



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

WRIT PETITION (WP) NO. 1194 OF 2019

Shri Radheshyam Madhaorao Zade

.Vs.

Nagpur Municipal Corporation, through Commissioner, Nagpur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr Shashank M. Agrawal, Advocate for the petitioner
Mr Shishir Ukey, Advocate for respondent Nos. 1 to 3

CORAM : ANIL S. KILOR AND VRUSHALI V. JOSHI, JJ.
DATED : AUGUST 12, 2025.

Heard learned counsel for the respective parties.

2. Learned counsel for the petitioner points out that the petitioner and one Mr. Bhutkar, who were working in Water Works Department, Municipal Corporation, Nagpur, were placed under suspension, pending departmental inquiry, on 18.04.1998. In the inquiry, both were found guilty and accordingly, the punishment of dismissal was recommended. However, before the appointing authority i.e. the General Body both were exonerated. The General Body, therefore, directed their reinstatement.

3. The Municipal Commissioner did not accept the recommendation and moved to the State Government under Section 407(1) of City of Nagpur Municipal Corporation Act 1948. On 15.03.2018, the Government stayed the resolution of the General Body.

4. Thereafter, Shri Bhutkar filed Writ Petition No. 60 of 2009 which came to be allowed on 20.10.2010 by quashing and setting aside the order of the State Government dated 15.03.2018 and thereby the resolution of the General Body came to be restored.

5. Accordingly, Shri Bhutkar was reinstated on 29.01.2011. Then only, the petitioner made a representation and filed a *Writ Petition No. 3238 of 2011 (Radheshyam Zade .v/s. The Nagpur Municipal Corporation, Nagpur and others)*, in which the directions were issued to respondent No.1 to reinstate the petitioner to his post as 'Junior Engineer' and to take appropriate decision about regularizing the period of his suspension within further period of three months from the date of the order.

6. In pursuance to the order of this Court dated 12.01.2012, the Additional Deputy Commissioner, Municipal Corporation, Nagpur issued order dated 12.04.2012 reinstating the petitioner in the service but denying the back-wages or any arrears. This order, though received by the petitioner, was not challenged.

7. The petitioner on 23.09.2016, after more than four years and after he got superannuated on 31.08.2016, made a representation to consider his period of suspension as on duty. In this representation, though he referred to order

dated 12.04.2012, but he did not made any grievance about non-payment of monetary benefits.

8. The present petition came to be filed on 13.12.2018 raising a challenge to the order dated 15.03.2018 which is based on the order dated 12.04.2012. In the meantime, before the impugned order one *Writ Petition bearing No. 5940 of 2017 (Shri Radheshyam Zade .v/s. Nagpur Municipal Corporation, through Commissioner, Nagpur and others, decided on 10.12.2018)* was filed and that was withdrawn with liberty to raise a challenge to the order dated 15.03.2018 and accordingly, the present petition came to be filed.

9. Mr Shashank Agrawal, learned counsel for the petitioner argued that impugned order is illegal and the petitioner is entitled for back-wages and the benefits of regularization and also his suspension period be treated as on duty. It is submitted that as per the rules, once the employee is reinstated all the benefits need to be granted to the employee.

10. On the other hand, Mr S. M Ukey learned counsel for the respondent-Corporation points out that in the writ petition there is no challenge to the order dated 12.04.2012, which is a basic order, whereby the reinstatement was granted, however, the arrears and other benefits were denied. It is submitted that the impugned order dated

15.03.2018 is based on the said order dated 12.04.2012 and despite knowing this and further the fact that though this order was received by the petitioner and there is a mentioned in the representation dated 23.09.2016, it was not challenged for seven years. He, therefore, submits that this petition is liable to be dismissed on two grounds one there is no challenge to the basic order dated 12.04.2012 and second, there is a delay and latches.

11. In the light of the rival submissions we have perused the record and it is evident from the record that though the order dated 12.04.2012 was passed by the Commissioner in pursuance to the order passed in writ petition filed by the petitioner namely Writ Petition No. 3238 of 2011 directing the Commissioner to reinstate the petitioner to his post as 'Junior Engineer' and to take appropriate decision about regularizing the period of his suspension, no challenge was raised to the said order till date.

12. Admittedly, the order dated 15.03.2018, which is under challenge in this writ petition, is based on the order dated 12.04.2012. Thus, even if this petition is allowed and the order dated 15.03.2018 is quashed and set aside, the order dated 12.04.2012 will remain in force and as such, the petitioner will not get any benefit as is claiming in the present petition.

13. Furthermore, the representation of the petitioner, made immediately after his superannuation, speaks about the benefit of treating his suspension period as period on service and it does not speak about the other benefits as claimed in the present petition.

14. The reply filed by the Corporation was received by the petitioner on 02.02.2024 i.e. more than one and half years back and the order dated 12.04.2012 is the part of the said reply. Despite this, in last one and half years the petitioner did not take steps to amend the petition and to raise a challenge to the same.

15. In such circumstances and in view of the fact that there is no challenge to the order dated 12.04.2012 and further on the ground of delay and laches, we are not inclined to entertain the present petition.

16. Accordingly, the writ petition stands **dismissed**.

[VRUSHALI V. JOSHI, J]

[ANIL S. KILOR, J.]