



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

WRIT PETITION NO.5274 OF 2021

- 1) Shri Vijay s/o Shalikram Khobragade,
Aged about 49 years, Occ.- Service,
R/o 98, Durgeshnandini Nagar,
Near PMBS College, Narsala,
Nagpur-440034.
- 2) Shri Ranjit s/o Madhaorao Kamble,
Aged about 49 years, Occ. – Service,
R/o Plot No.78, Mahalaxminagar-III,
Manewada Road, Nagpur – 440024.
- 3) Shri Devendra s/o Dayaram Tekade,
Aged about 42 years, Occ. – Service,
R/o Plot No.34, Near Post Office,
New Mankapur, Nagpur – 440040.
- 4) Shri Kisan s/o Fagoji Barai,
Aged about 49 years, Occ.- Service,
R/o 136, Shivaji Nagar (Shankar Nagar),
Nagpur – 440010.

.... **PETITIONERS**

VERSUS

- 1) The Nagpur Municipal Corporation,
through its Commissioner, Civil Lines,
Nagpur.
- 2) The Nagpur Municipal Corporation,
through its Superintendent, Library
Department, Civil Lines, Nagpur.
- 3) The Nagpur Municipal Corporation,
through Assessor, Tax Department,
Civil Lines, Nagpur.

.... **RESPONDENTS**

Mr. S.S. Sanyal, Counsel for the petitioners,
Mr. J.B. Kasat, Counsel for the respondents.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**
DATE : -03-2025

ORAL JUDGMENT : (Per : ABHAY J. MANTRI, J.)

Heard. **Rule.** Heard finally with the consent of the learned Counsel for the parties.

2. The petitioners question the fixation of their pay scale with grade pay of Rs.2400/- instead of Rs.2800/- while granting them a time-bound promotion to the next higher post. Hence, they preferred this petition to direct respondent No.1 to fix their pay scale at Rs.2800/-.

3. Petitioner Nos.1 to 4 were appointed as '*Hydrant Mistry*' in the '*Fire Brigade Department*' of the Corporation on 29-10-2004, 24-08-2004, 18-08-2004 and 02-11-2004, respectively, in the pay scale of Rs.3050-4590/-. By Resolution No.97 dated 18-05-2015, the post of Hydrant Mistry was abolished, and they were absorbed/transferred to the other departments of the Corporation by protecting their existing pay scale with equivalent grade pay. Accordingly, by order dated 14-12-2016, petitioner No.1 was absorbed into the post of '*Library Assistant*' and petitioners Nos.2 to 4 were absorbed into the post of '*Tax Collector*'. Respondent No.1-Corporation had extended the benefit of time-bound promotion to the petitioners in view of the Circular dated 21-10-2011.

4. The petitioners were dissatisfied with the said time-bound promotion granted to them, as the same was not given in the next higher

pay scale, for which they were eligible for the post of '*Senior Leading Fireman*', and the grade pay of the said post was Rs.2800/-. Therefore, they have made representations from time to time to the respondents for granting them grade pay of Rs.2800/-. However, the respondents ignored the fact that the petitioners were appointed Hydrant Mistry, and their next promotional post would be '*Senior Leading Fireman*', therefore, they were eligible for time-bound promotional pay from the grade pay of Rs.1900/- to grade pay of Rs.2800/-. However, they were granted grade pay of Rs.2400/-. Being aggrieved by the same, they have preferred this petition.

5. Mr. S.S. Sanyal, learned Counsel for the petitioners, strenuously argued that the petitioners were appointed from August 2004 to November 2004 and completed their twelve years of service before 30-11-2016. By order dated 14-12-2016, they were absorbed on other posts. However, the respondents did not consider the said facts while giving benefits of the time-bound promotions and erred in granting grade pay of Rs.2400/- to them, contrary to the conditions in the Circular dated 21-10-2011. He has drawn our attention to Resolution No.97 dated 18-05-2015, passed by respondent No.1 and contended that the petitioners were absorbed on the equivalent pay scale in other departments of the Corporation. Their pay scale was mentioned as Rs.5200-20200/- with grade pay of Rs.1900/- and, therefore, after granting the benefit of the time-bound promotion, the petitioners were

entitled to the higher grade pay of Rs.2800/-, but the respondents erred in granting grade pay of Rs.2400/- only. Respondent No.1-Corporation did not apply its mind while granting the same nor considered the representations of the petitioners in that regard. Therefore, the said order of fixation of pay scale with grade pay of Rs.2400/- instead of Rs.2800/- is illegal, arbitrary, and liable to be quashed and set aside. Hence, he urged to allow the petition.

