

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

WRIT PETITION NO. 3281 OF 2019

(Manoj s/o Hiranman Dhanvijay Vs. Commissioner, Nagpur Municipal Corporation, Nagpur & Ors.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri D.C. Chahande, Advocate for the petitioner.

Shri S.N. Bhattad, Advocate for respondent Nos. 1 and 2.

Ms. T.H. Khan, Assistant Government Pleader for respondent Nos. 3 and 4/ State.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : SEPTEMBER 8, 2022.

The petitioner claims to be engaged as 'Substitute Safai Worker' with the Nagpur Municipal Corporation. It is his case that the Municipal Commissioner on 28/12/2015 issued direction to pay 464 such employees minimum wages by treating them as skilled workers. This direction was to apply to 464 such employees with the Corporation. The petitioner was serving in the Health Department of the Municipal Corporation and the Health Officer on 30/12/2015 issued an order directing payment of such minimum wages as skilled workers from February-2016 to 54 employees. It appears that the Municipal Commissioner on 19/3/2016 stayed the earlier order and observed that in the list of 464 such employees, the concept of 'Skilled Worker' be discussed and clarified. Thereafter, it was proposed to refer the matter after discussion with the Commissioner of Labour. It is in this backdrop that the petitioner has approached this Court praying that the order dated 28/12/2015 be directed to be implemented and the order dated 19/3/2016 staying its effect be set aside.

It is seen from the documents on record that the position as was prevailing on 19/3/2016 when the order dated 28/12/2015 was stayed continues to operate. In the meanwhile, the services of the petitioner have been regularized and he has been absorbed in service. Presently, he is being paid regular wages in the pay scale of Rs.4440-7440.

The learned Counsel for the petitioner submits that the order dated 28/12/2015 having been passed by the Municipal Commissioner and the same having been implemented by issuing another order on 30/12/2015 by the Health Officer, there was no reason to stay its effect on 19/3/2016. After staying

the said order, nothing further has been done; thus depriving the petitioner of minimum wages as skilled worker.

The learned Counsel for respondent Nos. 1 and 2 on the other hand submits that though the order dated 28/12/2015 was issued by the Commissioner, after noticing the financial implications thereof, it was resolved to stay that order on 19/3/2016. The services of the petitioner having been now absorbed, he could invoke appropriate jurisdiction to seek determination of his rights.

From the documents on record, we find that on 28/12/2015, the Commissioner did direct payment of minimum wages as skilled workers to about 464 such employees. The name of the petitioner is included in the list of 54 employees from the Health Department. The petitioner is thus aggrieved by the order of stay as issued on 19/3/2016. Perusal of that stay order indicates that it was intended by the Commissioner that the concept of skilled worker should be re-examined. Despite that, no decision on this aspect has been arrived at. Having issued the order dated 28/12/2015 directing payment of minimum wages as skilled workers, the matter cannot remain in such state pursuant to the order of stay dated 19/3/2016. Some decision would have to be taken in this regard by the Commissioner.

In the aforesaid facts, respondent No.1 – Commissioner is directed to take into consideration the earlier order dated 28/12/2015 as well as the subsequent order dated 19/3/2016 which stayed the implementation of the earlier order. The Commissioner shall consider the reasons for staying the earlier order on 19/3/2016 and take a final decision in the matter. Such decision be taken by considering all the relevant aspects within a period of four weeks from receipt of copy of this order. Needless to state that if the order of stay is vacated, it would be open for the petitioner to claim benefit of the order dated 28/12/2015. If a decision contrary to the interest of the petitioner is taken, he is free to seek legal recourse against the same.

With these directions and observations, the Writ Petition is disposed of.
No costs.