



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5500 OF 2021
WITH
WRIT PETITION NO. 5547 OF 2021

Sachin Kailas Marsale
And Others

...Petitioners

VERSUS

The State Of Maharashtra
And Another

....Respondents

...

Mr. N. L. Choudhari, Advocate for the Petitioners
Mr. S. K. Tambe, AGP for Respondent No. 1
Mr. S. P. Shah, Advocate for Respondent No. 2

AND

WRIT PETITION NO. 5140 OF 2022

Noorbano Sharif Khan And Others

...Petitioners

VERSUS

The State Of Maharashtra Thr
Its Secretary

....Respondent

...

Mr. N. L. Chaudhari, Advocate for the Petitioner
Mr. R. S. Wani, AGP for Respondent No. 1
Mr. N. N. Desale, Advocate for Respondent No. 2

...

CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ

DATE : FEBRUARY 21, 2024

PER COURT :

WRIT PETITION NO. 5547 OF 2021

1. The learned Advocate for the Petitioners submits that the Petitioners in this Petition have already been absorbed in employment by the Corporation and desire to withdraw this Petition.

2. As such, **this Writ Petition is disposed off** as withdrawn on instructions.

WRIT PETITION NOS. 5500/2021 & 5140/2022

1. 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, due to the temporary absence of a permanent employee. We are informed that the Corporation has a few vacancies today.

2. 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'. The learned Advocate for the Corporation submits that many of such 'badli workers' have crossed the age of superannuation and some of such 'badli workers' have passed away.

3. 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 'badli workers' even today. The minimum duration completed is 25 years. These 'badli workers' are at the beck and call of the Corporation. As is the admitted position, they are working even today.

4. In view of the above, we direct the

Respondent/ Corporation to prepare a proposal of all such 'badli workers' going by their seniority. 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.

5. 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. Therefore, after considering such proposals of daily wagers, 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, his case may be considered for regularization.

6. If the Corporation notices instances of badli workers, who passed away or who crossed the age of superannuation or who are not working continuously and in the uninterrupted service of Corporation, there cases would not be considered in the proposal, which is directed to be forwarded under this order.

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

(R. M. JOSHI, J)

(RAVINDRA V. GHUGE, J)

Malani