

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7209 OF 2024**

Rashtriya Shramik AghadiPetitioner

Versus

Union of India and Ors.Respondents

Dr. Uday Warunjikar a/w. Mr. Sumit Kate and Ms. Gargi Warunjikar
i/b. Mr. Aditya Pankaj Kharkar for the Petitioner.

Ms. Priyanka Chavan for Respondent No.1.

Mr. K.S. Thorat, B Panel Counsel for Respondent No.2.

Mr. Rajeev K. Panday a/w. Mr. Yogesh J. Mishra i/b. PRS Legal for
Respondent No.3.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 4th MARCH, 2025

P.C. :-

1. Respondent No.3 has entered an affidavit in reply, from
page nos.99 to 110. The Petitioner places on record a compilation of
judgments along with an index, dated 4th March, 2025.

2. The learned Advocate for the contractual workers
points out from the documents placed on record that there are
several such workers represented by the Petitioner Union, vide
which, it is visible that some of the contractual employees are
working with Respondent No.3, since 2006. Most of them have put

in more than 10 years. The Contractors are intermittently changed. However, these contractual workers are continued in employment with Respondent No.3, by creating a contract document to indicate that a new contractor has taken them in his employment.

3. The learned Advocate for the contractual workers relied upon the judgments delivered by the Hon'ble Supreme Court in *Chief Conservator of Forests v/s. Jagannath Maruti Kondhare*¹, *Jaggo v/s. Union of India and Others*² and the three orders passed by this Court, which are placed on record by the Petitioner in the compilation of the judgments along with the index.

4. The learned Advocate for Respondent No.3 submits that he would convey to the Employer that the dictum of this Court in *Jaggo* (Supra), *Akram Harun Shaikh and Others v/s. The State of Maharashtra and Others*³ and *Sandip Ganpat Hadbal and Others v/s. The State of Maharashtra and Others*⁴, has to be followed, notwithstanding whether there are posts available or not and whether the employees, represented by the Petitioner, are

1 1996 (2) SCC 293

2 2024 SCC OnLine SC 3826

3 Order dated 22nd November, 2024 in Writ Petition No.16763 of 2024

4 Order dated 29th November, 2024 in Interim Application No.1418 of 2024

contractual employees. The lowest grade in the regular pay scale extended to the regular employees doing identical work, be paid to the concerned contractual labourers.

5. Considering the above and keeping in view the law cited, especially the recent judgment of this Court in *Akram Harun Shaikh* (Supra) and *Sandip Ganpat Hadbali* (Supra), Respondent No.3 would be liable to pay equal wages to these contractual workers at par with the wages payable to those regular employees who are performing the same duties.

6. Insofar as prayer clause (a) is concerned, the Petitioner Union or the actual contractual workers, will have to raise an industrial dispute under Section 2(k) of the Industrial Disputes Act, 1947, in the light of the law laid down by the Hon'ble Supreme Court in *Vividh Kamgar Sabha v/s Kalyani Steels Ltd. & Anr.*⁵, *Cipla Ltd. v/s. Maharashtra General Kamgar Union & Ors.*⁶ and *Steel Authority of India Ltd. & Ors. v/s. National Union Water Front Workers & Ors.*⁷ (Five Judges Bench). The Union or its concerned

⁵ (2001) I CLR 532

⁶ (2001) I CLR 754

⁷ (2001) III CLR 349

members will have to prove that the contractors have been shrewdly inducted and are replaced with new contractors. Several contractors have come and gone, though the contractual workers were retained by Respondent No.3. Allegations of sham, bogus contractor/camouflage, etc. will have to be gone into by the Industrial Tribunal.

7. As such, **this Writ Petition is disposed off.**

8. The payment of equal wages would continue in the light of the directions set out herein above. Insofar as the claim for regularisation is concerned, the Petitioner/its members are at liberty to raise an industrial dispute.

9. The Conciliation Officer/Appropriate Government would scrutinize such dispute by admitting it in conciliation and if the issue is not resolved, refer the matter to the concerned Industrial Tribunal within four months from today. The industrial dispute shall be raised within 30 days from today and the Conciliation Officer would admit the dispute in conciliation and commence the conciliation proceedings.

10. We trust that Respondent No.3 would cooperate in the conciliation proceedings. If the industrial dispute is referred to the Tribunal for adjudication, within four months, as observed herein above, the protection granted to the Petitioner as against their removal from service, would continue for a total period of six months from today. If the second party workmen/Union file an Interim Application before the Tribunal, the same shall be decided on its own merits within the period of two months, since this Court has not expressed any view or opinion on the said dispute. In the event, an adverse order is passed by the Industrial Tribunal, liberty to the Petitioner/Workmen to pray for continuation of the interim protection in order to approach the learned Single Judge of this Court.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)