



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

**919 REVIEW APPLICATION (CIVIL) NO. 44 OF 2024
IN WP/1777/2014
WITH
CIVIL APPLICATION NO. 2240 OF 2024
IN CA/15486/2016**

THE ZILLA PARISHAD BEED THE CHIEF EXECUTIVE OFFICER N
S NANAWARE AND ANOTHER
VERSUS
KALYAN SARJERAO SUTAR AND ANOTHER

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Mr. Suryawanshi Prashant D., Advocate for Applicants
Mr. S. B. Pulkundwar, AGP for Respondent-State
Mr. S. S. Thombre, Advocate for Respondent No.1

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**CORAM : R. G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 27/03/2025.

P. C. :

1. Heard.

2. This is an application for review of the order dated 01/04/2015 passed by the Division Bench of this Court in Writ Petition No. 1777 of 2014. The operative order reads thus :

“(a) The Respondent No.2 shall extend the permanency benefits to the Petitioner from the date of his initial appointment i.e. 30.12.1991.

*(b) The petition is disposed of in the aforesaid terms.
No order as to costs;*

(c) Pending civil application, if any, stands disposed of.

3. The applicant before us is Zilla Parishad, Beed. The respondent No.1 was a class-4 employee of the Zilla Parishad. His case in Writ Petition (No.1777 of 2014) was that there were other 70 similarly placed employees, who were granted continuation of service from the date of their appointments and therefore, he also sought for the similar relief. This court in para 6, 7, 8 & 9 of the order under review observed thus and allowed the petition.

“6) In the Affidavit in reply filed on behalf of Respondent Nos. 2 and 3, the only contention raised in oppose to the petition is that, since the petitioner was appointed in the year 1992 on contract basis and there were technical breaks in his service, petitioner’s services cannot to be regularized without permission and/or direction of Respondent No.1 from the date of his initial appointment.

7) After having carefully gone through the pleadings of the parties and documents placed on record, the fact that the petitioner was a bonded employee, is not in dispute. It is also not in dispute that Respondent No.2 had proposed to the State Government to regularize the services of 72 such bonded employees selected by the District Selection Committee and amongst the said 72 employees, i.e. multipurpose health workers, name of Court in the case of State of Uttar Pradesh and Ors. Vs. Arvind Kumar

Srivastava and Ors. (2015) 1 SCC 347 , wherein the Hon'ble Apex Court has, in clear terms, held that, -

“ It is a normal rule that when a particular set of employees is given relief by the Court, all other identical situated persons should be treated alike by extending same benefit, since in not doing so would amount to discrimination and the violative of Article 14 of the Constitution.”present petitioner was also included. What transpires from the material placed on record is that out of said 72 employees, 70 employees had approached the Court and had obtained the order of protection. However, such order was not there in favour of the present petitioner and he, therefore, remained to be permanently absorbed and/or regularized. It is quite evident that when case of the present petitioner is as similar to the said 70 employees, who had obtained some order from the Court, the relief, which was extended to said employees, must have been extended to the present petitioner also irrespective of the fact whether he had approached the Court or not.

. The second contention that there were technical breaks and the appointment of the petitioner was on contract basis will also not come in the way of granting him the said benefit, which has been already granted to the similarly situated employees for the reason that the employees, who have been granted the benefit of permanency and/or regularization from their date of initial appointment, vide order passed on 3.3.2011, had also suffered such technical breaks.

8) *Learned Counsel appearing for the petitioner has placed reliance on the judgment of the Hon'ble Apex Court in the case of State of Uttar Pradesh and Ors. Vs. Arvind Kumar Srivastava and Ors. (2015) 1 SCC 347 , wherein the Hon'ble Apex Court has, in clear terms, held that, -*

“ It is a normal rule that when a particular set of employees is given relief by the Court, all other identical situated persons should be treated alike by extending same benefit, since in not doing so would amount to discrimination and the violative of Article 14 of the Constitution.”

9) *As elaborately discussed herein above, the case of the present petitioner is as similar to the case of the employees, who have been granted regularization from the date of their initial appointment, vide order dated 3.3.2011. We, therefore, do not see any reason for not extending such benefit by the respondents to the present petitioner. The petition, hence, deserves to be allowed. In the result the following order”.*

4. We have heard the learned counsel for the petitioner. According to him, the employer did not have authority to condone the absence from service for more than two years. He relied on Rule 48(3) of the MCSR (Pensions Rules 1982). He also relied on judgments in the case of **(1) Capt.Dinesh Narayan Tatwawadi**

vs. State of Maharashtra, through its Secretary General, Administration, Department, Maharashtra State, Mumbai; 2017(6) AIR Bom.R.104 (2) Dasharath Gangaram Gorme vs. Hon'ble High Court of Bombay through its Registrar (General) in Writ Petition No.3989 of 2004 decided on 21/08/2017 and (3) Ashok Dattatraya Marathe vs. State of Maharashtra and others; 2018(2) Mh.LJ.37 of this court to contend that even the State Government did not have power to condone delay of more than three years break in service. He then pointed out the communication dated 27/02/2004. According to the learned advocate the respondent did not challenge the said communication. The learned counsel would further submit that Rule 48(3) of the MCSR (Pensions Rules 1982) was brought to the notice of the Division Bench in concerned writ petition. He therefore, sought review of the order dated 01/04/2015 passed in WP No.1777 of 2014.

5. The court granted the respondent relief mainly on the ground of parity. It has also observed in the order that in spite of there being technical breaks in service of the respondent, the same would not come in the way to grant the petitioner relief. The Division Bench relied on the judgment of the Apex Court in the

case of ***State of Uttar Pradesh and others vs. Arvind Kumar Srivastava and others, (2015) 1 SCC 347***. As such, it appears that the ground raised by the applicant Zilla Parishad in the writ petition has been addressed to. We do not dispute implication of Rule 48(3) of the MCSR (Pensions Rules 1982). The authorities relied on by the learned advocate for the applicant did not pertain to review of the order. Close reading of the order sought to be reviewed, it does appear that no reliance on Rule 48(3) of the MCSR (Pensions Rules 1982) was placed. Since the respondent / petitioner was granted relief on the ground of party, we find no merit in the review application. The same is, therefore, dismissed.

6. In view of above, pending civil application, if any, also disposed of.

(SANDIPKUMAR C. MORE, J.)

(R. G. AVACHAT, J.)