

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

WRIT PETITION NO. 10794 OF 2025

Dilip Babu Gaikwad

.. Petitioner

Vs.

The Deputy Commissioner
Brihanmumbai Municipal
Corporation and Ors.

.. Respondents

Mr. Gaurav Bandiwadkar, Advocate for the Petitioner.

**CORAM : SHREE CHANDRASHEKHAR &
MANJUSHA DESHPANDE, JJ**

DATE : 12TH AUGUST 2025.

P.C. :

The petitioner is aggrieved by the orders dated 21st September 2019, which according to him was not served upon him, and the order dated 1st October 2019 by which he was terminated from service for continuous absence from duty from 6th October 2014 to 1st October 2019.

2. In this writ petition, the petitioner has pleaded that he was suffering from lung disease and underwent several medical checkups. He has produced medical reports including X-Ray report of chest conducted on 15th June 2015. He submits that he was also referred for further examination on 22nd December 2015 and was declared fit to resume duty vide Certificate dated 25th October 2016 endorsed by the Medical Officer of K.E.M. Hospital, Parel, Mumbai.

3. The learned counsel for the petitioner refers to the Brihanmumbai Municipal Corporation Services (Discipline and Appeal) Rules, 2014 to assail the impugned orders dated 21st September 2019 and 1st October

2019 on the ground that a major punishment could not have been imposed upon the petitioner without holding a regular departmental inquiry. The learned counsel for the petitioner further submits that the petitioner approached the respondent-Authority for joining his duty through letter dated 16th July 2018 but he was not permitted to tender his joining.

4. Notwithstanding the plea of illness taken by the petitioner, this seems to be an admitted fact that since 6th October 2014 the petitioner remained absent from duty. If the Certificate issued by the Medical Officer on 25th October 2016 has to be accepted then the petitioner is required to explain why he reported for duty on 16th July 2018 vide annexure-E, that is, about 2 years after he was declared fit. Moreover, the medical prescription produced by the petitioner dated 28th October 2015 records that he was a chronic alcohol and tobacco abuser. The nature of appointment of the petitioner was of a labourer and the respondent-Corporation could not have waited for long 5 years for him to join duty. In our opinion, it was a case of abandonment of service for which there was no requirement to issue a charge memo or conduct a departmental inquiry against the petitioner. Quite evidently, the petitioner fails to challenge the legality of the orders dated 21st September 2019 and 1st October 2019.

5. Writ Petition No. 10794 of 2025 is dismissed.

[MANJUSHA DESHPANDE, J.]

[SHREE CHANDRASHEKHAR, J.]