6. On the contrary, Mr. J.B. Kasat, learned Counsel for the respondents, vehemently opposes the petition, contending that by order dated 14-12-2016, petitioner No.1 was absorbed as '*Library Assistant*' and petitioner Nos.2 to 4 were absorbed as '*Tax Inspectors*' from the post of 'Hydrant Mistry' as the said post was abolished. Their pay scale was equal to the pay scale of Hydrant Mistry, and the next promotional post of the 'Library Assistant' is as 'Assistant Librarian', and the grade pay of the said post was Rs.2400/-. Likewise, the next promotional post of 'Tax Collector' is 'Junior Tax Collector' with a grade pay of Rs.2400/-; therefore, the petitioners extended the benefit of the next promotional post upon completing their twelve years of service. Thus, the petitioners are not entitled to claim grade pay of Rs.2800/- for the post of 'Senior Leading Fireman' as by Resolution No.97 dated 18-05-2015; they were directed to be absorbed in the other departments of the Corporation on the equivalent pay scale.

He also drew our attention to the order dated 04-12-2018 and canvassed that the petitioners were working as 'Hydrant Mistry.' Petitioner No.1 was absorbed as a 'Library Assistant' in the pay scale of Rs.5200-20200/- with grade pay of Rs.1900/- and the benefit of first time-bound promotion was granted to him by the order dated 04-12-2018 and granted him grade pay of Rs.2400/- from 01-11-2016. Similarly, petitioners Nos.2 to 4 were absorbed on the post of 'Tax Collector' in the pay scale of Rs.5200-20200/- with grade pay of Rs.1900/-, which is equivalent to the pay scale of 'Hydrant Mistry' and extended the benefit of first time-bound promotion in the pay scale of Rs.5200-20200/- with grade pay of Rs.2400/-. Hence, he argued that the petitioners failed to point out that they were entitled to the grade pay of Rs.2800/- instead of Rs.2400/- and urged for dismissing the petition.

7. We have appreciated the rival contentions of the parties and perused the record, establishment schedule of Nagpur Municipal Corporation for 2013-14, and a brief note of arguments submitted by the learned Counsel for the petitioners.

The short point that arises for our consideration is-

“Whether the petitioners are entitled to get the benefit of first-time- bound promotion on the next higher pay scale with grade pay of Rs.2800/- instead of Rs.2400/-as granted by the Corporation?”

8. It is undisputed that the petitioners were appointed between 24-08-2004 and 02-11-2004 on the post of “*Hydrant Mistry*” They continued in service until their absorption into the other departments, i.e., the “*Library and Tax Departments*”. It is further not in dispute that by Resolution No.97 dated 18-05-2015 (Page No.35), respondent No.1, in view of the directives issued by the Urban Development Department of the State Government, resolved to disband the post of ‘*Hydrant Mistry*’ and the employees including the petitioners who were working on the said post, were absorbed in other departments of respondent No.1-Corporation by maintaining their seniority on the equivalent post and pay scale. Based on the said resolution, on 14-12-2016, the petitioners were absorbed into the “*Library and Tax Departments*”. Petitioner No.1 was absorbed into the Library Department as a “*Library Assistant*” on a pay scale of Rs.5200-20200/- with a *grade pay of Rs.1900/-*. Similarly, petitioners Nos.2 to 4 were absorbed in the Tax Department as “*Tax Collectors*” on a pay scale of Rs.5200-20200/- with *grade pay of Rs.1900/-*. The petitioners have neither challenged nor disputed Resolution No.97 dated 18.05.2015 and the absorption order dated 14-12-2016, which itself denotes that they have no grievances about them.

9. It further appears that during the pendency of the petition, the petitioners amended the petition and produced a copy of respondent No. 1's Establishment Schedule (Page 34-A-B) for the year 2013-2014 on record, in which all the posts in respondent No.1-Corporation are shown.

We would like to reproduce the said Establishment Schedule as follows :

“नागपूर महानगरपालिका
स्थापना अनुसूची
(ESTABLISHMENT SCHEDULE)

२०१३-१०१४
(दिनांक ३१.३.२०१३ अखेर संकलन)

या सूचीतील तरतुदीमुळे कोणालाही नौकरीतील जेष्ठता अथवा वेतनमानाबाबत अधिकार प्राप्त झालेत असे समजण्यात येवू नये

