



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO. 8097 OF 2019

Premkumar Kisanrao Gaikwad

VERSUS

The State Of Maharashtra And Others

- ...
- Adv. S. D. Kotkar for the Petitioner
 - Ms. V. S. Chaudhari, AGP for State
 - Adv. M. M. Patil (Beedkar) for Respondent No. 3
 - Adv. D. V. Tele for Respondent No. 2
- ...

WITH
CIVIL APPLICATION NO. 693 OF 2025
IN WP/8097/2019

...

CORAM : ARUN R. PEDNEKER AND
VAISHALI PATIL-JADHAV, JJ.

DATE : 10.02.2026

PER COURT:

1. Learned counsel for the petitioner, at the outset, submits that the impugned order dated 21.06.2010 is passed without considering certain Government Resolutions and the orders passed in connection with other Municipal Councils. He submits that, without going into the merits of the matter, the case may be remitted for fresh consideration by taking into account the Government Resolutions as well as the orders passed in respect of other Municipal Councils, which are placed on record in the present petition.

2. Learned counsel appearing for Respondent No. 2 submits that the circulars may not be applicable to the present petitioner. He further submits that the communications placed on record with reference to other Municipal Councils may also not be applicable to the petitioner. He submits that the petitioner is presently working as a Clerk in the Municipal Council and his earlier appointment in the Municipal Hospital was purely temporary. The petitioner has accepted the post and conditions of service as a Clerk since 2013 and, therefore, it is not open for him to dispute the pay scale at a belated stage. He further submits that the post on which the petitioner was earlier appointed could have been continued in terms of the circular only till regular Pharmacists were appointed and, therefore, the petitioner cannot claim the pay scale of a Pharmacist. Having accepted the repatriated post, it is not permissible for the petitioner to claim the salary scale of a Pharmacist.

3. Learned counsel appearing for the Municipal Council points out that the petitioner was appointed on probation.

4. Without going into the merits of the rival submissions, we deem it appropriate to remit the matter back to the concerned authority by setting aside the impugned order, with a direction to pass a fresh order after considering the circulars as well as the communications placed on record by the petitioner.

5. However, we clarify that we have not expressed any opinion on the merits of the entitlement of the petitioner or on the applicability of the circulars or communications relied upon by the petitioner. The concerned authority shall consider and decide the same on its own merits. We have also not expressed any opinion on the issue of delay or the consequences of the claim being made at a belated stage.

6. All contentions of the parties are kept open.

7. The authority constituted under Section 76(2) of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, shall be entitled to take a fresh decision on the proposal sent by the Municipal Council dated 07.12.2006, which is at page No. 13 of the petition.

8. The writ petition is **disposed of** with a direction to decide the representation afresh, without being influenced by the impugned order or any observations made by this Court.

9. Civil Application, if any, stands **disposed of**.

[VAISHALI PATIL-JADHAV, J.]

[ARUN R. PEDNEKER, J.]