

ISM

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8908 OF 2015

1. Kishor Digambar Gaikwad	}	
Age: Adult Occ. Service R/at	}	
Ridhore, Tal: Madha, Dist: Solapur.	}	
2. Ramhari Mahadeo Parade	}	
Age: Adult Occ. Service R/at Manegaon	}	
Tal: Madha, Dist: Solapur.	}	
3. Balu Nagnath Gadekar	}	
Age: Adult Occ. Service R/at Upalai (Budruk)	}	
Tal: Madha, Dist: Solapur.	}	
4. Nivruti Pandurang Bhosale	}	
Age: Adult Occ. Service R/at Tandulwadi,	}	
Tal: Madha, Dist: Solapur.	}	
5. Rajabhau Ramrao Gavali	}	
Age: Adult Occ. Service R/at Tandulwadi,	}	Petitioners
Tal: Madha, Dist: Solapur.	}	
6. Kumar Kundalik Shinde	}	
Age: Adult Occ. Service R/at Aran,	}	
Tal: Madha, Dist: Solapur.	}	
7. Mukund Namdeo Ghogardare	}	
Age: Adult Occ. Service R/at	}	
Balaji CHS, Geetakunj Niwas No.5,	}	
Pandharpur, Dist: Solapur.	}	
8. Pandit Kisanrao Jagtap	}	
Age: Adult Occ. Retired R/at Manegaon,	}	
Tal: Madha, Dist: Solapur.	}	
9. Ganpat Mahipati Bhore	}	
Age: Adult Occ. Service R/at Bhosari,	}	
Tal: Madha, Dist: Solapur.	}	
10. Hanumant Ramkrishna Tonape	}	
Age: Adult Occ. Service R/at Shirala	}	

Post. Pimpalkhunte, }

Tal: Madha, Dist: Solapur. }

11. Suresh Ramdas Ubale }

Age: Adult Occ. Service R/at Chinchgaon }

Tal: Madha, Dist: Solapur. }

12. Shaikh Maksud Ahemad Mohammed }

Age: Adult Occ. Service R/at Kadegaon }

Tal: Kadegaon, Dist. Sangli }

13. Subhas Maruti Deshmukh }

since deceased through Lrs }

1-A. Smt. Asha Subhash Deshmukh }

Age: Adult, Occ: Household }

1-B. Rahul Subhash Deshmukh }

Age: Adult Occ: Service }

1-C. Amol Subhash Deshmukh }

Age: Adult Occ: Service }

1-D Vishal Subhash Deshmukh }

Age: Adult Occ: Service }

1-E Vivek Subhash Deshmukh }

All R/at Kavatholi, Tal Atpadi, }

Dist. Sangli. }

14. Baliram Bhoja Kengar }

Age: Adult Occ. Service R/at Katpal }

Tal: Sangola, Dist: Solapur. }

15. Shivaji Shamrao Bichukale }

Age: Adult Occ. Service R/at Sangola }

Dist: Solapur. }

16. Tatyasaheb Dhondiram Khot }

Age: Adult, Occ: Service R/o }

Vithurayachiwadi, Post. Hingangaon, }

Tal. Kavathemamhankal, Dist. Sangli. }

17. Dinkar Maruti Satpute }

Age: Adult, Occu: Service R/o Nangole }

Tal. Kavathemahankal, Dist. Sangli }

18. Dashrath Shankar Chaudhari }

Age: Adult, Occu: Service, }

R/o Chaudhariwadi, Tal: Phaltan, }
 Dist. Satara }
19. Sadashiv Dada Pandole }
 Age: Adult Occu: Service, }
 R/o Pimpre Budruk, Tal. Khandara }
 Dist. Satara }
20. Balaso Dhondiba Tilekar }
 Age: Adult Occu: Service, }
 R/o Kharadewadi, Post-Sakharwadi. }
 Tal: Phaltan, Dist: Satara }
21. Baba Dada Shinde }
 Age: Adult Occu: Service }
 R/o Pimpred, Tal. Phaltan, Dist. Satara }
22. Shivaji Laxman Pisal }
 Age: Adult, Occu: Service }
 R/o Malwadi, Post-Bibi Tal. Phaltan }
 Dist. Satara through the Power of }
 Attorney Holder }
 Shri. Kishor Digamber Gaikwad }
 Age: Adult Occu: Service R/o Ridhore, }
 Tal. Madha, Dist. Solapur. }

V/s.

