

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

Contempt Petition No. 205 of 2021

in

Writ Petition No. 5843 of 2004 (D)

[Shri Omprakash Phoolchand Yadav ..vs.. Shri Kiran Kulkarni, the Director of Municipal
Administration, Mumbai and ors.]

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

Court's or Judge's orders

Mr. Vishal Anand, Advocate for the petitioner
Ms. T. H. Khan, AGP for respondent 1
Mr. M. I. Dhatrak with Mr. S. A. Sahu, Advocates for respondents 2 and 3

CORAM : ROHIT B. DEO, J.

DATED : 14-3-2022

The Industrial Court decided Complaints (ULPA)
163/1997 to 173/1997 and inter alia held the petitioner
– employee and others entitled to regularization.

2. Paragraph 3 of the operative part of the Industrial

Court's judgment dated 27-9-2004 reads thus :

“3. The respondents are hereby directed to cease and desist from the above reported unfair labour practice and to take affirmative action to regularise the services of all the complainants w.e.f. 11.4.1997 as Firemen on the pay scale of Rs. 775-1150 except complainant Prakash Sharma in Comp. (ULPA) No. 166/1997 and to regularise the services of complainant Prakash Sharma as a Driver on the pay scale of Rs. 950-1500 w.e.f. 11.4.1997.”

3. Municipal Council, Gondia approached this Court
and the bunch of writ petitions (Writ Petitions 5838 to

5840, 5843 to 5850 of 2004) was decided by the learned Single Judge vide judgment dated 22-12-2006. Paragraph 15 of the judgment in writ petitions specifically observes that the impugned order would have to be set aside since it may not have been permissible for the Industrial Court to direct regularisation of respondent employees from 11-4-1997 in regular scales of pay. As a fact, this Court set aside the order of the Industrial Court to that extent. The further observations and directions in paragraph 16 read thus :

“16. The order by the Member, Industrial Court, directing the petitioner Municipal Council to take affirmative action to regularise the services of the respondent employees, would, however, have to be maintained by adding that the “regularisation” contemplated by the said order would be “regularisation” as described in paragraph 14 of the judgment in Secretary, State of Karnataka Vs. Umadevi, referred to above, which would entitle the respondents to be considered for appointment in regular scale of pay as and when such vacancies are advertised, having due regard to all other statutory requirements.”

4. It appears that during the pendency of the contempt petition, the Commissioner and Regional Director, Municipal Administration has issued order dated 6-1-2022 appointing the petitioner as Hawaldar.

The said appointment is on the regular and permanent establishment.

5. Even *de hors* the appointment referred to supra, I am satisfied that there is no disobedience of the order passed by this Court, much less, intentional disobedience.

6. The contempt proceeding is dropped.

7. The petition is disposed of.

JUDGE

wasnik