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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9729 OF 2024

Civil Surgeon Civil Hospital Palghar and Ors. ...Petitioners

Versus

Kalpesh Dhondiram Binner And 7 Ors ...Respondents

Mrs. Reena A. Salunkhe, Assistant Government Pleader for Petitioner/
State.

Mr. Sugandh B. Deshmukh a/w Ms. Vaishali Jagdale, Advocates for
Respondent Nos. 1 to 8.

**CORAM: A.S. CHANDURKAR &
M.M. SATHAYE, JJ.**

DATE : 17th APRIL 2025

P.C. :

1. Heard learned Assistant Government Pleader for the Petitioners
and learned counsel for the Respondents.

2. By this petition under Article 226 and 227 of the Constitution of
India, the Petitioners are challenging the judgment and order dated
15.03.2024 passed by the Maharashtra Administrative, Mumbai (for
short, “the Tribunal”) in Original Application No. 625 of 2021 (“the said
OA” for short)

3. It is the case of the Respondents, eight in number, that they have
been working on contract basis in Thane and Palghar districts as
ambulance drivers since last 14 to 22 years. The Respondents have also
worked during Covid-19 Pandemic period. However, their services are
temporary and some of them are age barred. They filed the said OA
praying for regularization of their service. It is their case that after 2005
no advertisement was issued and no recruitment process has been
undertaken for ambulance drivers. It is contended that thereafter in

2019 an advertisement was issued and some ambulance drivers were appointed and thereafter in May 2021, though an advertisement was issued, it was canceled. Earlier, Original Application Nos.316 of 2019, 1192 of 2016 and 237 of 2017 were filed by them and others, which were disposed of by an order dated 18.09.2019 directing the Government to follow recommendations of the Cabinet Meeting dated 28.06.2019 expeditiously. The Government, however did not consider the Respondents under the said order dated 18.09.2019, because they were not working under National Rural Health Mission (NRHM) scheme. In these circumstances, the present original application was filed and impugned order was passed, allowing the application, directing the Petitioners to absorb the Respondents and regularize them from 18.09.2019, which was the date of earlier order.

4. The learned Assistant Government Pleader Ms. Salunkhe submitted that the Respondents were appointed by Civil Surgeon and they have been working purely on contract basis. She submitted that Respondents were continued with technical breaks as per directions of the Health Department of the State. It is submitted that the order dated 18.09.2019 only applied to drivers/employees who were working under NRHM scheme, whereas the Respondents are not working under the said scheme. It is submitted that mere long service for more than 10 years will not give any right to the Respondents for regularization.

5. On the other hand, Mr. Deshmukh learned counsel for the Respondents relying upon the judgment of **Jaggo Vs. Union of India (2024 SCC OnLine SC 3826)** and **Shripal and Anr. Vs. Nagar Nigam, Ghaziabad (2025 SCC OnLine SC 221)** submitted that the Respondents stand on comparable footing with those working under NRHM scheme and their roles are not only essential but are also indistinguishable from

those of regular employees and therefore equitable treatment and regularization is necessary. He submitted that the decision in the judgment of **State of Karnataka Vs. Umadevi - (2006) 4 SCC 1** would not apply to the Respondents. He urged that no interference is called for in the peculiar facts of this case.

6. We have considered rival submissions and perused the record with the assistance of the learned counsel for the parties.

7. In the recent judgment of **Jaggo (supra)**, the Hon'ble Supreme Court has observed as under :

“19. It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified.”

It was further held in paragraph 20 that the decision in **Umadevi (supra)** is not intended to penalise the employees who have rendered long years of service.

8. In another recent Judgment of **Shripal Vs. Nagar Nigam (supra)** the Hon'ble Supreme Court has observed that the Judgment in **Umadevi (supra)** cannot serve as a shield to justify exploitative engagements persisting for years without the employer undertaking legitimate recruitment.

9. We have perused the impugned order in the light of what is narrated above. The Tribunal has considered that some of the Respondents are appointed as long ago as prior to 2006 and some are

appointed thereafter but all have rendered more than 12 years service on contract basis and are rendering very useful service in the Public Health Department. It is noted further that though there are vacancies available, the Government has not considered issuing advertisement for more than 15 years. The Tribunal has further noted that the Respondents have worked as ambulance drivers in critical period of Covid-19 Pandemic. The Tribunal has noted that the vacancies for ambulance drivers in Thane and Palghar are 14. Record shows that during pendency of the said OA, interim relief was granted on 27.06.2023, thereby directing to continue the services of the Respondents on their respective post on vehicle drivers. Ultimately, considering that similarly situated applicants appointed under NRHM scheme are already regularized, the original application was allowed.

10. Considering the nature of services rendered by the Respondents over long period, we are of the considered view that the Respondents are covered by the ratio of the aforesaid judgments relied upon by them. Nothing is brought to our notice indicating any adverse record about the Respondents.

11. Therefore the impugned order does not suffer from any perversity or illegality or jurisdictional error. We are not inclined to interfere in exercise of writ jurisdiction. The writ petition is accordingly dismissed with no order as to costs.

12. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)

(A.S. CHANDURKAR, J.)