of the State Government thereby refusing to relax the maximum age limit to the appointments of the petitioners. In some of the writ petitions pension given to petitioners is stopped and in some of the writ petitions pensionary benefits are refused.

2. We have heard Mr. Barde along with Mr. Nagori, learned advocates for petitioners, Mr. P. R. Patil, learned counsel for the respondent No. 2/Municipal Corporation and the learned Assistant Government Pleader for the respondent No. 1.

3. Following facts are undisputed. These petitioners were working on daily wages with the Respondent No. 2/Municipal Corporation (then Municipal Council). Majority of the petitioners were working from 1985 onwards with the erstwhile Municipal Council, Jalgaon. In the year 1997 the appointment

orders were issued to petitioners as temporary employees/on probation on prescribed pay scale. On attaining age of superannuation, the petitioners in Writ Petition No. 14009/2017, W.P. No. 14047/2017, W.P. No. 14044/2017, W.P. No. 14013/2017, W.P. No. 14011/2017, W.P. No. 14027/2017, W.P. No. 14055/2017, W.P. No. 14033/2017, W.P. No. 14046/2017, W.P. No. 14039/2017, W.P. No. 14030/2017, W.P. No. 14042/2017, W.P. No. 14043/2017, W.P. No. 14041/2017, W.P. No. 14025/2017, W.P. No. 14031/2017, W.P. No. 14040/2017, W.P. No. 14026/2017, W.P. No. 14012/2017, W.P. No. 14045/2017, W.P. No. 14028/2017, W.P. No. 14010/2017 were given the pensionary benefits and were continued to receive the same. In remaining writ petitions the pensionary benefits are refused.

4. It is an accepted facts that 1332 posts were created with the erstwhile Jalgaon Municipal Council under the orders of the Directorate of Municipal Administration dated 22.01.1997. Pursuant to the said order all these petitioners, who were working on daily wages were appointed by issuance of appointment orders. In some of the appointment orders it is stated that their appointments are on probation for six months and temporary, whereas in case of some of the petitioners the appointment orders were on temporary basis. However, each and every appointment is made in pay scale of Rs. 750-940. It is also not disputed that the Service Books are maintained of all these

employees by the Municipal Council. The ACPS benefits are also given to them. The petitioners have received increments. Some of the petitioners were promoted to Class III posts. They are relieved as per the provisions of the Maharashtra Civil Services (Pension) Rules.

5. It also appears that, the erstwhile Municipal Council, Jalgaon has passed resolution No. 86 granting benefit of permanency to them on condition that the petitioners withdraw the complaints filed by them before the Industrial Court. Pursuant to the representations, some of the petitioners who had filed the complaints had withdrew the complaints. The Municipal Council had also passed a resolution bearing No. 264 of 31.10.1995 for age relaxation upto 45 years and had sent the said proposal to the government.

6. It appears that, for all this period petitioners had worked. The petitioners were treated as permanent employees. Under letter dated 15.09.2017, the State Government had rejected the proposal for age relaxation of the employees who were more than 30 years of age at the time of appointment in the year 1997. While passing the said order the State Government has not considered all the aforesaid and relevant aspects of the matter and without considering all these aspects has passed the order. Even Government Resolution dated 20.04.2001 of the Directorate

of Municipal Administration is not considered, which speaks about relaxing the upper age limit, if it is necessary. Many of the petitioners are also granted the pensionary benefits.

7. It would appear that the Respondent No. 2 treated the petitioners as permanent employees and they were discharging the function as permanent employees for all these years. The Respondent/State was expected to consider all these aspects before taking decision on 15.09.2017, refusing to relax the upper age limit.

8. The letter dated 15.09.2017 as issued without considering all these aspects is certainly arbitrary. Pursuant to the order dated 26.10.2017 even the pensionary benefits advanced to some of the petitioners have been stopped.

9. It is stated by the the Respondent No. 2/Municipal Corporation that, in the year 1997 itself it had forwarded proposal with regard to age relaxation, however no decision has been taken by the State Government till the retirement of the employees. Said aspect is also required to be considered. Laxity on the part of respondents should not be disadvantage to the petitioners.

10. Considering the above, the letter dated 15.09.2017 is

quashed and set aside. The respondent No. 1/State shall reconsider the proposal about relaxation of upper age limit afresh. The decision shall be taken by the State Government upon the proposal of the Municipal Corporation regarding relaxation of age after considering all the aspects as observed in foregoing paras expeditiously and preferably within a period of three (03) months from today. The consequential letter dated 26.10.2017 also stands quashed and set aside. The decision shall be taken afresh pursuant to the directions given by this court. The petitioners are entitled to represent themselves before the authorities.

11. With these observations and directions writ petitions stands disposed of. No costs.

[A. M. DHAVALE, J.] **[S. V. GANGAPURWALA, J.]**

bsb/Feb. 18