

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5902 OF 2022
WITH WP/5907/2022 WITH WP/5556/2021 WITH WP/5009/2021
WITH WP/4943/2021 WITH WP/4247/2021 WITH WP/4363/2021
WITH WP/4329/2021 WITH WP/3442/2022 WITH WP/11000/2015
WITH WP/4541/2021 WITH WP/7468/2022

JANABAI ANANDA MALI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.N.L.Choudhari, Advocate for the Petitioner.
Mr.P.S.Patil, AGP for the Respondent/State.
Mr.N.N.Desale, Advocate for Respondent No.2 in WP Nos. 4247/2021,
4363/2021, 4329/2021, 3442/2022.

(CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.)

DATE : MARCH 30, 2023

PER COURT :

1. We have considered the submissions of the learned Advocates for the petitioners, the learned A.G.Ps. appearing for the State and the learned advocates on behalf of the respondent/Dhule Municipal Corporation.

2. Considering the order that we are passing, we are not adverting to their entire submissions. Suffice it to say that, these are the

petitioners, who have 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. Judgments in each of these cases have been delivered by the learned Industrial Court. Vide the said judgments, which are practically identical, each of the complainants have been granted permanency w.e.f. the date mentioned in the respective operative part of the said judgments. 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 petitioners 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 which is at page Nos.68 and 69 of the petition paper book, 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 लागु करणे हे कम प्राप्त आहे व मनपाचे हिताचेसुध्दा आहे. ८२ कर्मचाऱ्यांचे प्रकरणी में उच्च न्यायालय जो निर्णय देईल, तो या २८ कर्मचाऱ्यांचे प्रकरणी लागु 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 तत्त्वतः मान्यता देण्यात येत आहे. सदर ठरावाचा लाभ केवळ सद्यस्थितीत मे. न्यायालयाचे आदेशा नुसार कार्यरत आदेशा नुसार कार्यरत ८६ व अन्य आदेशा नुसार मंजुर नसलेल्या पदावर फंटातील कार्यरत २८ कर्मचाऱ्यांना देण्यात यावा. प्रस्तुत प्रकरणी मे न्यायालयाच्या आदेशा नुसार सेवा पुर्वलक्षी प्रभावाने धरावी लागत असल्यास त्यांना मागील कोणताही फरक देय होणार नाही, त्या बाबत प्रशासनाने संबंधीतांकडुन तसे बंधपत्र लिहुन घेण्यात यावे. सदर प्रस्तावास सर्व सन्मा. सदस्यांना सहमतीने मान्यता देण्यात येत आहे."

4. The learned Advocates representing the Municipal Corporation submit on the basis of the record that, the judgments delivered by the Industrial Court, in some of these cases, were never challenged. Those judgments which were challenged, led to the dismissal of the Writ Petition, vide order dated 24/02/2021. These petitioners can prefer individual representation setting forth the details of their employments and their litigation journey, with the

accompanying documents. Each representations, along with the documents, would be treated as independent representation by the Corporation and the same would be considered on its 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, these petitioners also deserve to be treated in the similar way. Deferential treatment cannot given to these petitioners.

7. In view of the above, all these petitions are disposed off, with liberty to the petitioners to tender their individual representations along with accompanying documents. The Corporation would consider the said cases in the light of the Resolution No. 124, as like the similarly situated employees. If these individual representations are delivered to the Corporation on or before 21.04.2023, let the exercise as directed above, be concluded on or before 31.05.2023. Thereafter, the Corporation would pass individual orders in each of these cases, justifying it's conclusions with reasons.

8. Since in identical set of facts, we have passed an order on 10.02.2023 in WP No.11433/2019 filed by Arjun Pitambar Badgujar Vs. Dhule Municipal Corporation, Dhule and group of cases, if the

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Corporation is short of time in considering these cases until 31.05.2023,
we would extend the time till 30.06.2023.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)