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

2 WRIT PETITION NO. 7963 OF 2021

SUKLAL JAGANNATH GARUD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

....

Mr L. S. Mahajan, Advocate for Petitioners;
Mr S. B. Narwade, A.G.P. for Respondent No.1
Mr N. N. Desale, Advocate for Respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 5th February, 2024

PER COURT:

1. The Petitioners were before the learned Industrial Court, Dhule in Complaint (ULP) Nos.23 to 34 of 2010. The Industrial Court dismissed the Complaints by a Judgment dated 14/08/2015. These Petitioners were heard by the Single Judge Bench on 30/11/2016 and the following order was passed :-

“12 In the light of the above, these Writ Petitions are partly allowed with the following directions which shall be followed by the Respondent/ Corporation in true spirit:-

- (a) *The Respondent/ Corporation shall continue to maintain the list of Badli Workers based on their seniority which is to be prepared considering the first date of their engagement.*

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- (b) *The Respondent/ Corporation shall continue to offer the work as and when it is available to these Badli Workers based on their seniority.*
- (c) *Insofar as the Health, Sanitation and similar Departments are concerned, the Respondent/ Corporation shall refrain from recruiting or engaging fresh hands/ new faces in Class-IV category by ignoring these Badli Workers.*
- (d) *As and when the situation and occasion may arise wherein the Respondent/ Corporation may require more hands to be engaged for regular work in the Health, Sanitation and similar Departments in Class IV category, they shall give preference to the Badli Workers whose names are mentioned in the list on the basis of their seniority.*
- (e) *The impugned judgments of the Industrial Court, therefore, stand modified in the above terms.*

2. We have considered the submissions of the learned Advocates for the respective sides. It is undisputed that, even today, these Petitioners and several other similarly situated 'badli workers' are working with the Respondent/Corporation as and when the work is available, in the backdrop of the absence of the permanent employees. We are informed that the Corporation has few vacancies today.

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3. We are considering this Writ Petition in the light of the fact that the Petitioners are working even today with the Corporation as 'badli workers' since 1994/1999. For brevity, the chart set out below paragraph No.3 in the pleadings would indicate the entry of these Petitioners as 'badli workers'.

4. We are also informed that the Corporation has started maintaining the registers of 'badli workers' under the directions of the Court. No doubt, a 'badli worker' would not have an inherent enforceable right to claim regularization in service, keeping in view the definition of a 'badli worker' under the Model Standing Orders framed under the Industrial Employment [Standing Orders] Act, 1946. However, we are looking at this case from the point of view of the length of the period, for which these workers have been working with the Corporation. Some of them have completed 30 years and are the 'badli workers' even today. The minimum duration completed is 25 years. These 'badli workers' are at beck and call of the Corporation. As is the admitted position, they are working even today.

5. In view of the above, we direct the Respondent/ Corporation to prepare a proposal of all such 'badli workers',

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going by their seniority, in the light of Clause 12(d) of the order dated 30/11/2016, reproduced above. All 'badli workers' would figure in the said proposal going by their seniority. The proposal would also contain the number of vacancies available with the Corporation. Such proposal of all similarly situated 'badli workers' shall be prepared within 30 days and shall be forwarded to Respondent No.1/Urban Development Department, who would consider the said proposal, depending upon vacancies available.

6. Since the learned Advocate for the Corporation has informed us that, there are several 'daily wagers' working with the Corporation even today, a proposal of the 'daily wagers' will also be prepared and forwarded to Respondent No.1 within 30 days. While considering such proposals, Respondent No.1 would assess, as to whether any of the 'badli workers' can be said to be working as 'daily wagers', if they are found to be continuously and in the uninterrupted service of the Corporation. Needless to state, the 'daily wagers' would be given first preference for regularization and if permanent posts are still available and any 'badli worker' is found to be working continuously and in the uninterrupted service, the direction set out in Clause 12 (d), would be made applicable for considering such case for regularization.

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

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

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