



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.7193 OF 2025

1. Chetan S/o. Krushnarao Nikalje,
Aged about 40 years,
Occupation: Service,
R/o. Sai Nagar, Dighori,
Nagpur - 440 034
2. Vaibhav S/o. Devidas Bhise,
Aged about 37 years,
Occupation: Service,
R/o. 107, Adyalwale Lalyout,
Umred, District Nagpur.
3. Smt. Sarika Ramcharan Yadav,
Aged about 45 years,
Occupation: Service,
C/o. Dhiraj Yadav, Milan Chowk,
Umred, District Nagpur.

: PETITIONERS

...VERSUS...

1. State of Maharashtra,
through Collector, Nagpur.
2. The Promotion Committee
as well as District Administrative Officer -
through its President, Collector Office, Nagpur.
3. Municipal Council, Umred,
Through Chief Officer, District Nagpur.
4. Shekhar S/o. Haridasji Wasnik,
Aged about 45 years,
Occupation: Service.
5. Pandurang S/o. Madhukarrao Ambilduke,
Aged about 50 years,
Occupation: Service.

6. Shrawan S/o. Jagobaji Gathebandhe,
Aged about 55 years,
Occupation: Service.

Nos. 4 to 6 are R/o & C/o. Chief Officer,
Municipal Council, Umred,
District Nagpur.

: RESPONDENTS

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Mr. M.P. Khajanchi, Advocate for Petitioner.
Mrs. M.S. Naik, Assistant Government Pleader for Respondent Nos.1
and 2.
Mr. M.I. Dhatrak, Advocate for Respondent No.3
Mr. N.D. Shende, Advocate for Respondent Nos.4 to 6.
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CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.
RESERVED ON : 01st APRIL, 2026.
PRONOUNCED ON : 07th APRIL, 2026.

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

1. Rule. Rule made returnable forthwith. Heard finally
with the consent of parties.

2. The petition filed under Article 226 of the Constitution
of India prays for quashing and setting aside order dated
24/6/2025 passed by the respondent No.3 Chief Officer, Municipal
Council, Umred and consequent decision of the Promotion
Committee i.e. respondent No.2 passed on 2/7/2025. It further
prays for quashing and setting aside Resolution No.8 dated
13/8/2025 and order dated 29/8/2025 passed by the same
respondent No.3. It also prays for a direction to the respondents to

promote the petitioners by considering the seniority list on the post of Senior Clerks.

3. The facts which are not disputed are as under :

The petitioners herein came to be appointed on the post of Clerk-cum-Typist by the respondent No.3 on 28/2/2019. Thereafter, i.e. on 10/8/2020, the respondent Nos.4 to 6 came to be promoted from Class IV to Class III post, that is the post of Clerk-cum-Typist by the respondent No.3. It can further be seen from the petition that from the year 2020 to 2024 seniority list of Clerk-cum-Typist was finalized and published after deciding the objection by the respondent No.3 in which at all points of time the petitioners were shown seniors to the respondent Nos.4 to 6. Thereafter, on 1/1/2025, the respondent No.3 after deciding the objection has finalized the seniority list of Clerk-cum-Typist in the said establishment wherein also the petitioners were shown seniors to the respondent Nos.4 to 6. However, in the backdrop of these facts on 24/6/2025 in absence of any jurisdiction or power of review with the Chief Officer, an objection was entertained which was raised on behalf of respondent Nos.4 to 6. By raising such objection, the respondent No.3 passed the impugned order that as per paragraph No.7 of Notification dated 21/6/2021, the respondent Nos.4 to 6 were deprived earlier from the benefits of the

promotion and, therefore, they are seniors to the petitioners.

4. On realizing this, the petitioners immediately raised objection on 8/7/2025 by pointing out the illegality committed by the respondent No.3. The Promotion Committee i.e. respondent No.7 on 2/7/2025 without deciding the objection raised by the petitioners and without even hearing them passed an order promoting the respondent Nos.4 to 6 on the post of Senior Clerk. Consequently, on 29/8/2025, the respondent No.3 issued the impugned order and wrongly promoted the respondent Nos.4 to 6. All these orders are under challenge in the present petition.

5. The counsel for the respondent Nos.4 to 6 opposes the contentions in the petition and supports the impugned orders.

6. We have heard Mr. M.P. Khajanchi, learned counsel for the petitioners, Smt. M.S. Naik, learned Assistant Government Pleader for the respondent Nos.1 and 2 and Mr. M.I. Dhatrik, learned counsel for respondent No.3 and Mr. N.D. Shende, learned counsel for respondent Nos.4 to 6.

7. Mr. M.P. Khajanchi, learned counsel for the petitioners by taking us through the said orders mentioned supra submits that the order dated 26/6/2025 is *per se* illegal on the ground that the Notification of the General Administrative Department dated 21/6/2021 is wrongly applied. It is his submission that the same is

not applicable to the Municipal Councils in the State of Maharashtra. Alternatively he submits that assuming but not admitting that the said Notification is applicable to the employees of the Municipal Council. It was never the case of the respondent Nos.4 to 6 that they have been deprived from getting promoted. Furthermore, there is no challenge to the appointment orders issued in their favour and, therefore, there was no occasion for the respondent No.3 to entertain the objection belatedly after more than six years. By taking us through the seniority lists for the year 2020, 2022, 2024 and 2025 the counsel for the petitioners submits that in all these seniority lists it has been uniformly shown that the petitioners are seniors to respondent Nos.4 to 6. Thus, there was no occasion for the respondent No.3 to review the earlier decision only on the belated objection raised by the respondent Nos.4 to 6. He further submits that the petitioners were never granted any opportunity to put forth their grievance and, therefore, there is infraction of the principles of natural justice. In that view of the matter, he prays for allowing the petition.

8. Per contra, Mr.M.I. Dhattrak, learned counsel appearing for the respondent No.3 supports the impugned order. He, however, concedes to the fact that the Notification dated 21/6/2021 applies only to the employees of the State Government

and there is nothing to show in the said Notification that the same would apply to the employees of the Municipal Council.

9. He, therefore, submits that the action is taken by the Promotion Committee in accordance with law, as the petitioners failed to immediately challenge the order of deciding seniority. He, therefore, supports the impugned order.

10. We have appreciated the contentions canvassed by the learned counsels for the opposite parties. The only basis for issuing the impugned orders is a Notification dated 21/6/2021. It is an admitted position on record that the names of the petitioners were in fact appearing as seniors to the respondent Nos.4 to 6 in all the seniority lists. A prima facie reading of the State Government Notification dated 21/6/2021 would reveal that the same applies to the employees of the State Government and not to the employees of the Municipal Council. Thus, the action of the respondent No.3 based on para 7 of the said Notification is uncalled for as the said Notification itself is not applicable to the employees of Municipal Council. The action, therefore, cannot be countenanced.

11. The Writ Petition, therefore, is allowed.

12. The order dated 24/6/2025 passed by the respondent No.3 as also the decision of the Promotion Committee respondent No.2 on 2/7/2025 are quashed and set aside.

13. Likewise, the impugned Resolution dated 13/8/2025 and the consequent order dated 29/8/2029 thereby promoting the respondents Nos.4 to 6 are also quashed and set aside.

14. It is further directed that the respondent No.3 shall revise seniority list and promote the petitioners by considering the seniority list on the post of Senior Clerk.

15. The Writ Petition is disposed of.

16. Rule is made absolute. No order as to costs.

(NANDESH S. DESHPANDE, J.)

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