



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1735 OF 2024

Shri. Giridhar S/o Keshavrao
Kumbhare
Aged about 57 Year Occupation:
Service C/o Bhushan Samarth
House, Near Girani, Sarvodaya
Ward Gadchiroli
Tah: Dist: Gadchiroli.

...PETITIONER

VERSUS

1. State of Maharashtra through its
Secretary Municipal Council
Administration, Navi Mumbai
Corporation Building, 7 th Floor,
Belapur Bhavan, C.B.D. Belapur
Mantralaya Mumbai-32.
2. Divisional Commissioner
Divisional Office, Municipal
Council Administration,
Nagpur Division Nagpur.
3. Municipal Council, Gadchiroli
Gadchiroli through its Chief
Officer, Gadchiroli
Dist: Gadchiroli
4. Municipal Council, Dewali
through its Chief Officer,
Dewali
Tah : Dewali Dist : Wardha

...RESPONDENTS

Shri V.S. Lokhande, Advocate for petitioner
Shri H.D. Futane, Advocate for respondent Nos. 1 & 2
Ms Renuka Gosavi, Advocate h/f Shri G.N. Khanzode for respondent No.3
Shri D.M. Kale, Advocate for respondent No.4

CORAM : **SMT. M.S. JAWALKAR AND**
NANDESH S. DESHPANDE, JJ.

RESERVED ON : **17.04.2026**
PRONOUNCED ON : **08.05.2026**

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Heard.

2. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of parties.

3. The present petition is filed under Article 226 of the Constitution of India seeking a direction to the respondents to continue and regularize the services of the petitioner from 20.01.2005 as a permanent employee in Class IV with the respondent No. 3 instead of 31.01.2020 and for granting him all benefits from the date of the said permanency, i.e., 20.01.2005.

4. The facts as can be seen from the petition are as under :

The petitioner was appointed as a daily wage worker on

06.11.1993 with the office of the respondent No.4, i.e., Municipal Council Dewali. Thereafter, he was regularized and continued with the Municipal Council, Gadchiroli, on his transfer on a permanent post vide the order dated 31.01.2020. Since the petitioner was not granted benefit of regularization, he filed a complaint with the Industrial Court bearing Complaint ULP No. 919/1996, under Section 28 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practice Act, 1971. and more particularly Item 6 and 9 of Schedule 4 of the said Act. The Industrial Court vide order dated 04.12.2004 directed regularization of the services of the petitioner and granted permanency on the post of Class IV cadre with effect from 20.01.2005.

5. This judgment of the Industrial Court was challenged by the respondent No. 4 by filing a Writ Petition No. 201/2005, before this Court. The petitioner also challenged the said judgment of Industrial Court by filing a Writ Petition No. 1615/2005, seeking modification of the order for regularization from the date he completed 240 days of continuous service as per the provisions of model standing order.

6. This Court vide order dated 17.02.2006 disposed of both writ petitions by consent by passing following order:

“5. In the circumstances, with the consent of parties, the following order is being passed:

The case of respective respondents employee in Writ Petition No. 193 of 2005 and 201 of 2005 be forwarded by the petitioner Municipal Council to State Government for consideration and creation/sanction of necessary posts, 'If possible, in accordance with law. The said proposal shall be forwarded within a period of four weeks from today. The State Government shall take further action on said proposal within a period of three months from the date, of receipt of said proposal.

The State Government is made party respondent in Writ Petition No. 193 of 2005 and 201 of 2005 only for this limited purposes. Shri Jaiswal, learned AGP waives notice for added respondent.

The benefit given to Respondent No.1 in writ petition No. 193 of 2005 and 201 of 2005 by impugned order of Industrial Court shall be dependent upon such approval and sanction by the State Government. The said benefit shall be accordingly regulated.

It is reported that both the respondents are in service. Here, status quo in relation to their employment is granted till decision of State Government.”

7. In the said writ petitions, the respondent No. 4 took a specific stand that Clause 4 (C) of the model standing order is not applicable to the said establishment but bonafidely expressed its willingness to regularize the services of the petitioner, if the posts are sanctioned by the State Government. It is the grievance of the petitioner that in spite of there being a direction, his services have

not been regularized from 20.01.2005, which has prompted him to file the present petition.