1. State of Maharashtra }
 Through, the Secretary, Planning }
 Department, Mantralaya, Mumbai. }
2. The Secretary, }
 Rural Development Department, }
 Mantralaya, Mumbai. }
3. The Secretary, }
 Finance Department, Mantralaya, }
 Mumbai. }
4. The State of Maharashtra, }
 The Secretary, Revenue and Forest }
 Department, Mantralaya, Mumbai. }

Respondents

- 5.** The Divisional Commissioner, }
Pune Division, Pune. }
- 6.** The Collector, Solapur. }
- 7.** The Collector, Sangli. }
- 8.** The Collector, Satara. }
- 9.** The Chief Executive Officer }
Zilla Parishad, Sangli. }
- 10.** The Chief Executive Officer }
Zilla Parishad, Sangli. }
- 11.** The Chief Executive Officer }
Zilla Parishad, Satara. }
- 12.** Tahasildar, madha, Dist. Solapur. }
- 13.** Tahasildar, Pandharpur, Dist. Solapur. }
- 14.** Deputy Collector (EGS) Solapur }
- 15.** Block Development Officer, }
Panchayat Samiti, Mangalwedha, }
Dist. Solapur. }
- 16.** Block Development Officer, }
Panchayat Samiti, Mangalwedha, }
Dist. Solapur. }
- 17.** Block Development Officer, }
Panchayat Samiti, North Solapur, }
Dist. Solapur. }
- 18.** Block Development Officer, }
Panchayat Samiti, Sangola, Dist. Solapur }
- 19.** Block Development Officer, }
Panchayat Samiti, Kadegaon Dist. Solapur }
- 20.** Block Development Officer, }
Panchayat Samiti, Atpadi Dist. Solapur }
- 21.** Block Development Officer, }
Panchayat Samiti, Kawathemahankal }
Dist. Solapur }
- 22.** Dy. Engineer, Minor Irrigation }
Sub-Division Kurduwadi, Tal. Madha }
Dist. Solapur. }
- 23.** Tahsildar, Phaltan, Dist. Satara }

- 24.** Tahasildar, Khandala, Dist. Solapur }
25. Block Development Officer, }
Panchayat Samiti, Phaltan, Dist. Satara }
26. Desk Officer Planning Department }
Mantralaya, Mumbai. }

WITH
WRIT PETITION NO. 4907 OF 2016

- 1.** Rajaram Shyamrao Kokare }
Age: Adult Occu: Service }
R/at Yelmarmangewadi, Tal. } Petitioners
Sangola, Dist. Solapur. }
2. Vilas Ramhari Pawar }
Age: Adult Occu: Service }
R/at Ajnale, Tal. Sangola, }
Dist. Solapur. }

V/s.

- 1.** The Secretary, Planning Department
Mantralaya, Mumbai.
2. The Secretary, }
Rural Development Department, }
Mantralaya, Mumbai. }
3. The Secretary, }
Finance Department, Mantralaya, } Respondents
Mumbai. }
4. The State of Maharashtra, }
The Secretary, Revenue and Forest }
Department, Mantralaya, Mumbai. }
5. The Divisional Commissioner, }
Pune Division, Pune. }
6. The Collector, Solapur. }
7. The Chief Executive Officer, }
Zilla Parishad, Solapur. }

8. The Block Development Officer, }
 Panchayat Samiti, Sangola, Dist. Solapur }
 9. Tahasildar, Sangola, Dist. Solapur. }

