



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 1482 of 2023

1. State of Maharashtra,
Department of Medical Education &
Medicine Gokuldas Tejpal Hospital,
New GTR Building,
9th Floor, Mumbai
Through its Secretary.
2. Director of Medical Education & Research,
c/o Dental College & Medical College,
4th Floor, St. George's Hospital Compound,
D'mello Road, Fort, Mumbai.
3. Indira Gandhi Medical College & Hospital,
Central Avenue Road, Nagpur
Through its Dean.

... Petitioners

- Versus -

Mehrunisa w/o. Chand Khan
Aged – 58 years, occupation – retired.
R/o at House No. 494,
Near Sayyad Cycle Store,
Mominpura, Nagpur-440018.

... Respondent

with

Writ Petition No. 3743 of 2023

1. Indira Gandhi Medical College & Hospital,
Central Avenue Road, Nagpur
Through its Dean. (State of Maha.)
2. State of Maharashtra,
Department of Medical Education &
Medicine Gokuldas Tejpal Hospital,
New GTR Building,
9th Floor, Mumbai
Through its Upper Chief Secretary.

3. Director of Medical Education & Research,
c/o Dental College & Medical College,
4th Floor, St. George's Hospital Compound,
D'mello Road, Fort, Mumbai-1.

... Petitioners

- Versus -

Shri Ramraj s/o Kamalprasad Tiwari
Aged – 59 years, occu. Service,
R/o Mayo Hospital Servant Quarter,
Central Avenue Road, Nagpur.

... Respondent

with
Writ Petition No. 3744 of 2023

1. Indira Gandhi Medical College & Hospital,
Central Avenue Road, Nagpur
Through its Dean. State of Mah.

2. State of Maharashtra,
Department of Medical Education &
Medicine Gokuldas Tejpal Hospital,
New GTR Building,
9th Floor, Mumbai
Through its Upper Chief Secretary.

3. Director of Medical Education & Research,
c/o Dental College & Medical College,
4th Floor, St. George's Hospital Compound,
D'mello Road, Fort, Mumbai-1.

... Petitioners

- Versus -

Shri Vilas s/o Bhagwan Shende,
Aged – 58 years, occu. Service,
R/o 77, Awade Nagar, Teka Naka,
Nari Road, Nagpur (Dead).

Through his Legal Heirs

(1) Smt. Nalu wd/o Vilas Shende,
Aged 62 years, Occ. Household,

(2) Amol s/o Vilas Shende,
Aged 40 years, Occ. Private Job,

(3) Pawan s/o Vilas Shende,
Aged 36 years, Occ. Private Job,

All R/o Plot No. 77,
R/o 77, Awade Nagar, Near
Priyadarshani Buddha Vihar,
Teka Naka, Nari Road, Uppalwadi,
S.O. Nagpur.

... Respondents

with
Writ Petition No. 2222 of 2024

1. State of Maharashtra,
Through its Principal Secretary,
Medical Education & Drugs Department,
Mantralaya, Mumbai – 400032.

2. Director of Medical Education
& Research, Maharashtra State
C/o St. George's Hospital Compound,
Near C.S.T. Mumbai-01.

3. Government Medical College &
Hospital, Medical Chowk, Nagpur
Through its Dean.

... Petitioners

- Versus -

Smt. Parvatibai Bhularam Dongre,
Aged – major, Occu. Retired,
R/o Plot No. 3, Galli No. 1,
Chandramani Nagar,
Nagpur-400027.

... Respondent

with
Writ Petition No. 5778 of 2024

1. State of Maharashtra,
Department of Medical Education &
Medicine Gokuldas Tejpal Hospital,
New GTR Building,
9th Floor, Mumbai
Through its Upper Chief Secretary.
2. Director of Medical Education & Research,
c/o Dental College & Medical College,
4th Floor, St. George's Hospital Compound,
D'mello Road, Fort, Mumbai-1.
3. Indira Gandhi Medical College & Hospital,
Central Avenue Road, Nagpur
Through its Dean.

... Petitioners

- Versus -

Smt. Pratibha w/o Fulchand Uikey,
Aged – 62 years, Occu. Retired,
R/o House No. 741,
C/o. L.M. Patil Bhankheda Road,
Timki Road, Nagpur.

... Respondent

Ms. K. P. Marpakwar, AGP for the petitioners
Mr. N. S. Warulkar with Mr. M. S. Sukhdeve, Advocates for respondents

CORAM : ANIL L. PANSARE, J.
DATED : 05-02-2025

COMMON JUDGMENT

Heard. Common issue is involved and, therefore, these petitions are being decided by common judgment. However, for the

sake of convenience, facts of Writ Petition No. 1482/2023 are considered.

2. Issue Rule, returnable forthwith. Mr. N. S. Warulkar, learned counsel waives service of notice for the respondents. With consent of learned counsels for the parties, the petition is taken up for final hearing.

3. Having heard both sides and having gone through the material placed before the Court, it transpires that the petitioners had employed the respondent as Ward Servant with effect from 3-11-1988. Her service, however, was continued on temporary/badli basis.

4. The State of Maharashtra vide Government Resolution (G.R.) dated 7-12-2015 took a decision to regularize the services of 626 daily wage employees with Medical Education and Drugs Department. The respondent was one of them. Accordingly, the petitioners have regularized services of the respondent with effect from 1-1-2016.

5. The argument of the petitioners is that respondent's services were regularized in terms of aforesaid G.R. One of the conditions of regularization as stipulated in the G.R. was that the employee will not be entitled for any financial benefit of past service.

Accordingly, the petitioners issued appointment order to the respondent incorporating aforesaid condition. The Industrial Court found that this condition was contrary to settled principles of law. The Industrial Court referred to five judgments wherein the Court consistently held that in such a situation, half of the past continuous service of the employee should be counted for determining pensionable service in view of Note-1 below Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982.

6. The respondent has retired on superannuation in January, 2018. Accordingly, the Industrial Court, vide judgment dated 20-10-2021, held that she will be entitled for pension in accordance with the provisions of the Maharashtra Civil Services (Pension) Rules, 1982, which ultimately would mean that half of the past continuous service of the respondent will be counted for determining pensionable service.

7. Learned Assistant Government Pleader submits that the Industrial Court had no jurisdiction to test the validity of the G.R. She submits that fresh appointment was given to the respondent incorporating the aforesaid condition amongst others for regularization. The respondent accepted the same and, therefore, the Industrial Court could not have gone into the validity of the said condition.

8. Learned counsel for the respondent has rightly countered the arguments. He submits that the respondent was employed in the year 1988. Her services were continued up to the year 2016 as a daily wager and, thereafter, for two years as a regular employee. In the circumstances, the Industrial Court, by applying the settled principles of law, has rightly held that the petitioners could not have regularized the services by imposing onerous condition of not extending benefit of service for pensionary relief.

9. If the Government chooses to utilize such condition for depriving the employees, who had extended almost life's service, the Industrial Court or the Labour Court, as the case may be, is equipped enough with the provision under Section 30 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 to examine the condition on the touchstone of ingredients of unfair labour practice.

10. The Industrial Court has, therefore, rightly held that this condition would itself amount to unfair labour practice considering the length of service of the respondent, whom the petitioners continued for years together on temporary basis.

11. There appears no reason why should this Court under the supervisory jurisdiction under Article 227 of the Constitution interfere with the impugned judgment.

12. The petitions are, accordingly, dismissed with clarification spelt out in paragraph no. 6 above. No order as to costs.

13. Rule stands discharged.

(Anil L. Pansare, J.)

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