



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

WRIT PETITION NO.4593 OF 2025

Ku. Sunita D/o Durgaprasad Dwivedi

Vs.

State of Maharashtra and others

.....
Shri K.J. Tople, Advocate for petitioner.

Ms Hemlata Jaipurkar, AGP for respondent nos.1 and 2/State.

Shri M.I. Dhatrak, Advocate for respondent no.3.
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CORAM : SMT. M.S. JAWALKAR & M.W. CHANDWANI, JJ.

DATE : 24.12.2025.

ORAL JUDGMENT : (Per : M.W. Chandwani,J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. The petitioner is a retired employee of the respondent no.4 – Municipal Council, Tirora. Before her absorption on 06.02.2019 on the regular post with the respondent no.4 she was working as daily wager with the respondent no.3 – Municipal Council, Gondia from the year 1989 till 06.02.2019.

3. Since qualified service for getting pension could not be completed by the petitioner on regular post, by this petition she is seeking direction to count her service which she has put-in as daily wager basis prior to her regularization, for qualifying

service for pension as per Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982 (for short “**Rules of 1982**”).

4. We have heard the learned counsel for the petitioner, learned counsel for the respondent no.3 as well as learned Assistant Government Pleader for the respondent nos.1 and 2. In spite of service of notice, the respondent no.4 chose not to contest.

5. There is no dispute that the petitioner was working as daily wage prior to her regularization on regular post. Rule 57 of the Rules of 1982 reads thus:

“57. Non-pensionable service :-

As exceptions to rule 30, the following are not in pensionable service:-

(a) Government servants who are paid for work done for Government but whose whole time is not retained for the public service,

(b) Government servants who are not in receipt of pay but are remunerated by Honoraria,

(c) Government servants who are paid from contingencies,

(d) Government servants holding posts which have been declared by the authority which created them to be non-pensionable.

(e) Holders of all tenure posts in the Medical Department, whether private practice is allowed to them or not, when they do not have an active or

suspended lien on any other permanent posts under Government.

Note 1 - In case of employees paid from contingencies who are subsequently brought on a regular pensionable establishment by conversion of their posts, one-half of their previous continuous service shall be allowed to count for pension.

Note 2- In the case of persons who were holding the posts of Attendants prior to 1st April 1966, one-half of their previous continuous service as Attendants, shall be allowed to count for pension.”

6. Note 1 of Rule 57 of the Rules of 1982 makes it clear that the employees who worked on daily wages prior to bringing them on regular pensionable establishment, their services on daily wage basis can be counted for pension. A similar view has already been taken by this Court (Coram : A.S. Chandurkar and Mrs. Vrushali V. Joshi, JJ) in the case of ***Yogeshkumar Vishweshwar Prasad and others Vs. State of Maharashtra and others*** (Writ Petition No.2769 of 2019 and connected petition decided on 31.01.2023).

7. In view of the above, the respondent no.4— Municipal Council, Tirora is directed to consider the services rendered by the petitioner while she was working as daily wager for the purpose of determining her pensionable service in compliance

with Rule 57 of the Rules of 1982. The aforesaid exercise shall be completed within a period of four months from date of this order.

8. Needless to state that, the amount of arrears due to the petitioner on account of pension shall be paid to her within a period of four months from the date of determination of her claim for pension.

9. Accordingly, the writ petition is disposed of. Rule is made absolute. No order as to costs.

(M.W. CHANDWANI, J.)

(SMT. M.S. JAWALKAR, J.)

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