8. We have heard Shri V.S. Lokhande, the learned Counsel for the petitioner, Shri H.D. Futane, learned Assistant Government Pleader for respondent Nos. 1 and 2, Shri G.N. Khanzode, learned Counsel for the respondent No.3, and Shri D.M. Kale, learned Counsel for the respondent No.4.

9. Learned counsel for petitioner submits that all the similarly situated employees were given a fixed salary and even after rendering continuous service, he has been denied the same which amounts to discrimination. He further submits that the claim of the petitioner for permanency of his service is settled vide judgment of the Industrial Court passed on 04.12.2004 and therefore now the respondents cannot turn back and deny the benefits of regularization to him. He relied on judgment of this Court passed in Writ Petition No. 3365/2020 and judgment in Writ Petition No. 1527/2019, Municipal Council Vaijapur vs Shri Dnyaneshwar Chindharao Gaikwad and others of this Court, Bench at Aurangabad, to support his submission.

10. Per contra, the learned Counsel for respondents submit that the fact that the judgment of the Industrial Court was passed and that the order of this Court was passed is not in dispute but they submit that the order of this Court was subject to the post being sanctioned by the State Government. It is further submitted that after receipt of the order passed by this Court, Government issued a resolution on 05.02.2019 contemplating terms and conditions for absorbing 1416 daily wage workers into the regular service who were working from 11.03.1993 to 27.03.2000. It is the submission of the learned Assistant Government Pleader for respondent No.2 that Cause 6, 7 and 8 of the Government Resolution specifically states that the said daily wagers are not to be considered as Government employees till the date of their regularization in the Government. However, after regularization of the said daily workers in Government service they shall be entitled to the applicable benefits made available to the Government employees from the date of their regularization. The said daily wagers would also be entitled for benefits of seniority pension etc. but from the date of their regularization into the Government service. The said regularization shall not make the said daily wagers *ipso facto* entitled for any benefit of arrears of pay, allowance and other flinch

financial benefits with respect to their earlier service tenure before the said regularization. It is the further submission of the learned Assistant Government Pleader for the respondent that the Municipal Council Administration Directorate has issued a circular on 09.04.2019, which is also on the same lines. He further submits that in pursuance to the said Government Resolution and the circular the petitioner has already submitted a bond and therefore he is now estopped from claiming regularization from 20.01.2005.

11. We have considered the contentions canvassed by the learned Counsel for the petitioner, as also the respondents. We have also gone through the record of the matter. After taking into consideration the stand taken by the petitioner, we are afraid that any legal right vests in him. It is a matter of record that the judgment of the Industrial Court stood merged in the order of this Court which is mentioned supra. The regularization of the petitioner was subject to forwarding of proposal and taking further action on the said proposal by the State Government and the order/judgment of the Industrial Court is made dependent upon such approval and sanction by the State Government. It is therefore obvious that the order of the Industrial Court cannot be said to be a

sole basis for any right being conferred on the petitioner it having been merged in the order of this Court as stated supra.

12. It is a matter of record that the order of this Court as mentioned supra has attained finality, since none of the parties have chosen to challenge the same.

13. In view of these facts, the Government Resolution dated 05.02.2019 and the circular dated 09.04.2019 assumes significance. As already observed herein above, the clause 6, 7 and 8, specifically provides that the appointment has to be taken into consideration after the regularization and a bond has to be taken from the said employee. Even though the employees would be granted seniority and pensionary benefits in accordance with rules, there could not be any financial benefits before said date of regularization. The circular issued by the Directorate of Municipal Administration dated 09.04.2019 also adhere to the same line and specifically provides that the regularization is subject to conditions mentioned therein. One of such condition is that no financial benefits would be given before 05.02.2019.

14. We are therefore of the considered opinion that no legal right, muchless a vested one, is in the petitioner who claims the reliefs as has been done in the present petition. Even otherwise as admitted by the petitioner himself that he has submitted a bond in terms of the said Government Resolution and the circular. Even though that may not *ipso facto* preclude him, but as already observed above there is no legal right vested in the petitioner due to the express stipulations in the Government Resolution. We find that the challenge in the petition to be misconceived and deserves rejection.

15. The petition is accordingly dismissed. No order as to costs.

(NANDESH S. DESHPANDE, J.)

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

Jayashree..