

Pradnya Bhogale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10450 OF 2013**

Revannath Ramchandra Khandare ..Petitioner

vs

The State of Maharashtra and Ors. ..Respondents

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Mr. Vinayak Kumbhar I/b. Mr. N.V. Bandiwadekar for Petitioner.

Mr. P.P. Kakade, AGP for State/Respondent No.1.

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**CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.**

DATE : 22 JANUARY 2020

P.C.:-

Heard learned counsel for the parties.

2. The Petitioner has challenged the order passed by the Commissioner and Regional Director of Municipal Administration dated 16 September 2013 and has prayed that the services of the Petitioner be regularised in the Respondent No.4-Mhaswad Municipal Council from 1 October 1990. By the impugned order the services of the Petitioner have been regularised with effect from 6 May 2000 pursuant to the Government Resolution. It is the contention of the Petitioner that the same should have been regularised from 1 October 1990.

3. The Petitioner had earlier filed a Writ Petition bearing No.8565 of 2012 in this Court and the Division Bench by order dated 18 March 2013 directed the Commissioner and Director, Directorate of Municipal Administration to decide the representation of the Petitioner and same has been disposed of by the impugned order.

4. The Petitioner has placed on record the orders passed by the Labour Court, Satara in Complaint (ULP) No.29 of 1992 dated 3 August 1996 and the order passed by the Industrial Court, Satara in Complaint (ULP) No.35 of 2007. The order passed by the Industrial Court, Satara directs as under :-

“1. The complaint is allowed.

2. It is declared that the respondent Municipal Council is engaged in the unfair labour practices within the meaning of item 9 & 10 of Schedule IV of the MRTU & PULP Act, 1971. The respondent is directed to desist from doing so.

3. The respondent is directed to pay the wages and difference as per the Fifth Pay Commission recommendations, so also grant the consequential benefits of permanency in the service like grant of increments, leave, etc.”

By this order the Industrial Court has directed the Respondent therein to grant the consequential benefits of permanency in the service to the Petitioner.

5. In the reply filed to this Petition it is stated that before Industrial Court the State Government was not party, and the orders of the Labour Court and the Industrial Court are not proper. It is nowhere stated that the orders passed by the Labour Court and Industrial Court have been challenged.

6. In these circumstances, we are of the view that implications of the orders passed by the Labour and Industrial Court and the consequences of them not being challenged by the Respondent-State will have to be considered by the Respondent No.3. There is an omission to do so.

7. We are, therefore, restore the representation of the Petitioner to the Respondent No.3 who would take a fresh decision as to whether the regularisation should be from 1 October 1990 as claimed by the Petitioner or 6 May 2000 as held, in the light of what we have observed as above. The Petition is pending since the year 2013. The AGP will furnish the copy of this Petition to Respondent No.3 to enable him to take decision earlier. Twelve weeks time is granted to the Respondent No.3 to take the fresh decision.

8. Writ Petition is accordingly disposed of.

(M.S.KARNIK, J.)

(NITIN JAMDAR, J.)