



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

902 WRIT PETITION NO. 12436 OF 2022

Chief Officer,
Pathardi Nagar Parishad,
Tal. Pathardi, Dist. Ahmednagar

...Petitioner

VERSUS

Balu Laxman Solat (died)
Through his L.R's

1) Bhimraj Balu Solat
Age 32 yrs., Occ. Nil,
R/o Nath Nagar, Pathardi,
Tal. Pathardi, Dist. Ahmednagar

...Respondent

...

Mr.Ramesh V. Naiknavare, Advocate for the Petitioner
Mr. Parag V. Barde, Advocate for Respondent/sole

...

CORAM : ROHIT W. JOSHI, J.

DATE : 21st AUGUST, 2025

ORAL JUDGMENT :

1. The petitioner-Municipal Council challenges the judgment and order dated 22.04.2022 passed by the learned Industrial Court, Ahmednagar in Complaint (ULP) No.49/2016.

2. The said complaint was filed by respondent no.1. Respondent no.1 claimed that he was initially appointed in service with Gram Panchayat, Pathardi as a Sweeper/Safai Kamgar since January 1983. He contends that after the Grampanchayat got converted into the Municipal Council his services were absorbed in the Municipal Council

as a Safai Kamgar. He contends that he is superannuated from service on 31.05.2015 as a Safai Kamgar. The respondent claimed appointment on the basis of Safai Kamgar for his son Bhimrao Balu Solat whose date of birth is 06.12.1987. The appointment is sought in view of recommendations of Lad Committee which have been accepted by the Government of Maharashtra. The recommendations of the said committee are adopted by issuing Government Resolutions from time to time. The request of the respondent for granting appointment to his son was rejected on the ground that the petitioner had retired from services on the ground that the petitioner was appointed on the post of Gardner and not as a Safai Kamgar. The petitioner also contends that the respondent has worked as driver of bullock cart, Peon and also as a Octroi Clerk. The learned Industrial Court has recorded evidence in the matter. The respondent has examined himself and a co-employee named Begam Shafi Shaikh as his witness as against this the petitioner examined one Dattatray Dhawale a Health Inspector working with petitioner as its sole witness. The learned Industrial Court has held that respondent was infact working on the post of Safai Kamgar and that the petitioner had failed to prove its contention that the respondent was working as Mali or Bullock Cart Driver or peon or Octroi Clerk. In view of such findings, the learned Industrial Court has directed the petitioner to grant appointment to the son of respondent on the post of Safai

Kamgar subject to his eligibility. The present petition is filed challenging the said judgment and order.

3. The learned Industrial Court has dealt with the evidence brought on record by rival parties. Dealing with the contention of the petitioner that the respondent was not working as Safai Kamgar and was working on the different posts as mentioned above, the learned Industrial Court has observed that the respondent was not even holding requisite qualification for working on the post of peon or Octroi Clerk. It is held that the educational qualification for appointment to the post of Peon is that the candidate should passed standard 9th examination and that for the post of Clerk is HSC + typing and MSCIT Course. The learned Industrial Court has observed that the petitioner's witness has admitted that the respondent was illiterate. Apart from this, with respect to the post of Mali and Bailgadi Vahak it is observed that there is no such post in the Pathardi Municipal Council. The learned Industrial Court has also referred to the Service Book of the respondent wherein his designation is shown as Safai Kamgar till 10.07.2003. Dealing with some entries in record showing that respondent was working as Octroi Clerk, the learned Industrial Court has observed that there is no foundation for the entries showing the post of respondent as Peon or Octroi Clerk. The learned Industrial Court has repeatedly observed that respondent was

not holding essential educational qualification for working on the said post. The learned Industrial Court has also referred to entries in Service Book in which benefit of time scale promotion is granted to respondent on two occasions on 01.04.1999 and on 01.04.2011. The witness of petitioner admitted that benefit of time scale is given to employees who are not granted promotion. This negates the case of the petitioner that the respondent was working on the post of Peon or Octroi Clerk. The learned member of the Industrial Court has also compared the pension of the respondent and another Safai Kamgar namely Begam Shafi Shaikh who was examined as witness no.2 by the respondent. Comparing the amount of pension, the learned Industrial Court has held that the respondent was drawing lesser amount of pension than that of Begam Shafi Shaikh. On this count, the contention of the petitioner is came to be rejected that the respondent was working on the post of Peon or Octroi Clerk.

4. Perusal of the findings recorded by the learned Industrial Court along with the depositions of witnesses and other documents which have been made available for perusal will demonstrate that a finding of fact is recorded by the learned Member of the Industrial Court on appreciation of material. The learned Industrial Court has recorded reasons for arriving at a particular finding. The reasons disclose

consideration of entire material on record. Re-appreciation of evidence is beyond the scope of the present petition. The findings recorded cannot be said to be perverse by any stretch of imagination. In that view of the matter in the considered opinion of this Court, no case is made out for interference with the impugned order. Writ Petition is dismissed with no order as to costs.

[ROHIT W. JOSHI J.]