

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 6087/2016

Yuvraj S/o. Kashiram Yerkade,
Aged about 60 years, Occu. - Retired,
R/o. Bhandara, Tq. and Dist. Bhandara.
Maharashtra State.

.... **PETITIONER**

// VERSUS //

- 1] State of Maharashtra,
Through its Secretary,
Nagar Vikas, Mantralaya,
Mumbai-400 032.
- 2] Director/Commissioner,
Directorate of Nagar Parishad
Administration(Nagar Parishad
Prashashan Sanchanalaya)
Government Transport Service Building,
3rd Floor, Sir Poch Khanwala Marg,
Worli, Mumbai. Maharashtra State.
- 3] Collector, Bhandara,
Tahsil & District Bhandara.
- 4] Chief Officer,
Nagar Parashid, Bhandara.

.... **RESPONDENTS**

Shri A. N. Ansari, counsel for the appellant.
Ms S. V. Kolhe, AGP for the respondent Nos.1 to 3.
Shri M. I. Dhatrak, counsel for the respondent No.4.

**CORAM : SUNIL B. SHUKRE AND
MADHAV J. JAMDAR, JJ.**

DATED : 15th January, 2020

ORAL JUDGMENT : (Per Madhav J. Jamdar, J.)

1] Heard the learned counsel for the parties.

2] By the present petition filed under Article 226 of the Constitution of India, the petitioner who worked with respondent No.4 as labour on daily wages since 07.07.1988 and retired on 30.04.2016, is seeking prayer that direction be issued to the respondent No.4 – Chief Officer, Nagar Parishad, Bhandara to get sanction of the post on which the petitioner had worked from the respondent No.2 – Director of Municipal Administration in terms of Section 76 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 and further issue direction to respondent No.2 to sanction the post of petitioner immediately. It is also prayed that respondents be directed to pay gratuity, leave salary, arrears/difference of salary, pension and other retirement dues of the petitioner outstanding immediately alongwith interest @18% per annum. It is the contention of the petitioner that he worked from 07.07.1988 to 30.04.2016 and after his retirement the respondent No.4 by communication dated 10.05.2016 informed him that as he had worked on unsanctioned post, he would not be entitled for pension as per Rule 30 of the Maharashtra Civil Services Rules (Pension), 1982.

3] The petition was admitted by order dated 22.06.2018 and by said order liberty was given to mention the matter after orders are

passed by the Hon'ble Apex Court as the petitioner has relied on the judgment and order dated 04.05.2016 passed in Writ Petition No.5371/2015. The said order dated 04.05.2016 has been challenged by filing Special Leave to Appeal (C) No.19955/2017. Both the learned counsel for the parties state that the said Special Leave to Appeal is dismissed and therefore, the order dated 04.05.2016 passed in Writ Petition No.5371/2015 has been confirmed by the Hon'ble Apex Court. The said order dated 04.05.2016, passed by this Court in Writ Petition No.5371/2015 has been annexed as Annexure R4-1. Learned counsel for both the parties agree that the controversy involved in the present petition is squarely covered by the said judgment and order dated 04.05.2016 passed in Writ Petition No.5371/2015. It is common ground that the proposal for creation of permanent post is forwarded to the respondent No.2 on or about 18.02.2010 and it is still not decided. The said proposal is regarding creation of post with a view to absorb the petitioner in the sanctioned post. We direct the respondent No.2 to expedite the process and to complete it within a period of three months from the date of the communication of this order to respondent No.2.

We also grant liberty to the petitioner to approach again, if the post is not sanctioned. We dispose of the writ petition with no order as to costs. Rule is discharged.

CIVIL APPLICATION NO. 3093/2019

In view of disposal of main petition, the civil application does not survive hence, disposed of.

(MADHAV J. JAMDAR, J.)

(SUNIL B. SHUKRE J.)

Kirtak