

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

WRIT PETITION NO.1950 OF 2023

**UMESH CHANDRAKANT KORDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY
AND OTHERS**

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**Advocate for the Petitioner : Shri Barde Parag Vijay
AGP for the Respondents/State : Shri P.S. Patil**

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**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 20th February, 2023

Per Court :-

1. The petitioner has put forth two prayers. Firstly, that regular monthly salary be released by respondent No.4. Secondly, that because there is post of a driver, which is vacant and the petitioner has elementary skills of driving, that he should be promoted as a driver.

2. We will deal with the second request, first. If the post of driver is permanent and vacant, the rules and procedure applicable, will have to be followed while filling in the said post of driver. By a Writ of Mandamus, merely because the petitioner prays for promotion as a driver, we cannot issue such a command

to promote a cook to the post of the driver only because he has elementary driving skills. This request, therefore, cannot be accepted.

3. Insofar as the regular payment of monthly salary, the petitioner is justified in making the said request. Respondent No.4 as an employer and is legally obliged to pay regular monthly salary. In fact, under the Payment of Wages Act, if the salaries are not paid within time, 50% penalty can be levied. It is also stated that for the last nine months, the salaries of the petitioner and similarly situated employees, have not been paid.

4. Hence, we direct respondent No.4/ District Collector to ensure that the employees working in respondent No.5, should be paid their regular monthly salaries, on time and without any delay, notwithstanding whether, any of them has not approached this Court. All arrears of salaries shall also be paid to such employees for the period of unpaid salaries, within 60 (sixty) days from today.

5. With the above directions, this Writ Petition is disposed off.