WITH
WRIT PETITION NO. 4906 OF 2016

- | | | |
|--|---|-------------|
| 1. Shri. Murlidhar Sitaram Khairmode | } | |
| Age: Adult Occ. Service R/at | } | |
| Pathan (Ramapur), Tal. Pathan, Dist. Satara | } | |
| 2. Shri. Sarjerao Baburao Salunkhe | } | |
| Age: Adult Occ. Service R/at Sanjaynagar (Kale) | } | |
| Tal: Karad Dist: Satara. | } | |
| 3. Shri. Ashok Mahadeo Jadhav | } | |
| Age: Adult Occ. Service R/at Zhanjwad | } | |
| Tal. Mahabaleshwar, Dist. Satara | } | |
| 4. Vasant Maruti Shinde | } | |
| Age: Adult Occ. Service R/at Machutar | } | |
| Tal: Mahabaleshwar Dist: Satara | } | |
| 5. Shri. Deepak Ramchandra Patil | } | |
| Age: Adult Occ. Service R/at Post- Kasarshirambe | } | Petitioners |
| Tal: Karad, Dist. Satara | } | |
| 6. Shri. Vithal Parbati Pharande | } | |
| Age: Adult Occ. Service R/at Anewadi | } | |
| Tal. Jawali, Dist. Satara | } | |
| 7. Shri. Murlidhar Bhikoba Shinde | } | |
| Age: Adult Occ. Service R/at | } | |
| Anewadi Tal. Jawali, Dist. Satara. | } | |

V/s.

- | | | |
|----------------------------------|---|-------------|
| 1. State of Maharashtra | } | |
| Through, the Secretary, Planning | } | |
| Department, Mantralaya, Mumbai. | } | Respondents |
| 2. The Secretary, | } | |
| Rural Development Department, | } | |

Mantralaya, Mumbai.	}
3. The Secretary,	}
Finance Department, Mantralaya,	}
Mumbai.	}
4. The State of Maharashtra,	}
The Secretary, Revenue and Forest	}
Department, Mantralaya, Mumbai.	}
5. The Divisional Commissioner,	}
6. The Collector, Satara	}
7. The Chief Executive Officer, Panchayat	}
Samiti, Patan, Dist. Satara	}
8. The Block Development Officer,	}
Panchayat Samiti, Patan, Dist. Satara	}
9. Tahasildar, Karad, Dist. Satara	}
10. Tahasildar, Mahabaleshwar,	}
Dist. Satara.	}
11. The Block Development Officer,	}
Panchayat Samiti, Mahabaleshwar,	}
Dist. Satara.	}
12. The Block Development Officer,	}
Panchayat Samiti, Karad, Dist. Satara	}
13. The Deputy Collector (EGS), Satara	}
14. The Block Development Officer,	}
Panchayat Samiti Jawali (Medha),	}
Dist. Satara	}

Mr. Kiran Bapat a/w Shri. Y. B. Lengare, Mr. Jotiram Jadhav i/b Mrs. Suman Y. Lengare Advocate for the petitioners in all Writ Petitions
 Mr. B. V. Samant AGP for the State in all Writ Petitions
 Mr. Satyajeet Shirke I/b Shri. U. P. Warunjikar for respondent nos. 11 & 25 in WP No. 8908 of 2015, for respondent nos. 7, 8, 11, 12 & 14 in WP 4906 of 2016.
 Mr. Anand S. Kulkarni for respondent nos. 9, 15 to 18 in WP no. 8908 of 2015 and for respondent nos. 7 & 8 in WP 4907 of 2016

**CORAM : R. M. SAVANT &
NITIN W SAMBRE, JJ.**

DATE : 12th OCTOBER, 2018.

ORAL JUDGMENT:

Rule, made returnable forthwith and heard finally with the consent of the parties.

2 The above writ petitions have been filed by the petitioners who were working as “Muster Assistants” principally for the relief of in the nature of a direction to the respondents to extend the benefits including service benefits, seniority, promotion, pensionary benefits to the petitioners from the date of their initial appointment. Incidental to the said relief is the relief sought by the petitioners by way of quashing and setting aside the Letter-cum-Order dated 21/05/2015 by which the petitioners were given benefits from 2009. In seeking the benefit of the Government Resolution dated 01/12/1995, the petitioners have also claimed the relief of a declaration that the petitioners are entitled to be paid the scale of Rs. 3050-4590 for class 'C' category and Rs. 22550-3200 for class 'E' category as per 5th Pay Commission and Rs.

