

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

1025 WRIT PETITION NO.6231 OF 2020

AMBAJI CHATRSING PAWARA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
WITH

WRIT PETITION NO. 6235/2020
DHANRAJ SHIVAJI SONWANE

VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
WITH

WRIT PETITION NO. 6236/2020
PRAKASH SHANKAR MAHALE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS
WITH

WRIT PETITION NO .6233/2020
VIJAY LAXMAN GAIKWAD

VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
WITH

WRIT PETITION NO. 6232/2020
KAKDYA DAMNYA RAUT AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS
WITH

WRIT PETITION NO. 6234/2020
MILIND GOPICHAND T AYADE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS
WITH

WRIT PETITION NO. 6237/2020
KISHOR GOPAL KOLTE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS
WITH

1030 WRIT PETITION NO.6759 OF 2020

KAILAS BHIKANRAO TAYADE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH

1031 WRIT PETITION NO.6762 OF 2020

BALAJI SHIVAJI KAMBLE AND THERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
WITH
1032 WRIT PETITION NO.6763 OF 2020

YUSUF IBRAHIM SAYYED AND OHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Kulkarni Pramod A.
AGP for Respondents State: Mr. A. R. Kale
Advocate for Respondents 4 & 5 : Mrs. v. S. Chaudhari

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 13th January, 2021

ORDER:

1. Learned counsel for the petitioners seeks leave to amend and claim relief on the basis of equal pay for equal work. Leave granted.
2. The petitioners in these petitions seek relief of regularization and equal wages for equal work.
3. As far as the relief of regularization is concerned, reliance is placed on the order passed by this Court at Principal Seat in Writ Petition No. 10260/2019 dated 03.09.2019. The Division Bench at the principal seat, in the said matter, passed following order:

"In the light of the fact that the concerned persons are looking into the grievance of the petitioners, met and made appropriate recommendations and no final decision is taken as yet, this writ petition can be disposed and is accordingly disposed of by keeping open all the contentions and to be raised in the event the grievances of the petitioners still survive."

4. As far as grievance of the petitioners of equal pay for equal work is concerned, the petitioners placed reliance on the order dated 08.12.2020 passed by the Division Bench at Principal Seat in Writ Petition St. No. 92250/2020 with connected writ petitions and the judgment and order of this Court at Nagpur Bench in Writ Petition No. 2247/2014, dated 20th November, 2019. The Division Bench at the Principal Seat, relying upon the judgment of Division Bench of Nagpur Bench, passed the following order on 08.12.2020 in Writ Petition St. No. 92250/2020 with connected writ petitions.

"5. This Court, in the judgment relied on behalf of the petitioners, in the matter of Dhiraj S. Wankhede (supra) has held:

"9. The other relief claimed by the petitioners is about pay parity with the regular drivers in Class-III category. In this regard the law has been settled by the Hon'ble Apex Court in the case of State of Punjab and others...Versus...Jagjit Singh and others , reported in (2017)1 SCC 148. 10. The Hon'ble Supreme Court has held that no artificial parameters can be devised to deny the fruits of labour when an employee performs the same work as another employee. The Hon'ble Apex Court has further held that no artificial distinction can be made between such two employees, whereby one is given higher salary and another is paid lower salary. Relevant observations of the Hon'ble Apex Court appearing in paragraph no.58 of the judgment are reproduced as below :-

"58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the

cost of his self-worth, and at the cost of his integrity. For he knows that his dependents would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

11. It is clear that the Hon'ble Supreme Court has held that when one employee discharges/performs same work as another employee, there cannot be any distinction between the two employees so far as the application of the pay scale to both of them is concerned. The Hon'ble Apex Court has further held that all the temporary employees who are performing similar work as the regular employees would be entitled to draw wages at the minimum of the pay scale (at the lowest grade, in the regular pay scale) extended to regular employees holding the same post. This relief would also have to be granted to all the petitioners as there is no dispute that their work is similar to the work of the regular drivers."

6. The fact that the petitioners in above referred judgment were contractual employees is not disputed. We are, therefore, of the opinion that the issue involved in all these petitions is covered by view taken by this Court in its judgment dated 20.11.2019 in above referred writ petition. Accordingly, the following order is passed.

- a. The petitioners be paid wages at the minimum of the pay scale at the lowest grade, in the regular pay scale extended to the regular employees holding the same post with effect from the date of the petition.
- b. The respondent No.5 is directed to comply with this order within six months from today.
- c. No order as to costs."

5. In view of the consistent view taken at the Principal Seat and at Nagpur Bench, we follow the same course and pass following order:

O R D E R

- (a) The petitioners be paid wages at the minimum of the pay scale at the lowest grade, in the regular pay scale extended to the regular employees holding the same post with effect from the date of the petition.
- (b) The respondent No.5 is directed to comply with this order within six months from today.
6. With the aforesaid observation and directions, writ petitions are disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC