

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13020 OF 2019

MURLIDHAR SHANKAR KHADKE ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS ...RESPONDENTS

AND

WRIT PETITION NO.13145 OF 2019

LAHU PUNA KOLHE ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR. ...RESPONDENTS

AND

WRIT PETITION NO.13146 OF 2019

PREMLAL PANDHARINATH PATIL ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR. ...RESPONDENTS

AND

WRIT PETITION NO.13147 OF 2019

BHAGWAN SOMA SAPKALE ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR. ...RESPONDENTS

AND
WRIT PETITION NO.13148 OF 2019

PANDHARINATH SHALIGRAM KALE ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR. ...RESPONDENTS

AND
WRIT PETITION NO.13149 OF 2019

EKNATH SHANKAR PATIL ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR. ...RESPONDENTS

AND
WRIT PETITION NO.13150 OF 2019

LILADHAR DHONDU ZOPE ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR. ...RESPONDENTS

AND
WRIT PETITION NO.13151 OF 2019

SATISH NAMDEO AHIRE ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR. ...RESPONDENTS

AND
WRIT PETITION NO.13152 OF 2019

ANKUSH PUNA KOLHE ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR.

...RESPONDENTS

AND
WRIT PETITION NO.13153 OF 2019

ASHOK JAGGANATH SURYAWANSHI (DIED)
LEGAL HEIR BABY ASHOK SURYAWANSHI ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR.

...RESPONDENTS

AND
WRIT PETITION NO.13154 OF 2019

PRAKASH KAUTIK CHAUDHARI ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR.

...RESPONDENTS

AND
WRIT PETITION NO.13155 OF 2019

PUNDLIK DEOCHAND BAVISKAR ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR.

...RESPONDENTS

AND
WRIT PETITION NO.13156 OF 2019

RABIYA BI ABDUL SATTAR ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND ANR. ...RESPONDENTS

AND
WRIT PETITION NO.13157 OF 2019

BHAGWAN SUKA SONAWANE

...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND ANR.

...RESPONDENTS

Mr. Girish Nagori, Advocate for Petitioners in all Writ Petitions
Mr. P.G. Borade, AGP for Respondents-State
Mr. V.D. Gunale, Advocate for Respondent No. 2 in all Writ Petitions.

CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.

DATE : 17th OCTOBER, 2019

ORAL ORDER:

1. The petitioners are seeking pensionary benefits. According to petitioners they had retired from service after attaining the age of superannuation, however pensionary benefits are not granted to them.

2. According to the respondent-Municipal Corporation, the proposal for age relaxation has been submitted to the Government. However, the Government has not taken any decision on it.

3. 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.”

4. 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.

5. 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.

6. 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.

7. 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.

8. Writ Petitions accordingly disposed of. No costs.

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

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