5200-20200 for class 'C' category and Rs. 4400-7440 for class 'E' category as per 6th Pay Commission. The aforesaid entitlement is claimed by the petitioners based on the Government Resolution dated 01/12/1995. The said Resolution excluded the persons who were not in service between the period 26/05/1993 and 31/05/1993. It seems that by subsequent Government Resolution dated 21/04/1999, persons like the petitioners whose services were terminated between 26/05/1993 and 31/05/1993 were also considered eligible for benefits of the said Government Resolution dated 01/12/1995.

3 The above petitions had come up before a Division Bench of this Court (Coram: Anoop V. Mohta and Ravindra V. Ghuge, JJ.) on 04/05/2017. The issue of whether the petitioners in the above petitions had suffered a break in service between 26/05/1993 & 31/05/1993 was addressed by the said Division bench on the said day. The Division Bench adverted to the fact that the said controversy assumes importance in view of the fact that the employees working on the Employment Guarantee Scheme ('EGS' for short) who were not in employment between 26/05/1993 & 31/05/1993 cannot be held eligible for absorption as per the scheme comprised in the Government Resolution dated 01/12/1995. The Division Bench thereafter noted that

though the petitioners had been terminated prior to 31/05/1993, the petitioners had adopted proceedings before the Labour Court/Tribunal challenging their termination. It was observed by the Division bench that in some cases, reinstatement with continuity of service was granted. The Division Bench therefore observed that as a consequence of the orders in favour of the petitioners, it would not be open for the Government to canvass before this Court that they were not in employment as on 31/05/1993. The Division Bench accordingly concluded that in all such cases wherein the petitioners have been granted reinstatement with continuity of service and which relief has attained finality, it would not be open for the respondent-State to contend that they were not in employment on 31/05/1993 so as to be ineligible for the benefits flowing from the Government Resolution dated 01/12/1995. The Division Bench accordingly observed that the said issue is settled as regards such of the petitioners who were terminated prior to 31/05/1993 and who have been subsequently granted relief of reinstatement with continuity of service.

4 In the light of the order passed by the Division Bench dated 04/05/2017, the respondents were required to take a call in respect of the

petitioners as regards the date from which they would be entitled to absorption as regular employees.

5 On behalf of the respondents, an additional affidavit-in-reply dated 08/10/2018 has been filed by one Ajit Baburao Pawar working as Deputy Commissioner (EGS), Pune Division, Pune. In the said affidavit the factual position insofar as the service of the petitioners is initially mentioned. It is thereafter mentioned that petitioners have been granted relief of reinstatement in service with continuity and back wages i.e. by the concerned Labour Court/Tribunal. It is further mentioned that the petitioners had not demanded the relief in the matter of getting benefits under the said Government Resolution dated 01/12/1995. However, what is significant to note is that in the affidavit a reference is made to the order dated 04/05/2017 passed in the above writ petitions and it is mentioned that as per the said order it is held that the petitioners are entitled to the benefits of absorption as per Government Resolution dated 01/12/1995. It is stated that the State Government out of 31 petitioners had absorbed 23 petitioners in Government service from 04/05/2017 and that 8 petitioners have already retired as "Muster Assistants". The choice of the date i.e. 04/05/2017 is

justified on the ground that the Division Bench by order dated 04/05/017 has held the petitioners as entitled to absorption and therefore, the petitioners have been absorbed from 04/05/2017. Hence the choice of the date i.e. 04/05/2017 is attributed to the order of the same date passed by the Division Bench. The petitioners have a grievance and justifiably so of the said date of 04/05/2017 as being the date of their absorption.

6 During the course of the hearing of the above writ petitions, our attention was drawn to the Judgment and order dated 19/07/2012 passed by the Division Bench of this Court in Writ Petition No. 2946 of 1997. The petitioners therein were also “Muster Assistants” who were working in the Irrigation Department of the State of Maharashtra. The grievance of the said Petitioners was also as regards the grant and privileges of a permanent employee to them. The Division Bench after referring to the facts of the case of the said petitioner, issued the following directions which for the sake of ready reference are reproduced hereinunder.

