

Ajay

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

WRIT PETITION NO. 13116 OF 2025

Dean, Sassoon General Hospital and Anr.

.. Petitioners

Versus

Mangesh Anand Agale and Anr.

.. Respondents

-
- Ms. Kavita M. Solunke, AGP for Petitioners.
 - Ms. Jane Cox, Advocate i/by Vinayak Suthar for Respondents.
-

CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 13, 2025.

P.C.:

1. Heard Ms. Solunke, learned AGP Advocate for Petitioners and Ms. Cox, learned Advocate for Respondents.

2. The impugned order is dated 27.03.2024 passed by the Industrial Court allowing the complaint filed by Respondent – Union on behalf of the workmen. The history of employment of workmen / complainants is narrated in the impugned order itself. It is seen that complainants were appointed as class IV employees on badali basis initially for 29 days and subsequently every month and since the year 1999 and they have been appointed continuously every year and since then they have been in continuous service for 240 days in each calender year with the Petitioners. There is no dispute about these facts. Service of the complainants stretches from 1999 till date

admittedly. Complainants led appropriate oral and documentary evidence before the learned Industrial Court which was not only accepted and appreciated by the Industrial Court but also ruled upon in favour of complainants. However it is seen that permanency was granted to some of the complainants and appropriate directions were given to prepare the seniority list of all badli workers engaged by Petitioners from time to time. Names of complainants were included in the seniority list which was placed on record in evidence considering the employment of complainants as badli workers for such a humongous stretch of time from the year 1999 till today in the Government Hospital.

3. Learned AGP has persuaded the Court to consider the fact that in the year 1999 complainants had filed complaint in the Labour Court and in that view of the matter, present complaint which is filed by them would be hit by the bar of *res judicata*. The submissions on *res judicata* are not correct neither appreciated by the Court. In the year 1999, undoubtedly complainants had not completed the minimum number of days of service as also the number of years. That time the complaint may not be maintainable. However engaging the complainants for such a humongous long period of time as badli workers, in the opinion of this Court clearly amounts to their enslavement without giving them benefits.

4. The case of the complainants / workers before me is duly covered by a series of decisions of this Court and the Supreme Court in the following cases:-

- (i) *Dharam Singh and Anr. Vs. State of U.P. and Anr.*¹;
- (ii) *Mr. Rahul Pittu Savalkar and Ors. Vs. The Additional Principal Chief Conservator of Forest and Anr.*²;
- (iii) *Navi Mumbai Mahanagar Palika & Ors. Vs. Navi Mumbai Municipal Union & Anr.*³; and
- (iv) *Pradip Ramesh Shinde Vs. Malegaon Municipal Corporation, Malegaon*⁴ *alongwith three other Writ Petitions.*

5. That apart, discrimination is also writ large on the face of record. Some complainants / workers whose names were in the seniority list were granted permanent employment forthwith by Respondent No.1 whereas some of the badli workers have been languishing till date. These complainants / workers have admittedly worked shoulder to shoulder alongwith permanent workers employed in the Hospital and they cannot be discriminated with.

6. In that view of the matter, learned Industrial Court has passed the order dated 27.03.2024 allowing the complaint. Learned Court has held that complainants are entitled for regularization and permanency in service from the year 1999 with all consequential

¹ Civil Appeal No(s). 8558 of 2018 – Decided on 19.08.2025

² Writ Petition No.2683 of 2023 – Decided on 03.09.2025

³ Writ Petition No.3749 of 2006 – Decided on 10.09.2025

⁴ Writ Petition No.7949 of 2025 – Decided on 30.09.2025

benefits as stated therein and they are also entitled for fixation of the wages as per recommendations of the sixth pay commission.

7. *PER CONTRA*, Ms. Cox, learned Advocate espousing the cause of complainants on behalf of the workmen would submit that the order dated 27.03.2024 is not complied with. She would submit that the workmen have approached the Industrial Court seeking execution of the order and on filing such complaint and cognizance of the said complaint having been taken before the Labour Court, the present Writ Petition has been filed as a complete afterthought to prevent implementation of the order.

8. Though the learned AGP has persuaded me to stay the impugned order and injunct from taking steps in furtherance of the impugned judgment, I am afraid, I cannot come to the assistance of the Petitioners.

9. The Government Resolution dated 23.07.2015 has been adequately discussed in the impugned judgment. By virtue of this Resolution, the Government itself has taken a policy decision to regularize and grant permanency to all badli workers who have been long working with them and with the Government Department. Case of complainants is fully covered by the said Government Resolution which has been held in favour of complainants. In that view of the matter, Petitioners will have to therefore comply with the order dated

27.03.2024 forthwith.

10. The present Writ Petition cannot be sustained. It is dismissed. Order dated 27.03.2024 is upheld and confirmed.

11. However merely dismissing the Writ Petition will be of no consequence as according to this Court the workers will once again be left at the mercy of the Courts and delays in implementation.

12. In view of the facts and circumstances of the present case, I am of the opinion that the order dated 27.03.2024 is required to be complied with in true spirit by the Petitioners. Further continuation of the complainants as badli workers amounts to exploitation.

13. I therefore direct the Dean, Sassoon General Hospital, Pune and the Secretary of the Public Health Department of the State Government to look into the matter and ensure that strict compliance of the order dated 27.03.2024 is done within a period of six weeks from today positively in respect of all eligible complainants.

14. I direct that whatever compliance they do, shall be placed before the Court to enable this Court to monitor the compliance. Though this Court realizes that in Writ jurisdiction it cannot expand the scope but in the facts and circumstances of the present case, this Court strongly feels that the workers will not get there due benefit expeditiously unless and until this Court monitors the same. Hence the

aforesaid order is passed.

15. Copy of this order shall be placed before the Secretary, Public Health Department, State of Maharashtra by the Chief Government Pleader of this Court. Learned GP shall speak to the Dean of Sassoon General Hospital, Pune and bring this order to his/her notice for implementation.

16. Parties to act on a server copy of this order for immediate compliance.

17. Writ Petition is disposed in the above terms.

[MILIND N. JADHAV, J.]

Ajay

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