



IN THE HIGH COURT OF JUDICATURE BOMBAY
AT AURANGABAD

WRIT PETITION NO.4072 OF 2025

1. Sambhaji Dagduba Deokule
Age: 47 Yrs. Occ: Services
R/o. India Nagar, Sul Nagar, Latur
Dist. Latur.
2. Prabhavati Vishwambharrao Patil
Age: 53 Yrs. Occ: Services
R/o. Basweshwar Chowk, Latur
Dist. Latur
3. Gulabpasha Ismail Shaikh
Age: 51 Yrs. Occ: Services
R/o. Aayesha Colony, Khorl Galll,
Dist. Latur

.....*PETITIONERS*

VERSUS

1. Latur Municipal Corporation, Latur
Through its Commissioner
2. The State of Maharashtra
Urban Development Department
Mantralaya, Mumbai

.....*RESPONDENTS*

Mr. S. S. Kadtane, Advocate for the petitioners
Ms. P. R. Bharaswadkar, AGP for respondent-State
Mr. H. V. Patil, Advocate for respondent no.1

CORAM SMT. VIBHA KANKANWADI &
AJIT B. KADETHANKAR, JJ.
DATED 04TH OCTOBER, 2025

JUDGMENT :- (Per: Ajit B. Kadethankar, J)

1. Rule. Rule made returnable forthwith.
2. Heard finally with consent of Mr. Sarwadnya S. Kadtane, learned Advocate for the petitioners, Ms. P. R. Bharaswadkar, learned AGP and Mr. H. V. Patil, learned Advocate for respondent no.1.
3. Vide this present petition, petitioners have put forth following prayers for consideration of this Court:

a. This Hon'ble Court may be pleased to issue an appropriate writ/ order/ direction in the nature of Writ of certiorari, thereby quash and set aside the order of appointment dated 03/02/2022 to the extent of appointment of the Petitioners from 28/12/2020 and further direct the Respondent No. 1 to regularize the appointments of the Petitioners and grant consequential benefits in light of the orders passed by this Hon'ble Court in WP/8847/2016.

b. That during the pendency and final disposal of the present Writ Petition, the Respondent no.1 may kindly be directed not to fill the Permanent Posts till final disposal of the present Writ Petition.

c. Ad-interim relief in terms of prayer clause (b) above be granted.

d. Such other and further reliefs be granted as the nature and circumstances of the case may require.

4. **Subject matter:** The Petitioners although having been appointed on regular posts of 'Clerk/Typist' by the R.No.1 Latur Municipal Corporation (hereinafter referred as 'Corporation' for the sake of convenience) w.e.f. 2020, they seek directions that their appointment on the said posts be regularised w.e.f 09-04-1997 interpreting the order dtd.13-12-2016 passed by this Court in Writ Petition No.8477 of 2016.

5. **Facts in brief:**

(i) It is not in dispute that the petitioners were Daily Wagers under the employment of the respondent Corporation. The petitioners submit that they together with others had filed complaint No.Com/ULP/No.23/2009 against the respondent no.1 in the Court of learned Member, Industrial Court Latur seeking benefit of permanency from the posts of Daily Wagers.

(ii) It is further submitted that the said complaint was partly allowed on 09.03.2016, thereby holding the Corporation responsible for unfair labour practices and directing the Corporation to confer permanency on all the complainants therein upon completion of 240 days of their services. Incidental directions were also passed therein.

(iii) Petitioners further submit that the Corporation challenged the judgment and award (supra) in this Court vide Writ Petition No.8847 of 2016. Upon hearing the parties, the said Writ Petition was disposed of by this Court on 13.12.2016 with following directions:

(A) The petitioner shall consider the seniority of these respondents (original complainants) by taking into account their first date of joining as 'daily wagers' and based on the seniority, they shall be granted regularization with consequential benefits from the date on which they were eligible as per seniority as against a vacant post available.

(B) Needless to state, if any of these respondents are superseded, they shall be entitled for the benefits of regularization from the date on which any junior person has been absorbed against a permanent vacant post and the petitioner / Corporation shall then be responsible for the monetary burden that may be created while granting all consequential benefits to these respondents.

(iv) The Petitioners submit that the facts in W.P. No. 8847 of 2016 were identical with Writ Petition No.10711 of 2016 and 10710 of 2016 disposed by this Court. Petitioners further submit that orders passed by this court in the later petitions were taken up in challenge in the Hon'ble Supreme Court by the Corporation vide Special Leave Petition (Civil) Diary No.11039/2018. That challenge came to be turned down summarily by the Hon. Supreme Court. May it be, nothing is before us to identify similarity in those three petitions.

(v) The petitioners contend that they filed Contempt Petition No.765 of 2017 in Writ Petition No.8847 of 2016 in this Court contending that the Corporation has not obeyed the orders passed by this Court in Writ Petition No.8847 of 2016 scrupulously. It is further seen that vide order dated 24.12.2020, the petitioners were appointed on Regular Posts of 'Safai Kamgar' by the Corporation. It further transpires from the order passed by this Court on 01-12-2021 in the Contempt Proceedings, that the Petitioners and the Corporation amicably settled the issue and the Contempt Petition came to be withdrawn as against the authorities of Corporation.