(a) It will be open for the Petitioner to make a representation to the concerned Authorities for grant of pensionary benefits;

(b) If such representation is made, the same shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the representation is made;

(c) In view of the judgment and order dated 19th September, 1996 of the Industrial Court at Solapur in Complaint (ULP) No.443 of 1990, for the purposes of considering the case for grant of pensionary benefits, the Petitioner shall be treated as a permanent employee with effect from 1st October, 1988 till the date of his superannuation;

(d) We make it clear that apart from issuing the direction regarding the date of permanent employment of the Petitioner, we have not examined the case of the Petitioner as regards his eligibility to pensionary benefits.

7 The learned counsel had thereafter brought to our notice the Judgment and Order dated 06/09/2017 of the Division Bench of this Court sitting at Aurangabad. The said Judgment was also rendered in a number of petitions being Writ Petition no. 12043 of 2016 in the matter of **Kadu Mahadu Bhawar Vs. The State of Maharashtra and others** and companion writ petitions. The Division Bench sitting at Aurangabad has referred to the Judgment and Order of the Division Bench of this Court in Writ Petition No. 2946 of 1997

and has thereafter issued the directions which are contained in paragraph 7 of the said Judgment and order which for the sake of ready reference are produced hereinunder:

I) In view of the Judgment and Order passed by the learned Industrial Court for the purpose of considering the grant of pensionary benefits, the Petitioners shall be treated as Permanent Employees with effect from the date of their complaints i. e. from the date of filing of their respective ULP's till the respective dates of superannuation.

II) In case of the Petitioners who were already superannuated, it will be open for them to make a representation to the concerned Authorities for grant of pensionary benefits.

III) If such representation is made, same shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the representations are made.

IV) We make it clear that, apart from issuing directions regarding the date of permanent employment of the respective Petitioners, we have not examined the case of the Petitioners as regards the eligibility of pensionary benefits.

V) Rule is made partly absolute on above terms with no order as to costs.

VI) Writ petitions accordingly partly allowed.

8 We are informed that the Judgment of the Division Bench of this Court in Writ Petition no. 2946 of 1997 has been confirmed by the Apex Court and thereby the date of 01/10/1988 has not been discarded by the Apex Court.

9 In the instant Writ Petitions as indicated above, the State Government

has undoubtedly accepted the fact that the benefits of the Government Resolution Dated 01/12/1995 are required to be given to the petitioners. However, the question that remains is from which date. Insofar as the date fixed by the State Government is concerned i.e. 04/05/2017 we do not find any rationale in the same. In similar cases in the past wherein the services of the “Muster Assistants” were terminated and Labour Court/Tribunals have set aside the terminations and granted reinstatement with continuity of service or even only reinstatement, the benefits of the said Resolution dated 01/12/1995 were granted from the date of the Applications before the Labour Court or Industrial Tribunal as the case may be. In our view, though the services of the petitioners were terminated, may be even during the said period between 26/05/1993 & 31/05/1993, the fact that the Labour Courts/Industrial Tribunals have adjudicated the dispute as regards the termination in their favour would undoubtedly have a bearing on the entitlement of the petitioners in respect of absorption. We therefore, for the sake of convenience reproduce the table in respect of the details of the petitioners in all the above three Petitions:

WRIT PETITION NO. 8908 OF 2015
KISHOR GAIKWAD AND 21 ORS
V/S.
STATE OF MAHARASHTRA

Sr. No.	Name of Petitioner	Date of appointment	Termination	Reference ID No. & decision date	High Court WP No.	Date of Rejoining as per Court order	Present Status
1	Kishor Digambar Gaikwad	25.03.1986	01.04.1988	78/92 25.04.2001	4814/1999 28.11.2000 Disposed off	25.09.1997	Peon
2	Ramhari Mahadeo Parade	08.10.1982	23.11.1987	17/93 24.12.1997	5458/1998 Disposed off	01.09.1998	Retired 30.06.2016
3	Balu Nagnath Gadekar	25.03.1986	01.04.1988	27/92 12.04.2001	1893/2004 14.06.2004 Disposed off	28.09.1998	Peon
4	Nivruti Pandurang Bhosale	31.03.1986	19.02.1988	76/92 16.04.2001	1898/2004 13.04.2004 Disposed off	01.09.1998	Peon
5	Rajabhau Ramrao Gavali	15.05.1986	19.02.1988	66/92 17.04.2001	1837/2004 14.06.2004	01.09.1998	Talathi
6	Kumar Kundalik Shinde	07.10.1986	01.04.1988	10/91 13.05.1999	7324/1999 03.07.2015 Disposed off	17.02.2000	Peon .
7	Mukund Namdeo Ghogardare	03.07.1986	01.04.1988	97/93 17.09.1993	7323/1999 15.01.2001 Disposed off	04.05.1999	Talathi
8	Pandit Kisanrao Jagtap	08.10.1982	01.04.1988	32/93 26.04.2001	1860/2004 14.06.2004 Disposed	25.01.1999	Retired on 31.05.2011
9	Ganpat Mahipat Bhore	01.06.1986	01.05.1989	20/93 04.04.2001	5415/1998 28.03.2000 Disposed off	01.09.1998	Peon
10	Hanumant Ramkrishna Tonape	15.12.1986	31.03.1989	84/92 18.4.2001	6018/1998 28.03.2000 Disposed off	31.08.1998	Peon
11	Suresh Ramdas	16.10.1986	01.06.1988	68/92 19.04.1998	5420/1998 28.03.2000	01.09.1998	Peon

	Ubale				Disposed off		
12.	Shaikh Maksud Ahemad Mohammed	18.03.1986	31.01.1988	Rev. Appl. 22/98 30.09.2010	2011/2011 15.30.2011 admitted and stay	16.02.1999	Peon
13	Subhash Maruti Deshmukh	06.07.1977	15.11.1988	Com.749/96 14.12.1993	Nil	07.07.1994	Retired on 30.04.2016
14	Baliram Bhoja Kengar	16.09.1985	01.08.1988	23/95 17.04.2000	3371/2001 Admitted	14.03.2001	Peon
15	Shivaji Shamrao Bichukale	16.08.1986	06.12.1988	6/92 02.12.1998	2703/99 11.06.1999 Disposed	12.04.1999	Peon
16	Tatyasaheb Dhondiram Khot	17.11.1984	07/12/1990	Complaint 600/90 31.08.1994	2059/2011 30.09.2010 Admitted	01.12.1994	Peon
17	Dinkar Maruti Satpute	30.11.1984	10.12.1990	Complaint 601/90 31.08.1994	2085 / 2011 29.03.2011 Admitted	01.12.1994	Peon
18.	Dashrath Shankar Chaudhari	10.08.1984	31.01.1988	Rev. No.225/94 14.07.1998	Nil	18.07.1998	Watchmen Retired 31.05.2018
19	Sadashiv Dada Pandole	01.10.1982	20.10.1985	231/1995 22.04.1999	Nil	28.05.1999	Peon
20	Balaso Dhondiba Tilekar	10.01.1984	30.05.1985	Rev. No. 102/1995 26.09.2000	5223/2004 admitted and stay 20.04.2006	01.10.1995	Peon
21	Baba Dada Shinde	07.09.1989	15.10.1986	Rev. No. 167/1991 11.04.1997	2717/1997 filed by State dismissed 22.07.1997	25.07.1997	Retired 31.07.2017
22	Shivaji Laxman Pisal	07.09.1980	15.10.1986	Rev. No. 167/1991 11.04.1997	2717/1997 filed by State dismissed 22.07.1997	28.07.1997	Retired 31.01.2018