अ.क्र.	जागेचे नांव	जागेची संख्या	वेतनमान	विशेष वेतन, वाहन भत्ता व इतर
	३) ग्रंथालय व अध्ययन कक्ष विभाग			
१	अधिकांक	1	पी.बी. २ 9300-34800 ग्रेड पे. 4400	मोटर सायकल वाहन भत्ता रु.६००/- दरमहा
२	ग्रंथपाल कस्तुरबा लायब्ररी	1	पी.बी. २ 9300-34800 ग्रेड पे. 4400	पदनाम बदलण्यास शासनाची मंजूरी अप्राप्त.
३	सहा. ग्रंथपाल	15	पी.बी. १ 5200-20200 ग्रेड पे. 2400	
४	कनिष्ठ लिपीक	2	पी.बी. १ 5200-20200 ग्रेड पे. 2000	
५	ग्रंथालय सहायक (अटेंडंट)	17	पी.बी. १ 5200-20200 ग्रेड पे. 1900	परिपत्रक क्र.४१/प्रलेविअ दि. २८.०५.६३ जी आर २८.१.६० व ३०.१.६० एक जागा थुलाई भत्ता रु.३०/-द.म.
६	चपराशी (स्त्री)	2	पी.बी. १ 5200-20200 ग्रेड पे. 1800	
७	चपराशी	1	पी.बी. १ 5200-20200 ग्रेड पे. 1800	थुलाई भत्ता रु ३० दरमहा
८	चौकीदार	2	पी.बी. १ 4440-7440 ग्रेड पे. 1300	थुलाई भत्ता रु ३० दरमहा प्रत्येकी
९	चौकीदार (स्त्री)	1	पी.बी. १ 4440-7440 ग्रेड पे. 1300	थुलाई भत्ता रु ३० दरमहा
१०	चौकीदार कम चपराशी	99	पी.बी. १ 4440-7440 ग्रेड पे.1300	वनिर्मीत पदे म.न.पा. ठराव क्रमांक ४८ दि.०८.७.६६ कार्यालयीन आदेश क्र.२१/ओ.अॅन्ड.एम दि.२४.७.६६
	एकुण	141		

अ.क्र.	जागेचे नांव	जागेची संख्या	वेतनमान	विशेष वेतन, वाहन भत्ता व इतर
	<u>८) कर विभाग</u>			
१	कर अधीक्षक	1	पी.बी. २ 9300-34800 ग्रेड पे. 4400	म.न.पा. ठराव क्र.२१६ दि.०५.०५.२०११ मोटार सायकल भत्ता रु.६००/- दरमहा
२	सहायक अधीक्षक	2	पी.बी. २ 9300-34800 ग्रेड पे. 4300	म.न.पा. ठराव क्र.२१६ दि.०५.०५.२०११ मोटार सायकल भत्ता रु.६००/- दरमहा
३	निरीक्षक	14	पी.बी. २ 9300-34800 ग्रेड पे. 4200	म.न.पा. ठराव क्र.२१६ दि.०५.०५.२०११ मोटार सायकल भत्ता रु.६००/- दरमहा
४	जेष्ठ श्रेणी लिपीक	1	पी.बी. १ 9300-34800 ग्रेड पे. 4200	
५	ज्युनियर निरीक्षक	24	पी.बी. १ 5200-20200 ग्रेड पे. 2400	
६	उच्च श्रेणी लिपीक	3	पी.बी. १ 5200-20200 ग्रेड पे. 2400	जोखीम भत्ता २ जागेला रु.५०/-
७	निम्न श्रेणी लिपीक/कनिष्ठ लिपीक	13	पी.बी. १ 5200-20200 ग्रेड पे. 2000	
८	कर संग्राहक	160	पी.बी. १ 5200-20200 ग्रेड पे. 2000	म.न.पा. ठराव क्र.२१६ दि.०५.०५.२०११ सायकल भत्ता रु.२००/- दरमहा
९	ड्रायव्हर	1	पी.बी. १ 5200-20200 ग्रेड पे. 1900	
१०	चपराशी	4	पी.बी. १ 5200-20200 ग्रेड पे. 1800	म.न.पा. ठराव क्र.२१६ दि.०५.०५.२०११ सायकल वाहन भत्ता रु.६००/- दरमहा धुलाई भत्ता रु.३०/- प्रमाणे प्रत्येकी
	एकुण	223		

अ.क्र.	जागेचे नांव	जागेची संख्या	वेतनमान	विशेष वेतन, वाहन भत्ता व इतर
	<u>९) अग्निशामक विभाग</u>			
१	प्रमुख अग्निशामक अधिकारी	1	पी.बी. २ 9300-34800 ग्रेड पे. 4400	
२	सहायक स्थानाधिकारी	6	पी.बी. २ 9300-34800 ग्रेड पे. 4300	४ पदांची म.न.पा. सभागृहाने मान्यता प्रदान केलेली असून शासन मान्यता अप्राप्त आहे.
३	सहायक स्थानाधिकारी	15	पी.बी. २ 9300-34800 ग्रेड पे. 4200	०१.११.६५ पासून धुलाई भत्ता रु.३०/- प्रत्येकी दरमहा.
४	सिनियर अग्नेसर अग्निक	15	पी.बी. १ 5200-20200 ग्रेड पे. 2800	४ ओ.ॲन्ड.एम दि.११.०७.८६

