

**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 Hiranman 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. DHAVAL, 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. DHAVALA, J.]**

**[S. V. GANGAPURWALA, J.]**