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

WRIT PETITION NO.5112 OF 2001
(Jalgaon Municipal Council, Through its Chief Officer, Jalgaon Vs. Madhukar Vishnu Kolhe)
WITH WRIT PETITION NO.4864 OF 2002
WITH WRIT PETITION NO.4867 OF 2002
WITH WRIT PETITION NO.4868 OF 2002
WITH WRIT PETITION NO.4889 OF 2002
WITH WRIT PETITION NO.4890 OF 2002
WITH WRIT PETITION NO.4893 OF 2002
WITH WRIT PETITION NO.4894 OF 2002
WITH WRIT PETITION NO.4953 OF 2002
WITH WRIT PETITION NO.4954 OF 2002
WITH WRIT PETITION NO.4961 OF 2002
WITH WRIT PETITION NO.5728 OF 2002
WITH WRIT PETITION NO.5338 OF 2002
WITH WRIT PETITION NO.1806 OF 2003

Mr.A.R.Kawade h/f Mr.P.R.Patil, Advocate for the petitioner.
Mr.P.N.Kutti, AGP for State.
Mr.Deelip Patil Bankar, Advocate for the respondent in WP No.1806/2003.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 08/05/2019

PER COURT :

1. In all these petitions, the Jalgaon Municipal Council (presently the Jalgaon City Municipal Corporation) is aggrieved by the judgment and award delivered by the Labour Court vide which, the termination of the respondents/daily wagers was quashed and set aside and they were granted reinstatement with continuity of service, though without back wages.

2. This Court has admitted these petitions and has not interfered with the orders of the reinstatement as these respondents were reinstated by the Municipal Council. Their reinstatement is, however, made subject to the result of these petitions.

3. I have heard the learned Advocate for the petitioners and the learned Advocates appearing on behalf of the respondents/workmen, who are identically placed.

4. A copy of the judgment dated 22/11/2017 delivered by this Court in identical matters in the cases of the same Chief Officer, Nagar Parishad, Jalgaon Vs. Dnyaneshwar Shridhar Kale and connected petitions, is placed before this Court.

5. I am of the view that the fact that these respondents have been reinstated in employment and have been working for the past about 17 years during the pendency of these petitions, cannot be overlooked. They have settled in employment. It is undisputed that the Municipal Council, Jalgaon is catering to the needs of the ever growing Jalgaon city and its population. Large volumes of work are available. The work is of a perennial character and would continue

to be available as long as the Corporation exists. In this backdrop, interfering with the impugned awards merely because the respondents were daily wagers, would lead to a miscarriage of justice.

6. Considering the above, these petitions are left with an academic interest. The finding on facts arrived at by the Labour Court, cannot be interfered with by this Court in its supervisory jurisdiction merely because a different view is possible. As these respondents are working and discharging their duties, an issue would arise as regards their regularization.

7. As such, these petitions are disposed off. Rule is discharged.

8. It is, however, made clear that the Law laid down by this Court in the matter of Mukhyadhikari, Nagar Parishad, Tuljapur Vs. Vishal Vijay Amrutrao [2015(5) Mh.L.J.75 and Municipal Council, Tuljapur Vs. Baban Hussain Dhale and others, WP No.1843/2015 with connected matters dated 26/02/2015, the Jalgaon Municipal Corporation can follow its rules and regulations as are applicable and can forward the proposals of these respondents alongwith all other similarly situated daily rated workers, within a period of 12 weeks from today to the appropriate authority, which is the Principal

Secretary, Urban Development Department.

9. The said authority would consider such proposals as per the seniority of these daily rated workmen, depending upon the availability of posts, within a period of 4 months after receiving the proposals. If the posts are available, these respondents would be considered for regularization based on their seniority and their length of service as daily rated workmen and the areas and departments in which they are working. In the event, posts are available and such daily rated workmen are granted regularization, a deemed date would be allocated, from which, the monetary benefits of these workers can be calculated and paid to them. These respondents would not be terminated from employment merely because they are daily rated workmen, save and except, in case of disciplinary action.

(Ravindra V.Ghuge, J.)