



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, AT NAGPUR.**

**WRIT PETITION NO. 1440 OF 2024**

(Umesh s/o Dinkar Uparkar and others Vs State of Maharashtra and others)

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Mr. N.A. Gaikwad, Advocate for petitioners.  
Mr. S.M. Bhangde, Advocate for respondent Nos. 2 and 3.  
Ms. T.H. Khan, Assistant Government Pleader for respondent No.1.

**CORAM : BHARATI DANGRE &  
ABHAY J. MANTRI, JJ.**

**DATED : 07-10-2024**

1. The grievance raised in the petition, in our opinion, is taken care of by the learned Division Bench Decision of this Court in case of *Dhiraj Sudhakar Rao Wankhede and Others Vs The Zilla Parishad, Chandrapur and Others*, dated 20.11.2019, when the petitioners, contractual drivers having been appointed on contract basis on the establishment of Zilla Parishad, sought their regularization.

Arriving at a conclusion that the petitioners do not deserve a relief of regularization by relying upon the decision of the Hon'ble Apex Court in the Case of *Secretary, State of Karnataka and others Vs. Uma Devi (3) and others*, reported in *(2006)4 SCC 1*, and the law laid down, the claim for regularization was not accepted by the learned Division Bench and it was rejected.

2. As regards the relief that the petitioners should not be replaced by another set of contractual employees and about the claim of parity with regular drivers in class III category, the learned Division Bench observed thus:

*"8. The petitioners, however, are required to be treated equally with other similarly situated contractual drivers and to this extent, we are of the view that the protection afforded to the other petitioners in Writ Petition No.6025/2015, regarding their services not being terminated till the permanent posts in clear vacancies are filled up by following due procedure, can be extended to even these petitioners. We grant the same protection to the petitioners herein.*

9. *The other relief claimed by the petitioners is about pay parity with the regular drivers in Class-III category. In this regard the law has been settled by the Hon'ble Apex Court in the case of State of Punjab and others...Versus...Jagjit Singh and others, reported in (2017)1 SCC 148.*

10. *The Hon'ble Supreme Court has held that no artificial parameters can be devised to deny the fruits of labour when an employee performs the same work as another employee. The Hon'ble Apex Court has further held that no artificial distinction can be made between such two employees, whereby one is given higher salary and another is paid lower salary. Relevant observations of the Hon'ble Apex Court appearing in paragraph no.58 of the judgment are reproduced as below :-*

*"58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."*

3. Focusing upon the authoritative pronouncement of the Hon'ble Apex Court to the effect that when one employee discharges/performs same work as another employee, there cannot be any distinction between their pay scale also.

As far as the pay scale is concerned, this Court held that if the temporary employees are performing similar work as that of regular employees, then they would be entitled for the minimum pay scale extended to the regular employees holding the same post.

Recording that there was no dispute that they discharged work similar to the regular drivers, the petition came to be allowed

with the following directions:

*“12. Accordingly, the writ petition is partly allowed. The petitioners are granted same protection as the similarly situated drivers have been granted by the Division Bench of this Court in Writ Petition No.6025/2015 decided on 29/06/2017. We further direct that the petitioners be paid wages at the minimum of the pay scale (at the lowest grade, in the regular pay scale) extended to regular employees holding the same post with effect from the date of the petition. All arrears be calculated accordingly and paid by the respondent no.1 to the petitioners within a period of six months from the date of the order.*

*At this juncture, the learned Counsel for the petitioners, upon instructions, submits that few of the petitioners have been terminated from service by the respondent no.1 on account of some misconduct. If this is so, we make it clear, those petitioners whose services have been terminated on account of misconduct, shall not be entitled to the benefits of this judgment. We also make it clear that these benefits shall be extendable to all other similarly situated contractual drivers who are not party to this petition”.*

4. We have before us, the petitioners, who are similarly situated but being engaged by Zilla Parishad, Amravati as ambulance drivers at Public Health Centers and they came to be engaged as contractual employees through private organization and claim to be in service for more than a decade.

They are aggrieved by a tender floated by the Zilla Parishad inviting bids from private individuals/contractors for engaging the ambulance drivers and in this background, they seek setting aside of the tender notice dated 1.7.2024, issued by Zilla Parishad, Amravati and in addition also pray for extension of benefit of Government Resolution dated 25.8.2023. The petitioners also claim salary on par with the drivers who are engaged as ambulance drivers in the PHC in Beed, Latur, Yavatmal, Nagpur, Kolhapur and Buldhana, and pursuant to the contempt petition which was lodged in the Court, are being paid salary equivalent to regular drivers.

5. Learned Counsel for the petitioners, rely on the direction issued in the earlier round of petition, in respect of contractual

drivers working in Zilla Parishad, Chandrapur, and we find sufficient justification in their prayer, claiming parity with those employees and we see no reason that benefit of the Government Resolution dated 25.8.2023 shall not be extended to the petitioners, as by applying principle of equal pay for equal work, they are legally entitled to the said benefits.

6. In addition, in the wake of the decision delivered at the Aurangabad Bench, in a group of petitions, Writ Petition No. 1913/2024 being the lead petition, it is already directed that the contractual employees shall not be replaced by another set of employees, by following the direction:

*“(b) The contractual employees shall not be replaced by new contractual employees, either by the Contractor or by the Principal employer. These directions of not to be replaced with another contractual employee, would be restricted only to the contractual working of such Drivers, and in the event of any misconduct/misdemeanor/death of the employee or any such reasons, the Principal Employer/the Contractor would be at liberty to seek services of new Ambulance Drivers. If there are certain contractual Ambulance Drivers, who have earlier worked, and are not engaged as on date, preference may be granted to them, if any replacement is to be effected”.*

7. In our opinion, the grievance of the petitioners stand redressed in the wake of aforesaid direction. We deem it appropriate to direct the Zilla Parishad, who has already floated tender, inviting bids from the competent contractors include the above conditions including the remuneration payable to them in accordance with the Government Resolution dated 25.8.2023 on par with the ambulance drivers, who are working in the six districts of the State of Maharashtra.

With this direction writ petition is disposed off.

(ABHAY J. MANTRI, J.)

(BHARATI DANGRE, J.)