५	इलेक्ट्रीशियन	1	पी.बी. १ 5200-20200 ग्रेड पे. 2400	
६	ड्रायव्हर मेकैनिक	1	पी.बी. १ 5200-20200 ग्रेड पे. 2400	७६ ओ.अॅन्ड.एम दि.०५.१०.६६
७	अग्रेसर अग्निंक	45	पी.बी. १ 5200-20200 ग्रेड पे. 2400	
८	फायरमन मेकैनिक	57	पी.बी. १ 5200-20200 ग्रेड पे. 2400	८८ प्रलेविअ.दि.२०.०७.६६ नि.आ. आदेश दि.१८.०७.६६ दि.०१.०८. ६६ पासुन सु.
९	टेलिफोन ऑपरेटर	10	पी.बी. १ 5200-20200 ग्रेड पे. 2000	
१०	अग्निंक	193	पी.बी. १ 5200-20200 ग्रेड पे. 2000	आदेश क्र.१७४/प्रलेविअ दि. १६. १०.६५ १७४-१६ दि.०१.११.६५ पासून निमग आयुक्त आदेश दि.०६. १०.६५.
११	ड्रायव्हर कम फिटर	6	पी.बी. १ 5200-20200 ग्रेड पे. 1900	वेतन लागू
१२	हैड्रन मिस्त्री	15	पी.बी. १ 5200-20200 ग्रेड पे. 1900	धुलाई भत्ता प्रत्येकी रु.३०/- दरमहा
१३	ऑम्ब्युलन्स ड्रायव्हर	2	पी.बी. १ 5200-20200 ग्रेड पे. 1900	
१४	शव वाहक ड्रायव्हर	2	पी.बी. १ 5200-20200 ग्रेड पे. 1900	
१५	हैड्रन्ट कुली	10	पी.बी. १ 4440-7440 ग्रेड पे. 1300	
१६	क्लिनर	14	पी.बी. १ 4440-7440 ग्रेड पे. 1300	
१७	शव वाहक कुली	6	पी.बी. १ 4440-7440 ग्रेड पे. 1300	
१८	स्ट्रेचर बॉय	12	पी.बी. १ 4440-7440 ग्रेड पे. 1300	
	एकुण	411		

10. On careful perusal of the said Establishment Schedule, it reveals that in the “*Fire Brigade Department*”, the ‘*Hydrant Mistry*’ post was mentioned at Sr. No.12, and the pay scale was shown as Rs.5200-20200/- with grade pay of Rs.1900/- and petitioner No.1 was absorbed as a “*Library Assistant (Attendant)*” in Library Department with equivalent pay scale of Rs.5200-20200/- with same grade pay of Rs.1900/-, (page No.80) said post

is mentioned at Sr. No.5, in 'Library Department' which is equivalent pay scale to the Hydrant Mistry and petitioners No.2 to 4 were absorbed as "***Tax Collectors***" with equivalent pay scale of Rs.5200-20200 with grade pay of Rs.1900/- (Rs.2000/-), (page Nos.78,79 & 81) said post was mentioned at Sr. No.8, which is equivalent pay scale to the Hydrant Mistry.

11. The order dated 14-12-2016 categorically depicts that pursuant to Resolution No.97 dated 18-05-2015, the petitioners were absorbed into the 'Library and Tax Departments as "***Library Assistants (Attendant)***" and "***Tax Collectors***" on the same pay scale with equivalent grade pay.

12. The controversy only arises as, according to the petitioners, they were appointed as Hydrant Mistry and completed their twelve years of service in the "Fire Brigade Department", so they were otherwise eligible for the benefit of first-time-bound promotion in the next higher promotional pay scale of "***Senior Leading Fireman***" in the Fire Brigade Department whose pay scale was prescribed as Rs.5200-20200/- with grade pay of Rs.2800/-. However, the petitioners failed to demonstrate that the next higher promotional post of "Hydrant Mistry" is "***Senior Leading Fireman***." As against this, on perusal of the Establishment Schedule, it appears that the post of '***Hydrant Mistry***' is shown at Sr. No.12 and the post of '***Leading Fireman***' appears at Sr. No.7, which is the next higher promotional post of 'Hydrant Mistry' with pay scale of ***Rs.5200-***

20200 with grade pay of Rs.2400/- and not the “*Senior Leading Fireman*” as claimed by the petitioners, which appears at serial No.4. On that ground alone, the petitioners are not entitled to claim the higher time-bound promotional benefit with grade pay of Rs.2800/- instead of Rs.2400/-.

