

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

88 WRIT PETITION NO.4622 OF 2023

ROHINI AJAY PAVATE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS PRINCIPAL SECRETARY AND ANOTHER

...
Advocate for Petitioner : Mr. Laxman H. Kawale.
AGP for Respondent/State : Mr. S. G. Karlekar.
Advocate for Respondent No.2 : Mr. N. N. Desale.

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

DATE : 25th April, 2023.

Per Court:

1. We have considered the submissions of the learned Advocate for the Petitioners, the learned AGP appearing for Respondent No.1/State and the learned Advocates on behalf of Respondent No.2 / Dhule Municipal Corporation.

2. Considering the order that we are passing, we are not advertent to their entire submissions. Suffice it to say that, this Petitioner earlier approached the learned Industrial Court, by preferring Complaint (ULP) under Section 28(1) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. Judgment has been delivered by the learned Industrial Court. Vide the

said judgment, the complainant has been granted permanency w.e.f. the date mentioned in the operative part of the said judgment. The Dhule Municipal Corporation preferred Writ Petition No.3637/2021 before the learned Single Judge Bench of this Court for challenging the judgments, which were delivered between 1994 to 1997. Considering the delay of almost 20 to 25 years, the learned Single Judge dismissed the writ petition vide order dated 24/02/2021.

3. It is pointed out by the Petitioner that the Dhule Municipal Corporation had passed a Resolution bearing Resolution No.124 dated 30/12/2020 on the Subject No.92. The last paragraph of the Resolution, reads as under :-

"उक्त कार्यालयीन प्रस्तावा नुसार मे. औद्योगिक / कामगार न्यायालयाचे आदेशा नुसार कार्यरत ८२ कर्मचाऱ्यांचे प्रकरणी महानगरपालिका प्रशासना तर्फे मे. उच्च न्यायालय खंडपीठ औरंगाबाद येथे अपिल दाखल करण्यात आले आहे. सदर प्रकरणी में. उच्च न्यायालय जो निर्णय देईल त्या प्रमाणे महानगरपालिका प्रशासनाने कार्यवाही करावी. तसेच २८ कर्मचाऱ्यांचे प्रकरणी त्याची मुळ नियुक्ती व सेवा कालावधी ८२ कर्मचाऱ्या प्रमाणे असुन २८ कर्मचाऱ्यांची न्यायालयात अथवा कुठल्याही सक्षम प्राधिकरणाकडे दाद मागितलेली नाही. तथापी मनपा सेवेमध्ये स्थाई सेवेत समाविष्ट करणे बाबत त्यांनी सतत विनंती व पाठपुरावा केलेला आहे. त्यामुळे ८२ कर्मचाऱ्यांच्या बाबतीत घेतला जाणारा निर्णय नैसर्गिक न्यायाच्या व फायदेशीर दृष्टीने सुध्दा २८ कर्मचाऱ्यांना लागू करणे हे कम प्राप्त आहे व मनपाचे हिताचेसुध्दा आहे. ८२ कर्मचाऱ्यांचे प्रकरणी में उच्च न्यायालय जो निर्णय देईल, तो या २८ कर्मचाऱ्यांचे प्रकरणी लागू राहील. सदर ठरावाची कार्यवाही करतांना प्रशासनाने प्रशासकीय बाबी बिंदु नामावली शैक्षणिक पात्रता ई बाबी तपासून धुळे महानगरपालिका मंजुर व रिक्त असलेल्या पदावर सेवाज्येष्ठते नुसार सामावुन घेवुन त्यांची सेवा पुर्वलक्षी

प्रभावाने धरण्यास तत्वतः मान्यता देण्यात येत आहे. सदर ठरावाचा लाभ केवळ सद्यस्थितीत मे. न्यायालयाचे आदेशा नुसार कार्यरत आदेशा नुसार कार्यरत ८६ व अन्य आदेशा नुसार मंजूर नसलेल्या पदावर फंटातील कार्यरत २८ कर्मचाऱ्यांना देण्यात यावा. प्रस्तुत प्रकरणी मे न्यायालयाच्या आदेशा नुसार सेवा पूर्वलक्षी प्रभावाने धरावी लागत असल्यास त्यांना मागील कोणताही फरक देय होणार नाही, त्या बाबत प्रशासनाने संबंधीतांकडून तसे बंधपत्र लिहून घेण्यात यावे. सदर प्रस्तावास सर्व सन्मा. सदस्यांना सहमतीने मान्यता देण्यात येत आहे."

4. The learned Advocate representing the Municipal Corporation submits on the basis of the record that, the judgments delivered by the Industrial Court, in some of the cases, were never challenged. Those judgments which were challenged, led to the dismissal of the Writ Petition, vide order dated 24/02/2021. This Petitioners can prefer individual representation setting forth the details of her employment and her litigation journey, with the accompanying documents. Each representation, along with the documents, would be treated as independent representation by the Corporation and the same would be considered on it's merits.

5. In one batch of employees, who had preferred Writ Petition No.1593/2014, a judgment has been delivered by this Court [Coram : Prasanna B. Varale (as His Lordship then was) and Manish Pitale, JJ.], dated 26/10/2018. It is informed that the view expressed in the said judgment is confirmed by the Hon'ble Supreme Court. It is

after delivery of this judgment, that the Resolution No.124, dated 30/12/2020 on Subject No.92 was passed by the Municipal Corporation.

6. We find that the law is now crystallized in view of the judgments of this Court delivered in **Mukhyadhikari Nagar Parishad, Tuljapur Vs. Vishal Vijay Amrutrao, 2015 (5) Mh.L.J. 75** and the judgment delivered by the Larger Bench of this Court in the matter of **Municipal Council, Tirora Vs. Tulsidas Baliram Bindhade, 2016 (6) Mh.L.J. 867**, concluding that proposals of such persons have to be considered by the appropriate authorities and depending upon the vacancies available, deemed dates of permanency/regularization can be granted. Moreover, when this Municipal Corporation has already dealt with identically placed employees, who had also approached the learned Industrial Court and some who had not approached any Court, this Petitioner also deserves to be treated in the similar way. Deferential treatment cannot given to this Petitioner.

7. In view of the above, **this Petition is disposed off**, with liberty to the Petitioner to tender her individual representation along with accompanying documents. The Corporation would consider the said case in the light of the Resolution No. 124, as like the similarly situated employees. If this individual representation is delivered to the

Corporation on or before 30/05/2023, let the exercise as directed above, be concluded on or before 31/07/2023. Thereafter, the Corporation would pass an order in this case, justifying it's conclusions with reasons.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]