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

**REVIEW APPLICATION (CIVIL) NO. 268 OF 2023**  
**IN**  
**WRIT PETITION NO.4891 OF 2005**

Shaikh Tajmeer Shaikh Mahamad Saab

APPLICANT

VERSUS

Chief Officer, Nagar Parishad, Ahmedpur

RESPONDENT

.....

Mr. Balbhim R. Kedar, Advocate for the applicant

Mr. Vijay P. Latange, Advocate for the respondent

.....

**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 6<sup>th</sup> SEPTEMBER, 2024**

**ORDER :**

1. By this application, applicant – original respondent in the writ petition, seeks review of the order dated 20<sup>th</sup> September, 2023.

2. Facts leading to this review application can briefly be stated thus-

Applicant filed Complaint (ULP) No. 78 of 1995 (23 of 2004) under section 28 (1) read with items 5, 6, 9 and 10 of the Schedule IV of the MRTU and PULP Act, contending that he is in service of respondent from 5<sup>th</sup> August, 1993 as class IV employee in Water Supply Department as Waterman. He was kept on daily wages for years together and, therefore, the respondent has indulged in unfair labour practice. Along with the applicant, one

more workman Sudas Shesherao Bansode filed Complaint (ULP) No. 78 of 1995 (24 of 2004), raising similar contentions and praying for the same reliefs. Industrial Court, Latur, by common judgment allowed the Complaints and directed the respondent to give permanency benefits to the applicant and Sudhas Shesherao Banode with effect from 1<sup>st</sup> October, 2004.

3. Respondent, by filing Writ Petition No. 4891 of 2005, challenged the judgment of the learned Industrial Court to the extent of applicant.

4. During pendency of the writ petition, respondent, by filing communication dated 14<sup>th</sup> June, 2013, by which applicant was informed that his services are regularized with effect from the same date, and by relying on the order passed by this Court (Coram R. V. Ghuge, J.) dated 8<sup>th</sup> February, 2016 in Writ Petition No. 4888 of 2005, in similar circumstances, requested that the writ petition be disposed of.

Learned advocate for applicant though opposed the prayer of the respondent for withdrawal of the writ petition, this Court, disposed of the writ petition by making following observations:

*“4. In the light of fact that, by communication dated 14.06.2013, services of the respondent is regularized w.e.f. 14.06.2013 and in similar circumstances, this Court has disposed of Writ Petition No. 4888/2005, this*

*petition is disposed of. Rule is discharged."*

5. Learned advocate for the applicant submits that the Industrial Court granted permanency benefits to the applicant with effect from 1<sup>st</sup> October, 2004, however, the respondent has granted permanency benefits to the applicant with effect from 16.06.2013 and, therefore, retiral benefits are also denied to him.

4. Learned advocate for respondent / original petitioner strenuously opposed the review application submitting that if the applicant is aggrieved by the action of the respondent, applicant has to avail remedy of challenging that action and applicant cannot agitate this issue in the review application. According to him, the review application is not maintainable, as the writ petition filed by the respondent is permitted to withdrawn by this Court, on the request of the respondent / original petitioner.

5. Learned advocate for the applicant submits that observations in paragraph No.4 of the order under review would come in the way of applicant in challenging action of the respondent of granting permanency benefits with effect from 14<sup>th</sup> June, 2013.

6. Admittedly, government has decided to regularize services of daily wagers working in municipal councils in between 11<sup>th</sup> March, 1993 and 27<sup>th</sup> March, 2000. In this view of the matter and

in view of the judgment of the Industrial Court, the applicant is entitled for permanency benefits with effect from 1<sup>st</sup> October, 2004.

7. Since the respondent had challenged that order of the Industrial Court and has withdrawn the writ petition, it cannot refuse to give permanency benefits to the applicant in terms of the directions of the Industrial Court. However, the applicant will have to avail appropriate remedy permissible in law for that relief.

8. Review is misconceived, as the respondent who had filed writ petition, was permitted to withdraw the same, to which applicant cannot oppose. In this view of the matter, there is no merit in the review application filed by the applicant.

9. However, in the peculiar facts of the present case, it is clarified that the observations in paragraph No.4 of the order under review shall not come in the way of the applicant while claiming regularization with effect from 1<sup>st</sup> October, 2004.

10. With the above clarification, review application is dismissed.

**[NITIN B. SURYAWANSHI]  
JUDGE**