



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

WRIT PETITION NO. 4544 OF 2025

Rajendra S/o. Krushnarao Kale,

Aged about 59 years,

Occupation - Superannuated,

R/o. Panchwati, Janki Nagar,

Katol, District Nagpur.

.... **PETITIONER**

// VERSUS //

Municipal Council, Katol

Through its Chief Officer,

Katol, District Nagpur.

.... **RESPONDENT**

Mr. M. P. Khajanchi, Advocate for the Petitioner.

Mr. M. I. Dhattrak, Advocate for the Respondent.

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

DATED : 23rd MARCH, 2026.

JUDGMENT : (Per – M. S. JAWALKAR, J.)

1. Heard. **Rule.** Rule is made returnable forthwith.
Matter is taken up for final hearing at the stage of admission by
consent and request of the parties.

2. By this Writ Petition, the Petitioner is challenging the
Communication dated 12.04.2023, issued by the Chief Officer,

Municipal Council, Katol, whereby denying the benefit of old pension scheme on the ground that the Petitioner's services will be considered from the date of his regularization. The Petitioner also prayed for direction to the Chief Officer, Municipal Council, Katol for grant of pension and pensionary benefits in favour of Petitioner as per the provisions of Maharashtra Civil Services (Pension) Rules, 1982 (un-amended) and consider the appointment prior to 31.10.2005.

3. The learned Counsel for the Respondent submitted that as per the Government Resolution dated 31.10.2005 it is made clear that the government servants who are recruited on or after 01.11.2005 in the State Government service, their service will govern by "Defined Contribution Pension Scheme" and therefore, the order passed by the Municipal Council, Katol is legal and no interference is warranted in it.

4. There is no dispute over the fact that the appointment of the Petitioner was on daily wages as a 'Junior Engineer' w.e.f. 17.07.1984 in the establishment of Municipal Council, Katol. There was a policy decision dated 20.04.2001,

taken by the Government to regularize the services of the daily wages employees, working in the various Municipal Councils in the State of Maharashtra. The Director of Municipal Council Administration, Mumbai after exercising the power under Section 79 of the of the Maharashtra Municipal Councils, Nagar Panchayat and Industrial Townships Act, 1965 has delegated the power to the respective Divisional Commissioner as well as RDMA to regularize the services of daily wagers in respect of Municipal Councils.

5. The learned Divisional Commissioner/RDMA regularized the service of the Petitioner on 18.08.2006. The Government has issued a new 'Defined Contribution Pension Scheme' applicable to the Government employees recruited and joined after 01.11.2005. The Respondent Chief Officer issued the impugned Communication dated 12.04.2023, whereby denied the old pension scheme erroneously to the Petitioner wrongly relied upon the Condition No.4 of the Government Resolution dated 31.08.2005, in spite of the fact that the Respondent was aware that the Petitioner was appointed prior to 01.11.2005.

6. The learned Counsel for Municipal Council heavily relied on the order of regularization dated 18.08.2006, which was subject to terms and conditions. As per the Condition No.8, earlier services of daily wages employees will not be considered to any monetary service benefit and therefore, his posting needs to be considered as afresh. This issue is already covered by the Judgment of this Court.

7. The learned Counsel for the Petitioner relied on the Judgment of this Court in **Writ Petition No. 3365/2020 (Sunil Shamraoji Telante & Ors. vs. Director of Municipal Administration, Bombay & Anr.)**, dated 11.03.2026, wherein in the similar set of facts, the order of Director of Municipal Administration, Bombay was quashed and set aside and the Municipal Council, Katol was directed to grant pension and service benefits to the Petitioners from their initial dates of appointment. This Court in para 12 observed as under :

“12. So far as the first contention raised by learned Counsel for the Respondent – Municipal Council opposing the aforesaid claim of the Petitioners that the Petitioners are bound by the doctrine of estoppel, and they had accepted condition No.1 in the absorption orders dated

*03/07/1996, 22/07/1996 and 30/10/1996. The aforesaid condition reads that the earlier services rendered as a daily wager will not be counted for any monetary benefits, as well as other service benefits, and the services will be counted from the date of regularisation. However, the aforesaid contention of learned counsel for Respondent is legally unsustainable in the eyes of the law, because there cannot be any estoppel against the statutory provision. A Division Bench of this Court in **Writ Petition No.815/2011 (Syed Afzaluddin Ustad s/o Abdul Samad Vs. The State of Maharashtra and ors.)** decided on 24/08/2011 has held that there cannot be any estoppel against any statutory provision.”*

8. Thus, there cannot be any estoppel against any statutory provision. Rule 57 of the Maharashtra Civil Services (Pension), Rules 1982 provides that, “in case of employees who were subsequently brought on a regular pensionable establishment by conversion of their posts, one-half of their previous continuous service shall be allowed to be counted for the pension”. Thus, the date of appointment of the Petitioner cannot be taken from the date of absorption. In view thereof, the impugned Communication dated 12.04.2023 issued by the Chief Officer, Municipal Council, Katol is liable to be quashed and set aside. Accordingly, we proceed to pass the following order :

- (i) The Writ Petition is allowed.
- (ii) The impugned Communication dated 12.04.2023 issued by Chief Officer, Municipal Council, Katol is hereby quashed and set aside
- (iii) It is held and declared that the date of appointment of Petitioner is 17.07.1984 and not the date of regularization i.e. 18.08.2006.
- (iv) It is further declared that the old pension scheme as per the provisions of Maharashtra Civil Services (Pension) Rules, 1982 (un-amended) are applicable in respect of case of the Petitioner.
- (v) The Chief Officer, Municipal Council, Katol is hereby directed to release the pensionary benefits including arrears of service benefits as per old pension scheme within a period of six months.

9. Rule is made absolute in the above terms. Nor order as to costs.

(NANDESH S. DESHPANDE, J.)

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