



Judgment

wp4409.23

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

WRIT PETITION Nos. 4409 & 4410 OF 2023.

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WRIT PETITION No. 4409 OF 2023.

1.Amrutlal s/o Fattulal Joshi,
Aged about 61 years, Occupation -
Superannuated, Resident of New
Laxmi Nagar, Gondia,
District Gondia.

2.Sharadkumar s/o Krushna Ladekar,
Aged about 60 years, Occupation -
Superannuated, resident of Sai
Colony, Kudwa, Gondia,
District Gondia.

... PETITIONERS.

VERSUS

1.The State of Maharashtra,
through Principal Secretary,
Urban Development Department-II,
Mantralaya, Mumbai- 32.

2.The Regional Director of
Municipal Administration-cum-
Divisional Commissioner, Nagpur
Division, Nagpur.

Rgd.

3.The Collector, Gondia.

4.Municipal Council, Tirora,
through its Chief Officer, Tirora,
District Gondia.

5.Municipal Council, Gondia,
through its Chief Officer,
Gondia.

... **RESPONDENTS.**

Mr. M.P. Khajanchi, Advocate for Petitioners.
Mr. A.S. Fulzele, Addl.G.P. for Respondent Nos.1 to 3.
Mr.M.I. Dhattrak, Advocate for Respondent No.5.
None for Respondent No.4- Served.

WITH

WRIT PETITION No. 4410 OF 2023.

1.Komal s/o Natthuji Bawankar,
Aged about 63 years, Occupation -
Superannuated, Resident of Raj
Gopal Ward, Gondia,
District Gondia.

2.Kashiram s/o Dayaram Bhandarkar,
Aged about 62 years, Occupation -
Superannuated, resident of Bajpai
Ward, Gondia, District Gondia.

3.Dilip s/o Rajaram Chachire,
Aged about 63 years, Occupation -
Superannuated, Resident of Gaushala
Ward, Parvati Road, Gondia,
District Gondia.

Rgd.

4.Kishor s/o Sharawan Pardhi,
Aged about 61 years, Occupation -
Superannuated, Resident of Bajar
Chowk, Mukharji Ward, Gondia,
District Gondia.

5.Abdul Naiem Sheikh,
Aged about 58 years, Occupation -
Superannuated, Resident of Katangi Tola,
Near Choti Masjid, Gondia,
District Gondia.

6.Smt. Manubai wd/o Aabaji Hadage,
Aged about 62 years, Occupation -
Household, Resident of Fultur Peth
Gondia, District Gondia.

7.Rajesh s/o Harilal Sharma,
Aged about 58 years, Occupation -
Superannuated, Resident of
Chitragupta Colony, Ganesh Nagar,
Gondia, District Gondia.

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PETITIONERS.

VERSUS

1.The State of Maharashtra,
through Principal Secretary,
Urban Development Department-II,
Mantralaya, Mumbai- 32.

2.The Regional Director of
Municipal Administration-cum-
Divisional Commissioner, Nagpur
Division, Nagpur.

Rgd.

3.The Collector, Gondia.

4.Municipal Council, Gondia,
through its Chief Officer,
Gondia.

... RESPONDENTS.

Mr. M.P. Khajanchi, Advocate for Petitioners.
Mr. A.S. Fulzele, Addl.G.P. for Respondent Nos.1 to 3.
Mr.M.I. Dhatrak, Advocate for Respondent No.4.

CORAM : VINAY JOSHI AND
M.W.CHANDWANI, JJ.

DATE : AUGUST 02, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. Rule. Rule made returnable forthwith and by consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. Since a common question arise in both the petitions pertaining to grant of pensionary benefits to petitioners on their

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regularization in the services of Municipal Council, the matters are taken up for hearing and disposal by this common judgment.

3. All petitioners have been appointed with the respondent Municipal Council, Gondia during the period from 1982 to 1989 in Class-III and Class-IV services as daily wager. Their services were continued till they superannuated in between the year 2019 to 2023. Their services have been regularized by issuing various communication, pursuant to Government Resolution dated 20.04.2001.

4. In above background, petitioners have urged for grant of pensionary benefits, which was not considered. The learned Counsel appearing for respondent Municipal Council resisted the petition by attracting our attention to Clause [1] of the regularization order dated 27.04.2018 (in Writ Petition No.4409/2023), which specifies that though the service has been regularized, however, their past service cannot be considered for any service or financial benefits.

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5. The learned Counsel for petitioners has attracted our attention to Note-1 below Rule 57 of the Maharashtra Civil Services (Pension) Rules 1982 [1982 Rules], which specifies that in case of employees paid from contingencies who are subsequently brought on a regular pensionable establishment by conversion of their posts, one-half of their previous continuous service shall be allowed to count for pension. He has also relied on the decision of this Court in case of **Yogeshkumar Vishwshar Prasad and others .vrs. State of Maharashtra and others – Writ Petition No.2769/2019 and others decided on 31.01.2023**, wherein this Court after taking into consideration several earlier decisions, granted the benefit of pension to the regularized daily wagers in terms of Rules 57 of the 1982 Rules.

6. There is no dispute on facts that petitioners were serving from the year 1982 to 1989 till their superannuation without break. It is also not in dispute that their services have been regularized by virtue of Government order. The rider imposed in the regularization

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order, runs against the statutory provision i.e. Rule 57 of the 1982 Rules, and thus, it cannot be an obstacle for granting benefits for which the petitioners are legally entitled.

7. In view of above, Writ Petitions are allowed. We hold that petitioners are entitled for pensionary benefits in accordance with Rule 57 of the 1982 Rules by considering one half period of their respective service rendered on daily wages. If petitioners qualify, as required by the service period to receive pensionary benefits, the respondent Municipal Council shall take necessary steps to release the same in that regard.

The entire exercise shall be carried out within a period of six months from the date of this order.

Rule is made absolute in aforesaid terms, with no order as to costs.

JUDGE

JUDGE

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