



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

WRIT PETITION NO. 2334/2017

**Kailash Raghunatrao Kadu Vs. Director of Vocational Education and
Training and others**

WITH

CONTEMPT PETITION NO. 16/2021

Kailash Raghunatrao Kadu Vs. Parag R. Wankhade and another

WITH

CIVIL APPLICATION (CAW) NO. 1553/2024

**Kailash Raghunatrao Kadu Vs. Director of Vocational Education and
Training and others**

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. P.S. Patil, Advocate for Petitioner
Mr. Saurab Joshi, AGP for Respondent Nos.1 to 3
Mr. N.S. Bhelkar, Advocate for Respondent No.4
Mr. D.S. Kanwale, Adv. h/f Mr. S.Z. Qazi, Adv. for Respondent
No.1 in Contempt Petition No. 16/2021

**CORAM: AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.**

DATED : 16th AUGUST, 2024

1. By an order dated 04.6.2018, the following position was recorded while issuing rule.

“1. Heard learned Counsels for the parties.

2. Rule. Rule made returnable early.

3. Learned Additional Government Pleader Shri A.M. Deshpande

waives service of notice for respondent nos.1 to 3. Learned Counsel Shri N.S. Bhelkar waives service of notice for respondent no.4.

4. The question is about payment of regular salary to the petitioner, who is working on the post of Instructor since 8/1/1987. The petitioner was terminated by an order dated 17/1/2005 and in Writ Petition No.539/2005 decided by this Court on 4/5/2016 the order of termination was set aside. The petitioner was continued during pendency of writ petition in service. Consequent upon setting aside the order of termination dated 17/1/2005 the petitioner was continued in service. This Court also directed the Director of Municipal Administration to decide the question of grant of approval to the appointment of the petitioner. The Director of Municipal Administration has held that the provision of Section 76 (1) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 is not at all attracted and the burden is upon the Municipal Council to make the payment.

5. The learned Counsel appearing for the Municipal Council has expressed certain financial difficulties in making payment of regular salary to the petitioner.

6. In view of the fact that the termination of the petitioner has already been set aside and he is directed to be continued in service and the fact that he is already working on the post, the respondent – Municipal Council is under obligation to pay regular salary to the

petitioner and the financial constraints cannot be put forth as a defence. Hence, we direct the respondent – Municipal Council to continue to pay the regular salary of the petitioner during the pendency of the writ petition.”

2. The learned counsel for the respondent No.4 does not dispute issuance of the communication dated 27.09.2023 (page No.130), by which the pension of the petitioner has been approved. This being the position, the subsequent communication dated 28.2.2024, (page 18) with Civil Application (CAW) No. 1553/2024, would not come in the way of the petitioner to be granted pension and other benefits in view of the order dated 04.06.2018 as claimed in the petition as the said order, categorically records, that the responsibility of payment of the same on account of the employment of the petitioner, is not disputed & is of the respondent No.4 out of the municipal funds. This being the position, the petition is disposed of by directing the respondent No.4 to process the pension papers of the petitioner by taking into consideration the entitlement of the petitioner for the increments and other benefits as claimed in the petition. The same be done within a period of four months as far as possible.

3. Contempt Petition No.16/2021, in view of the above, stands disposed of.

(SMT. M.S.JAWALKAR,J.)

(AVINASH G. GHAROTE,J.)

MP Deshpande