13. It further reveals that by Resolution No.97 dated 18-05-2015, the Corporation resolved to absorb all the petitioners in the ‘*Library and Tax Departments*’ on the equivalent post with the same pay scale 5200-20200/- with grade pay Rs.1900/-, i.e. before completion of their twelve years of service, pursuant to said Resolution the order was passed for absorption on 14-12-2016. In such an eventuality, it cannot be said that the petitioners had completed twelve years of service in the “*Fire Brigade Department*”, but after completion of their twelve years’ service, by orders dated 04-12-2018 and 23-01-2019 respondent No.1 granted the first benefit of time-bound promotion to the petitioners w.e.f. 01-09-2016, 01-11-2016 and 01-12-2016 on the pay scale of Rs.5200-20200 with grade pay of Rs.2400/-. Therefore, it cannot be said that a first-time-bound promotional benefit was not granted to the petitioners as per the rules.

14. *Besides*, the petitioners have neither challenged nor disputed Resolution No.97 dated 18-05-2015 and the absorption order dated 14-12-2016 to absorb them in the ‘*Library and Tax Departments*’ on the posts of “*Library Assistant*” and “*Tax Collector*”. As per the Establishment Schedule, the next promotional post of “*Library Assistant*” is *Assistant*

Librarian” in a pay scale of Rs.5200-20200/- with grade pay of Rs.2400/- and the promotional post of “*Tax Collector* is *Junior Tax Collector*” in the pay scale of Rs.5200-20200/- with grade pay of Rs.2400/-. It is also not disputed that at the time of absorption of the petitioners from ‘*Hydrant Mistry*’ to ‘*Library Assistant and Tax Collector*’ in the ‘Library and Tax Departments’, they were in the pay scale of Rs.5200-20200 with grade pay of Rs.1900/- i.e. equivalent to the pay scale of ‘*Hydrant Mistry*’ and as per the resolution, they were absorbed on the equivalent post and pay scale. The learned Counsel for the petitioners, though, argued that the petitioners, by Resolution No.97 dated 18-05-2015, were absorbed into other Departments with an equivalent pay scale of Rs.5200-20200/- with the same grade pay of Rs.1900/-. However, he failed to demonstrate how the petitioners were entitled to the grade pay of Rs.2800/- when they were in the pay scale of Rs.5200-20200/- with a grade pay of Rs.1900/- while in the order, it is categorically mentioned that the petitioners were absorbed on the equivalent post and pay scale. The said facts indicate that their pay scale was protected while they were absorbed into other departments. Therefore, we do not find substance in the contention of the learned Counsel for the petitioners that the petitioners were entitled to the grade pay of Rs.2800/- instead of Rs.2400/-, which was eligible for the post of “*Senior Leading Fireman*.” Mr. S.S. Sanyal, learned Counsel, by filing a note on 03-3-2025 admitted that next higher promotional post of “*Hydrant Mistry*” is a “*Leading Fireman*” instead of “*Senior Leading*

Fireman'. *Per Contra*, the Establishment Schedule of the "*Fire Brigade Department*" denotes that the "*Hydrant Mistry*" post was at Sr. No.12 in the pay scale of Rs.5200-20200/- with grade pay of Rs.1900/- and the next higher post of the "*Leading Fireman*" appears at Sr. No.7 with pay scale Rs.5200-20200/- and grade pay of Rs.2400/- and next higher post of the "*Leading Fireman*" is of post of "*Senior Leading Fireman*" shown at Sr. No.4 with the same pay scale and with Grade Pay of Rs.2800/-. The said fact itself is evident that the next promotional post of "*Hydrant Mistry*" is a "*Leading Fireman*" in the pay scale of Rs.5200-20200/- with grade pay of Rs.2400/- and not the post of "*Senior Leading Fireman*", as claimed by the petitioners.

15. In the wake of the above discussion, we are of the opinion that the petitioners failed to demonstrate that they were entitled to the pay scale for the post of "*Senior Leading Fireman*" of Rs.5200-20200/- with grade pay of Rs.2800/- instead of grade pay of Rs.2400/-. Hence, we do not find substance in the argument of the learned Counsel for the petitioners in that regard. Hence, we answer the point in the negative.

16. As a result, the petition is devoid of merit and stands dismissed.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)