

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 3920 OF 2019

Kiran s/o Onkar Wani,
Age 59 years, Occu : Retired
As Lab Technician, from
Jalgaon Municipal Corporation
Hospital, resident of Plot No.7
Gut No. 63, Vidhut Colony,
Jalgaon.

... **PETITIONER**

VERSUS

- 1] The State of Maharashtra
Through its Secretary,
Urban Development Department
Mantralaya, Mumbai-32.
- 2] The Commissioner,
Jalgaon Municipal Corporation,
Jalgaon.
- 3] The Chief Accountant,
Jalgaon Municipal Corporation,
Jalgaon.

... **RESPONDENTS**

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Mr. Amol N. Kakade, Advocate for Petitioner.

Mrs. M. A. Deshpande, AGP for Respondent No.1 / State.

Mr. Sachin Munde, h/f Mr. V. D. Gunale, Advocate for Respondent No.2.

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**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE : 06th October, 2021.

ORAL JUDGMENT: (Per S. V. Gangapurwala, J.)

. Rule. Rule made returnable forthwith. With the consent, taken up for final hearing.

2 In fact, the dispute between the parties was considered by this Court in Writ Petition No.5674 of 2015. It is submitted that still now the amount of recovery is claimed. The recovery of amount set aside by this Court is also claimed. It is further stated that the juniors to the petitioner are paid the salary in the pay scale of 9300-34800 and Grade Pay 4700. The petitioner be also paid the same legitimately.

3 According to the learned counsel for respondent Corporation, the petitioner's appointment in the year 1991-1992 was not by following due process. It was a temporary appointment. The petitioner's first appointment is as Coolie, the second appointment is as Lab Assistant and thereafter, he was appointed as Pharmacist.

4 There is no proper denial from the respondent Corporation that the juniors to the petitioner are paid the same pay scale as the petitioner was paid earlier to refixation.

5 In Writ Petition No.5674 of 2015 under the judgment and order dated 19th October, 2016 we had concluded that it will not be open for the Corporation to contend that the petitioners are not appointed by following the due procedure and they are entitled to Grade Pay of 3200 only. We had observed that the juniors to the petitioner are also paid proper pay-scale as per the Sixth Pay Commission, which the petitioner is entitled to. We had directed respondent No.3 Corporation to consider the petitioner to be properly appointed and pass orders afresh pursuant to the show cause notice.

6 It appears that subsequently, the Commissioner, Municipal Corporation, had considered the case of the petitioner and had confirmed the order dated 18th May, 2012. He had further taken a decision that the increments that were stopped from July 2015 shall be restored to the petitioner and the difference would be paid in ten installments from October 2017. In spite of the said order by the Commissioner, Municipal Corporation, Jalgaon, the impugned orders are passed.

7 In light of the aforesaid, the impugned order is quashed and set aside.

8 The petitioner would be entitled for the revised pay scale of 9300-34800 and Grade Pay 4700 as is paid to the juniors of the petitioner as Pharmacist.

9 The gratuity and pensionary benefits shall be released accordingly.

10 Rule is accordingly made absolute. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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