



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

WRIT PETITION NO. 3566 OF 2024

(Abdul Rashid Abdul Gaffur ..vs.. The State of Maharashtra, through its Directorate of Municipal
Administration, Urban Development Department, Mumbai and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. C. Kulkarni, Counsel for the petitioner,
Mr. J.Y. Ghurde, A.G.P. for respondent No.1,
Mr. S.C. Bhalerao, Counsel for respondent No.2.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATE : 30-01-2025

The order dated 19-11-2024 records the following
position :

*“2. Drawing support from Rule 57 of the Maharashtra
Civil Services (Pension) Rules, 1982, which 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”.

3. *The contentions of the learned counsel for the petitioner are that he was in the employment of the respondent-Municipal Council since 1977 on daily wages. According to him, his services were regularized, vide order dated 30th November, 2000 and as such on regular establishment, he has discharged his duties from 02.05.2001 to 31.05.2009.*

4. *Drawing support from the aforesaid Rule, it is his contention that half of the services of the petitioner from 1977 till 1st May 2001 should have been considered for calculating promotional benefits and in that eventuality, the impugned decision dated 17th October, 2023 goes contrary to the mandate provided under the aforesaid Rule 53 of the Maharashtra Civil Services (Pension) Rules, 1982.”*

2. Mr. Bhalerao, learned Counsel for the respondent No.2, does not dispute the factual position, that the petitioner was in employment of the respondent No.2 since 1997 on daily wages and was being paid from contingencies and has been subsequently brought on a regular establishment as a coolie in Class-IV category by the order dated 30-4-2001. In that view of the matter, Note 1 to Rule 57 of the Maharashtra

Civil Services (Pension) Rules, 1982 would clearly be attracted and the petitioner would be entitled for consideration of one half of the previous services for the purpose of counting the pensionable service.

3. The petition is allowed in the above terms. The respondent No.2 is accordingly directed to make the according calculations and send the pension proposal of the petitioner to the appropriate authorities, in case there is no other impediment, which shall be done within a period of three weeks from today.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

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