(vi) Post withdrawal of the contempt proceedings against the Corporation authorities, it appears that on 03.02.2022 the Corporation issued Revised Appointment Orders thereby appointing the petitioners on the Regular Posts of 'Clerk-Typist' with effect from 28.12.2020 meaning thereby, the earlier orders appointing the petitioners on the post of 'Safai Kamgar' merged into the subsequent orders.

06. Its on the backdrop of these facts, now the petitioners have challenged their own appointment orders on the post of 'Clerk-Typist' to the extent of they being appointed on permanent post with effect from 28.12.2020 contrary to the orders passed by this court in Writ Petition No.8477 of 2016.

We deal with the arguments of the parties as follows.

07. Learned Advocate Mr. S. S. Kadtane, appearing for petitioners while addressing on the prayer, submitted that the respondent Corporation ought to have made these appointments with effect from 09.04.1997, as per the directions in Writ Petition No.8847 of 2016.

08. Mr. S. S. Kadtane, learned Advocate further submits that although the petitioners are appointed on the post of 'Clerk-Typist', they deserve service benefits holding their initial date of appointment as 09.04.1997 for all purposes in view of the order passed by this Court in Writ Petition No.8847 of 2016. With this, Mr. S. S. Kadtane, learned Advocate prays to allow the Writ Petition.

09. Mr. H. V. Patil, learned Advocate for the respondent Corporation opposes the prayers and submits that the petition is misconceived. He would further submit that the Writ Petition itself is not maintainable in view of the earlier proceedings and particularly the settlement arrived in Contempt Petition. Ms. Bharaswadkar, Ld. Asst. Government Pleader do adopt the arguments of Shri H.V. Patil and prays to dismiss the writ petition.

10. Heard both the parties at length. With able assistance of the Ld. Counsels for the respective parties we have perused the documents relied upon by the parties.

11. At the outset, we would record that the petitioners have prayed for such relief which was best available for them to seek in the earlier round of litigation itself in this court in Writ Petition No.8477 of 2016. It's a matter of fact the Petitioners were Daily Wagers and hence they had filed the Complaint in the Labour Court for permanency. The question as to whether the petitioners were appointed on the posts of 'Clerk/Typist' and they were working expressly as 'Clerk-Typist' since 09-04-1997, they deserved permanency w.e.f. 09-04-1997 or from 2013 remained unmooted by the petitioners in WP 8847 of 2016 for the reasons best known to them.

12. May it be, if at all Petitioners were given regular appointments on the posts of 'Safai Kamgar' instead of 'Clerk-Typist' that too, w.e.f.28-12-2020 in derogation of the directions passed by this Court in WP No.8477 of 2016, it is a matter of record that they settled their grievance amicably with the Corporation during Contempt Proceeding. Its only then the Petitioners accepted the Revised Appointment Orders dated 03.02.2022 on the post of 'Clerk-Typist' whereby the appointments were given effect retrospectively with effect from 28.12.2020.

13. Mr. S. S. Kadtane, learned Advocate for the petitioners would try to submit that the staffing pattern was granted by the State Government on 28.05.2013 Corporation and hence the Petitioners would be entitled to be appointed at least w.e.f. 28-05-2013. Here again the Petitioners have taken altogether a different stand, though not explained the cause decisively.

14. We are not convinced with the case put up by the petitioners for more than one reason. Firstly, the Petitioners on one hand contend that they were appointed as 'Daily Wagers' and yet claim to have been appointed as 'Clerk/Typist' on sanctioned posts since their inception. This argument is misconceived.

Secondly, the petitioners accepted their Revised Appointment Order dated 03.02.2022 on the Regular post of 'Clerk-Typist', which in fact appointed them on the said posts with retrospective effect from 28.12.2020. This was obviously after the Contempt Petition was withdrawn against the Corporation Authorities in view of the amicable settlement in between the Petitioners and the Corporation. As such Petitioner's prayer is hit by the Doctrine of Estoppel.

Thirdly, if the petitioners contend that staffing pattern was published on 28.05.2013 and if the post of 'Clerk-Typist' purportedly held by the petitioners with effect from 09.04.1997 were covered by

the said staffing pattern, the petitioners could have brought to the notice of this Court in the Writ Petition No.8847 of 2016, which is disposed of on 13.12.2016. Agitation in the Writ Petition No.8847 of 2016 was the only appropriate and efficacious remedy for the Petitioners for this ground. This exercise is not done by the petitioners. As such, now the Petitioners can not raise the grievance at their convenience.

Last but not the least, the petitioners could not demonstrate that the post of 'Clerk-Typist' purportedly held by them stood sanctioned on 09.04.1997 so as to show that the posts were falling vacant since then, as also that they were appointed on the said posts. In fact, the conduct of the petitioner in (i) not raising present grievance meticulously in the earlier round of litigation, (ii) settling the Contempt proceedings with the Corporation thereby accepting the regular appointments on the post of 'Clerk-Typist' with effect from 28.12.2020 and (iii) later stretching the cause by raising alternate case, creates dark clouds on the bonafides of the petition.

15. In view of this, we are not convinced on the merits of the Writ Petition and it fails. Hence, we pass following order:

ORDER

- i. Writ Petition is **dismissed** with no order as to costs.
- ii. Rule stands discharged.

[AJIT B. KADETHANKAR, J]**[SMT. VIBHA KANKANWADI, J.]***Rushikesh/2025*