

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11492 OF 2019

Kolhapur Mahanagar Palika

....*Petitioner*

: *Versus* :

Anil Vilasrao Patil

....*Respondent*

Mr. Suresh M. Kamble, *for the Petitioner.*

Mr. Sachinkumar Rajepandhare, *for the Respondent.*

CORAM :: SANDEEP V. MARNE, J.

DATED : 2 MAY 2025.

P.C. :

1) The petition challenges judgment and order dated 8 November 2016 passed by the Member, Industrial Court, Kolhapur partly allowing Complaint (ULP) No.194/2011 and directing regularisation of services of the Respondent on the post of Maistry.

2) I have heard Mr. Kamble, the learned counsel appearing for the Petitioner-Municipal Corporation and Mr. Rajepandhare, the learned counsel appearing for the Respondent.

3) At the very outset, Mr. Kamble would rely upon Government Resolution dated 11 October 2024, under which the State Government has granted approval for creation of 507 supernumerary posts of Labourers on the establishment of Kolhapur Municipal

Corporation for regularisation of daily wage workers. He would also rely upon order dated 24 January 2025 issued by the Municipal Corporation by which services of various daily wage workers are recanalized as Labourers w.e.f. 11 October 2024. He would submit that the name of the Respondent is included in the said order dated 24 January 2025. That the Respondent has already been regularised in service. Mr. Kamble has accordingly submitted that the Petition is rendered infructuous and prays for only modification of judgment and order dated 8 November 2016 passed by the Industrial Court so as to bring it in synchronization with the Order dated 24 January 2025 issued by the Municipal Corporation.

4) *Per-contra*, Mr. Rajepandhare would urge that relief granted in favour of the Respondent by the Industrial Court ensures his regularisation from the year 2016, whereas the G.R. dated 11 October 2024 would ensure regularisation from the date of issuance of the said G.R. He would submit that Respondent has been working continuously with the Petitioner since the year 1994 and was brought on the post of Maistry by Resolution adopted by the Standing Committee on 11 May 2007. He would submit that Respondent has been drawing the pay-scale of Maistry from 2010 and that the Industrial Court has rightly directed his regularisation by judgment and order dated 8 November 2016. He would submit that if regularisation is confirmed as per the G.R. dated 11 October 2024, the same would result in denial of regularisation in favour of the Respondent from 8 November 2016. He would submit that the petition is otherwise filed after delay of more than two years. Mr. Rajepandhare has also relied on Resolution dated 18 September 2010 adopted by the General Body of the Municipal Corporation by which it was decided to pay regular salary for the post of Maistry to the Respondent against vacant post. He would submit that decision was

infact taken for implementation of the order passed by the Industrial Court. He would pray for dismissal of the petition.

5) Rival contentions of the parties now fall for my consideration.

6) Petitioner has already been granted regularisation by order dated 24 January 2025 issued by the Municipal Corporation by virtue of which he is regularised in service as Labourer in the pay-scale of Rs.15000-47000 w.e.f 11 October 2024. The order dated 24 January 2025 is issued towards implementation of G.R. dated 11 October 2024, by which the State Government has sanctioned creation of 507 supernumerary posts of Labouerers on the establishment of Kolhapur Municipal Corporation for regularisation of daily wage workers.

7) While the Industrial Court has directed regularisation of the Respondent on the post of Maistry within two months of order dated 8 November 2016, the order dated 24 January 2025 issued by the Municipal Corporation ensures his regularisation on lower post of Labourer that too w.e.f. 11 October 2024. Therefore, the short issue that remains to be decided in the present petition is whether the direction for regularisation on the post of Maistry issued by the Industrial Court vide order dated 8 November 2016 can still be maintained even after issuance of G.R. dated 11 October 2024 and order dated 24 January 2025.

8) It appears that the Respondent has been working with the Municipal Corporation on daily wage basis since 1994. He held the qualifications for the post of Maistry. It appears that several vacant posts of Maistry were available in Public Works Department of the Kolhapur Municipal Corporation and accordingly, the Standing Committee adopted Resolution dated 11 May 2007 for ultisation of

Respondent as Maistry on daily wage basis. It appears that the Respondent has been continuously utilised as Maistry since 21 December 2006. The General Body of the Municipal Corporation thereafter adopted Resolution dated 18 September 2010 for paying regular salary of the post of Maistry to the Respondent. In the said Resolution, it was observed that out of the 11 posts of Maistry on the establishment of Municipal Corporation, 9 posts were vacant. It was observed that Respondent fulfilled the eligibility criteria for working on the post of Maistry. The General Body took into consideration his performance on the post of Maistry on daily wage basis. This is how it was decided to pay him regular salary of the post of Maistry from the year 2010.

9) It does appear that from the year 2006 onwards, Respondent continued working on the post of Maistry against vacant post. He has been drawing salary of the post of Maistry (*not daily wages*) from the year 2010. Considering this position, the Industrial Court has rightly directed his regularisation on the post of Maistry. The order of the Industrial Court ensures regularisation of the Respondent prospectively from 8 November 2016. As a matter of fact, in Constitution Bench judgment in Secretary, State of Karnataka V/s. Umadevi¹, a one-time exception is made under which casual workers who were irregularly appointed against sanctioned vacant posts and who continued to work for 10 years were directed to be regularised. Respondent therefore ought to have been regularised in terms of judgment of *Umadevi* immediately after 2006. The order passed by the Industrial Court ensures his regularisation from 8 November 2016. I therefore do not find any patent error in the approach adopted by the Industrial Court.

¹ (2006) 4 SCC 1

10) If the order of the Industrial Court is interfered with on account of issuance of subsequent order dated 24 January 2025 in pursuance of G.R. dated 11 October 2024, the same would mean regularisation of the Respondent from 11 October 2024, that too on lower post as a Labourer. Respondent would lose regularisation granted by the Industrial Court on 8 November 2016 and would be regularised 8 years later on 11 October 2024, that too on lower post of Labourer. In my view, therefore issuance of order dated 24 January 2025 by the Municipal Corporation cannot be a reason for interfering with the order passed by the Industrial Court.

11) Even otherwise, the petition appears to have been filed after gross delay and laches. The impugned judgment and order was passed by the Industrial Court on 8 November 2016 and the present petition is filed almost two years later on 20 October 2018.

12) Thus, both on the grounds of merits, as well as delay, the petition must fail.

13) The Writ Petition is accordingly **dismissed** with no order as to costs.

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[SANDEEP V. MARNE, J.]