



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

WRIT PETITION NO.1466/2024

Akash Gajanan Bajanghate and others Vs. State of Maharashtra and others

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Mrs. S.S.Wandile, Advocate for petitioners.

Mr. D.P.Thakre, Addl. G.P. for respondent nos. 1 to 4.

Mr. Gopal G.Mishra, Advocate for respondent no.5.

Mr. V.P. Marpakwar, Advocate for respondent no.7.

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CORAM : NITIN W. SAMBRE & MRS.VRUSHALI V. JOSHI, JJ.
DATE : OCTOBER 14, 2024.

P.C.:

Heard Mrs. S.S.Wandile, learned counsel for the petitioners, Mr. Thakre, learned Additional Government Pleader for the respondent nos.1 to 4, Mr. Gopal Mishra, learned counsel for the respondent no.5 and Mr. Marpakwar, learned counsel for respondent no.7. Though served, none appears for the respondent no.6.

2. It is the case of the petitioners that they are working as Ambulance Drivers with the Public Health Centres in the district and have put in service for almost nine years.

3. It is claimed that their services are engaged by the Public Health Centres through Contractor, as the said work is outsourced by the Zilla Parishad.

4. It is claimed that the salary paid to the petitioners is less than the minimum salary prescribed by the Competent Authority and as such, the petitioners have approached this Court for seeking benefits to that effect.

5. It is the contention of the learned counsel for the petitioners that the issue is covered by the order of this Court delivered in *Writ Petition No.1305/2021 (Ritesh @ Jeetu Babulal Chakravarty and others Vs. The State of Maharashtra and others)* and *Writ Petition No.1810/2021(Mahendra Nitram Meshram and others Vs. State and others)* decided on 6th April, 2022, wherein the following directions are issued:-

"(2) We 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 Zilla Parishad, Nagpur and Bhandara respectively to the petitioners within a period of six months from the date of the order.

(3) The respondent nos.6 and 7 in Writ Petition no.1305/2021 and respondent no.6 in Writ Petition No.1810/2021, who are contractors, shall not replace the petitioners with other employees if the petitioners continue to discharge their duties to the satisfaction of the said respondents".

6. Mrs. Wandile, learned counsel appearing for the petitioners, would invite our attention to further orders passed in Contempt Petition No.147 of 2024 (***Subhash Chandar Sapate and others Vs. The State of Maharashtra and others with connected matters***) decided on 27th September, 2024 at Aurnagabad Bench. According to her, the Division Bench at Aurangabad has made the following observations:

"15. In the light of the submissions of the learned advocates for the Petitioners and the learned Special Counsel for the State of Maharashtra and to render a quietus to this litigations by consent,

we find that the submissions of the learned advocates for the Petitioners can be tweaked and the following directions can be issued to the litigating parties before us:-

a) Those Zilla Parishads who have still not tendered the details of the Ambulance Drivers who are in service, to the Public Health Department of the State Government, they shall issue an e-mail communication to these Zilla Parishads within ten days from today, reminding them for tendering the details of the Ambulance Drivers to the said Department.

b) All those Zilla Parishads (we are told that they are only five in numbers), shall ensure that the details of the Ambulance Drivers would be conveyed to the Public Health Department, Mantralaya, Mumbai, within 30 days from the date of the receipt of the e-mail.

c) After these details are available with the said Department (as we are told that except five, all others have furnished the details), the concerned Department of the State Government shall commence a verification exercise in right earnest and complete the exercise within 60 days.

d) After the above exercise is completed, the said Department, in co-ordination with the Finance Department, would assess the total burden of the arrears of wages, which shall be paid to the Ambulance Drivers within a period of 90 days.

e) After the above exercise is completed, the State Government shall bifurcate the arrears of wages, with interest as is statutorily paid, into four equated installments and these four installments would be paid from the month excluding the following month in which the calculations are made. For example, if the quantification of the liability is done in the month of April 2025, by excluding the following month of May, the first installment would be paid on or before the 10th day of June 2025. It be kept in mind that this is purely an illustration.

f) If the above time schedule is followed, the State gets a time frame of approximately six months for calculations and assessment of liability. Thereafter, excluding the intervening month, they can pay the dues to the Ambulance Drivers in four equated monthly installments. This whole exercise would, therefore, require around eleven months which could be sufficient time to the State Government to implement the orders of this Court and of the Hon'ble Supreme Court".

7. When confronted, the counsel for the respondents submit that this Court may pass similar order, as an attempt on the part of the Zilla Parishad before the Apex Court, questioning the aforesaid decision was unfruitful.

8. Rightly so, our attention is invited to the order of the Apex Court in the matter of *The Chief Executive Officer, Zilla Parishad, Solapur and others Vs. Ashok. and others*, decided on 23rd March, 2022 in SLP (Civil) No.8395 of 2021 and such similar order.

9. Having regard to the claim put forth in the petition, we are of the view that the petitioners are entitled for the minimum of the pay scale (at the lower grade, in the regular pay scale) extended to regular employees holding the same post with effect from the date of the petition along with the arrears, as has been ordered by the Division Bench of this Court in the matter of *Ritesh @ Jeetu Babulal Chakravarty and others Vs. The State of Maharashtra and others* referred above.

10. Apart from above, the petitioners, in our opinion, shall also be entitled for the benefits, pursuant to the directions issued by Aurangabad Bench in the Contempt Petition referred above in the matter of *Subhash Chandar Sapate and others Vs. The State of Maharashtra* referred above.

11. The petition as such stands allowed in the aforesaid terms.

(MRS.VRUSHALI V. JOSHI, J)

(NITIN W. SAMBRE,J.)