

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.758 OF 2021

St. Leelabai widow of Shri Motisaaji  
Padole, aged about 80 years,  
occupation : household, r/o Netaji  
Ward No.13, Rangari Pura, Narkhed,  
Tahsil Narkhed, District Nagpur.

... Petitioner

- Versus -

Municipal Council, Narkhed, Tahsil  
Narkhed, District Nagpur, through  
its Chief Officer.

... Respondent

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Shri R.M. Tiwari, Advocate for petitioner.

Shri A. Shelat, Advocate for respondent.

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CORAM : SUNIL B. SHUKRE AND  
ANIL L. PANSARE, JJ.

DATED : OCTOBER 27, 2021

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

Heard Shri Tiwari, learned Counsel for the petitioner, and  
Shri Shelat, learned Counsel for the respondent.

2) Rule, returnable forthwith. Heard finally by consent of the  
learned Counsel for the parties.

3) The issue involved in this petition is as to whether or not for counting the pensionable service, the service rendered by the petitioner as a daily wager for a temporary period of time should also be taken into account and this question has been answered by the learned Single Judge of this Court while deciding Writ Petition No. 4265/2016 wherein judgment was delivered on 12/2/2019, a copy of which is available on record of this case at page 29 and onwards. The learned Single Judge by interpreting Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982 read with Rule 30 thereof has found that as per Note I to Rule 57, the employees, who are paid from contingencies and are subsequently brought on a regular pensionable establishment by conversion of their posts, are entitled to one-half of their previous continuous service to be counted for pension.

4) The aforesaid finding has attained finality and there is no dispute about it after dismissal of the special leave petition filed before the Apex Court questioning the legality and correctness of the said decision.

5) In our opinion, the view so taken should also govern the facts of the present case and, therefore, we see no impediment in allowing

this petition. The petition is accordingly allowed and the respondent is directed to pay pension to the petitioner in accordance with the provisions contained in Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982 together with all the arrears as early as possible, preferably within a period of six months from today.

6) Rule is made absolute in the above terms. No costs.

JUDGE

JUDGE

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