



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

WRIT PETITION NO.1017 OF 2026

The State of Maharashtra, Thr. Secretary, Urban Development Dept. Mantralaya, Mumbai and
ors.

vs.

Ganesh Pralhad Gaikwad, Shirvaji Nagar, Karanja, Dist. Washim.

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

Court's or Judge's orders

Shri A. V. Palshikar, Advocate for petitioner.

CORAM : ANIL S. KILOR AND RAJ D. WAKODE, JJ.

DATED : 11th February, 2026

Heard Shri A. V. Palshikar, learned Assistant Government
Pleader for the petitioner.

The petitioner seeks challenge to the impugned judgment
dated 22/08/2025 passed by the learned Maharashtra
Administrative Tribunal, Nagpur Bench, Nagpur in O. A.
No.1033/2023.

2. The respondent herein i.e. the original applicant had approached the learned Tribunal seeking directions of the Tribunal to absorb the applicant in the State Cadre as per the provisions of Section 75 (A) of the Maharashtra Municipalities Act, 1965. The contention was that the applicant was appointed on 22/09/1997 as a Peon under Physically Disabled category in the Municipal Council, Karanja was entitled for the absorption in State Cadre and though similarly situated employees were absorbed, he was deprived of such absorption.

3. The petitioner herein/original respondent had taken a

stand before the Tribunal that delay in absorption was due to the applicant's suspension and pending criminal trial against him. However, the fact remains that the respondent was acquitted in the trial and accordingly he was reinstated on 21/09/2012. The suspension period of the respondent was also considered as the duty period vide order dated 12/11/2014.

4. Perusal of the record reveals that the respondent is absorbed by the petitioner in State Cadre vide communication dated 29/11/2021, however, it was with effect from the date of order i.e. 29/11/2021.

5. The learned Tribunal considered the pleadings and the arguments of the parties and held that the only ground for not absorbing the present respondent in State Cadre was pendency of criminal trial and his consequence suspension which was duly revoked. The respondent was reinstated in service from 29/09/2012 after his acquittal. Thus, the aforesaid ground goes for not granting the respondent the benefit of absorption and accordingly the absorption was also granted to the respondent, however with effect from the date of the order i.e. 29/11/2021.

In view of the aforesaid fact, the learned Tribunal has directed the petitioner to grant absorption from the date of reinstatement i.e. 21/09/2012.

6. Shri A. V. Palshikar, learned Assistant Government Pleader for the petitioner could not point out any perversity in the aforesaid finding in the order of the Tribunal. He invited our attention to the Rule 5 of the Maharashtra Municipal Councils,

Nagar Panchayats and Industrial Townships State Services (Absorption Recruitment and Conditions of Services) Rules, 2010 to urge that Rule 5 does not provide any retrospective absorption. However, perusal of Rule 5 would reveal that it only provides a qualification for the entitlement of an employee for being absorbed in the State Cadre and thus there is no question as to how Rule 5 will provide the manner in which such absorption is to be made either retrospective or prospective.

7. In view of above, there is no merit in the aforesaid submission and accordingly in the writ petition. As such writ petition is dismissed. No costs.

(Raj D. Wakode, J.)

(Anil S. Kilor, J.)