WRIT PETITION NO. 4906 OF 2016

**MURLIDHAR SITARAM KHAIRMODE AND 6 ORS
V/S.
STATE OF MAHARASHTRA**

Sr. No.	Name of Petitioner	Date of appointment	Termination	Reference ID No. & decision date	High Court WP No.	Date of Rejoining as per Court order	Present Status
1	Murlidhar Sitaram Khairmode	02.06.1982	29.02.1988	Complaint ULP 62/95 01.08.1986	5223/2004 Admitted and stay 20.04.2006	05.10.1995	Retired 28.02.2018
2	Sarjerao Baburao Salunkhe	03.08.1979	10.01.1988	Complaint ULP 73/95 15.03.2004	3782/2004 Admitted and stay	21.08.1995	Retired 28.02.2016
3	Ashok Mahadeo Jadhav	01.08.1980	20.04.1988	Complaint ULP 8/95 15.03.2004	3755/2004 Admitted and stay	15.01.1995	Peon
4	Vasant Maruti Shinde	15.11.1978	20.04.1988	Complaint ULP 9/95 15.03.2004	3770/2004 Admitted and stay	16.01.1995	Retired on 31.05.2016
5	Deepak Ramchandra Patil	23.11.1978	01.10.1988	Complaint ULP 72/95 15.03.2004	3788/2004 Admitted and stay	21.06.1995	Peon
6	Vithal Parbati Pharande	24.02.1986	31.12.1988	Complaint ULP 21/95 15.03.2004	7162/2004 Dismissed for default CA St No. 12428/2018	19.01.1995	Peon
7	Murlidhar Bhikoba Shinde	24.02.1986	31.12.1988	Complaint ULP 22/95 15.03.2004	7162/2004 Dismissed for default CA St No. 12428/2018	19.01.1995	Peon

WRIT PETITION NO. 4907 OF 2016

RAJARAM SHYAMRAO KOKARE AND ANR
V/S.
STATE OF MAHARASHTRA

Sr. No .	Name of Petitioner	Date of appointment	Termination	Reference ID No. & decision date	High Court WP No.	Date of Rejoining as per Court order	Present Status
1	Rajaram Shyamrao Kokare	27.07.1987	01.01.1990	23/92 01.10.1999	Nil	15.09.1993	Peon
2	Vilas Ramhari Pawar	06.10.1987	Not terminated.	Complaint ULP No. 114/1990. Labour Court restrained from terminating services by order dated 26.03.1990 and same is dismissed on 11.02.1998	Nil	Continuously he is in service	Peon

10 We are of the view that the interest of justice would be served if the petitioners are absorbed from the date of the reference or filing of the complaints before Labour Courts/Industrial Tribunal as the case may be. The said date would undoubtedly have a rationale as the date when the dispute in

respect of the petitioners' termination has taken to the Labour Court/Tribunal. However, we are conscious of the fact that the grant of absorption from the dates of filing of the reference/complaints would impose a financial burden on the State Government, we would therefore modulate the relief insofar as the liability on account of the arrears that would arise. We therefore, allow the petitions and issue the following directions:

(i) The petitioners would be entitled to absorption in Government service from the date of filing of the reference/Complaint in the Labour Court/Industrial as the case may be, as shown in the tables hereinabove produced. The date should be assigned is the 1st of June of the particular year. For example in respect of the petitioner Kishor Digambar Gaikwad the date would be 01/06/1992.

(ii) That the petitioners would not be entitled to any monetary benefits in the form of arrears on the said basis but the said date would be taken into consideration for notionally fixing the salary of the petitioners/Pension of such of the petitioners who have retired, for the purposes of seniority and promotional benefits, if

applicable. The exercise of notionally fixing the salary of the petitioners who are in service, and pension of the petitioners who have retired would be done latest by 31st January 2019.

(iii) Insofar as the petitioners who are in service, they would be paid salary after carrying out the exercise of notional fixation. The revised salary would be payable from December 2018.

(iv) Insofar the petitioners whose petitions are pending in this Court, the date of absorption as stipulated by the instant Judgment would be subject to outcome of the said petitions.

11 The petitions are allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their own costs.

[NITIN W. SAMBRE, J.]

[R. M. SAVANT, J.]