

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

61 WRIT PETITION NO.8546 OF 2019

**SANDHYA VASANT KULKARNI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

**WITH
WRIT PETITION NO. 8547 OF 2019**

**BHANUDAS SHANKAR PATIL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

**WITH
WRIT PETITION NO. 8548 OF 2019**

**ASHOK LOTAN THAKUR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

**WITH
WRIT PETITION NO. 8549 OF 2019**

**DILIP JAYWANT NIMBALKAR THROUGH LRS
SHAKUNTALA DILIP NIMBALKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
WRIT PETITION NO. 8550 OF 2019**

**VITTHAL SHARWAN PATIL THROUGH LRS
BHARTI VITTHAL PATIL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

**WITH
WRIT PETITION NO. 8551 OF 2019**

SATISH MENCHAND KAWDIYA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH
94 WRIT PETITION NO. 6505 OF 2019

MANSORR GAFOOR PINJARI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH
WRIT PETITION NO. 6587 OF 2019

DAGDU RAMCHANDRA MALI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Nagori Girish
AGP for Respondents/State : Mr. K.N. Lokhande
Advocate for Respondents : Mr. V.D. Gunale for R/2.

...

CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.
DATE : 15.07.2019

PC. :-

Mr. Nagori the learned advocate for the petitioners and Mr. Gunale the learned advocate for the Municipal Corporation submits that the petitioners are similarly situated and are amongst the 1332 employees appointed on the post created with the erstwhile Jalgaon Municipal Corporation under the orders of Directorate of Municipal Administration dated 22.01.1997.

2. The learned advocate for the petitioners and the Municipal Corporation submit that the petitioners are governed by the order passed in Writ Petition No. 14052 of 2017 with connected writ petitions.

3. We have also heard the learned A.G.P

4. The petitioners appear to be similarly situated as petitioners in Writ Petition No.14052/2017 with connected writ petitions decided under order dated 14.02.2018. In the said order we had observed thus:

“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. 750940. 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.

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."

5. We further directed the State Government to consider the proposal of those persons about age relaxation and directed the State Government to take decision upon the proposal of the Municipal Council regarding relaxation of age after considering all the aspects as observed in the said judgment and to decide the same within a period of three months.

6. It is submitted that pursuant to the aforesaid order passed in Writ Petition No.14052/2017 with connected writ petitions, the State Government on 06.09.2018 has granted age relaxation for the purpose of pensionary benefits to the petitioners of said writ petitions and communication to that effect has been made on 18.02.2019 to the Municipal Corporation, Jalgaon. The State had also directed the Municipal Corporation to take action against the erring officials. It is for the Municipal Corporation to take action accordingly. However, the fact remains that the judgment delivered in writ petition no.14052/2017 with connected writ petitions dated 14.02.2018 has

been considered by the Government and benefit of age relaxation has been granted for pensionary purpose.

7. There is no reason to differentiate the present petitioners, more particularly when they are similarly situated as the petitioners in writ petition no.14052/2017 with connected writ petitions.

8. In the result, we pass the following order:

ORDER

The State Government shall decide the proposal forwarded by the Municipal Corporation for relaxation of the age of petitioners considering our observations as supra and also the factum of relaxation of age given to those persons covered under the order dated 14.02.2018 in writ petition no.14052/2017 with connected writ petitions and give the same treatment to these petitioners of age relaxation for pensionary purposes. The same shall be done preferably within a period of two (02) months.

9. Writ Petitions accordingly disposed of. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]