IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1156 OF 2021

Municipal Corporation of Greater Mumbai through Municipal Commissioner **...Petitioner**

V/s.

Sangeeta Devdas Salvi and others **...Respondents**

WITH

WRIT PETITION (STAMP) NO.98222 OF 2020

Municipal Corporation of Greater Mumbai through Municipal Commissioner **...Petitioner**

V/s.

Ujwala Sampatrao Hajare and others **...Respondents**

WITH

WRIT PETITION (STAMP) NO.863 OF 2021

Municipal Corporation of Greater Mumbai through Municipal Commissioner **...Petitioner**

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V/s.

Rupa Vijaybahadur Yadav and others **...Respondents**

WITH

WRIT PETITION NO.1154 OF 2021

Municipal Corporation of Greater Mumbai through Municipal Commissioner **...Petitioner**

V/s.

Rasika Ganpat Aagre and others **...Respondents**

WITH

WRIT PETITION NO.1307 OF 2021

Municipal Corporation of Greater Mumbai through Municipal Commissioner **...Petitioner**

V/s.

Naji Ganpat Jogale and others **...Respondents**

WITH

WRIT PETITION NO.1599 OF 2021

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Municipal Corporation of Greater Mumbai through Municipal Commissioner **...Petitioner**

V/s.

Surekha Suresh Dhakorkar and others **...Respondents**

WITH

WRIT PETITION NO.1158 OF 2021

Municipal Corporation of Greater Mumbai through Municipal Commissioner **...Petitioner**

V/s.

Manju Tamradhwaj Kamble and others **...Respondents**

WITH

WRIT PETITION NO.14081 OF 2022

Municipal Corporation of Greater Mumbai through Municipal Commissioner **...Petitioner**

V/s.

Aarti Sanjay Shastri and others **...Respondents**

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WITH

WRIT PETITION NO.776 OF 2023

Municipal Corporation of Greater Mumbai **...Petitioner**
through Municipal Commissioner

V/s.

Vidya R. Bhosale and others **...Respondents**

WITH

WRIT PETITION NO.789 OF 2023

Municipal Corporation of Greater Mumbai **...Petitioner**
through Municipal Commissioner

V/s.

Seema Santosh Phapal and others **...Respondents**

WITH

WRIT PETITION NO.5921 OF 2023

Municipal Corporation of Greater Mumbai **...Petitioner**
through Municipal Commissioner

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V/s.

Darshana Anand Gamare and others **...Respondents**

Mr. A. S. Peerzada with Mr. Santosh Mali for MCGM, Petitioner in WP/1156/2021.

Mr. Santosh Mali for MCGM, Petitioners in other Petitions.

Mr. P.V. Devdas with Ms. Vidula S. Patil and Ms. Manasi Kanitkar for the Respondents.

CORAM: SANDEEP V. MARNE, J.

RESERVED ON: 6 AUGUST 2026

PRONOUNCED ON: 13 AUGUST 2026

Judgment:

SHE IS CALLED A 'VOLUNTEER'. THE STATE DEPENDS ON HER LIKE A WORKER.

1) The above quote in the Article[1] highlights the plight of Community Health Volunteers engaged by the country's largest civic governing body, the Municipal Corporation of Greater Mumbai, who are denied dignified wages. Community Health Volunteers act as a vital grassroot link between local communities and public health systems. They support maternal-child health, assist in disease and vector control,

[1] 'Volunteers in Indian Labour Laws: How the State uses a word to deny women their rights' by Kabir Jain, published in 'Change in Content' on 24 April 2026

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and help execute national and municipal health programs across Mumbai's wards. They are paid a fixed honorarium by the Municipal Corporation, and their fight is for payment of minimum wages guaranteed under the Minium Wages Act, 1948.

2) These Petitions are filed by the Municipal Corporation of Greater Mumbai challenging the common judgment and order dated 7 September 2020 passed by the Authority under the Minimum Wages Act, 1948 and the Assistant Commissioner of Labour, Mumbai City allowing the Applications preferred by the Respondents and their Unions, and upholding the claims of Community Health Volunteers **(CHVs)** for minimum wages. The Authority has directed the Municipal Corporation to pay CHVs the difference in the minimum wages plus special allowance and the honorarium already paid to them. The amounts payable in respect of the claims raised in each of the applications are quantified by the Authority with direction to the Municipal Corporation to pay the same to the CHVs.

3) Petitioner is a Municipal Corporation established under the provisions of the Mumbai Municipal Corporation Act, 1888. It provides civic amenities to the residents of Mumbai city. One of the mandatory duties which the Petitioner-Municipal Corporation is required to fulfill is provision of health related services within its territorial jurisdiction. In the year 1988, the Municipal Corporation implemented 'India Population Project V' (**Project**) with the financial assistance of the World Bank. The Project envisaged development and expansion of health family welfare centers. It was proposed to establish 176 centers named as 'Health Posts'

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including 56 Family Welfare Centers in Mumbai. The objective of the project was to provide health services to slum dwellers in Mumbai such as family planning, maternal and child healthcare, vaccination, ante-natal and post-natal services and creating awareness in slum areas and to prevent spread of diseases like plague, dengue and create awareness in avoiding spread of such diseases. The Project was also aimed at providing preventive and curative health services to the community at large. With the passage of time, several other services and schemes were introduced by the Municipal Corporation such as control of polio through Pulse Polio, AIDS control programme, leprosy eradication, tuberculosis control, malaria eradication, promotion of small family by adopting family planning measures etc. In order to execute the Project, the Municipal Corporation decided to take assistance of volunteers to work as part-time woman community health workers.

4) The assistance received through World Bank for implementation of the Project was discontinued from 31 March 1996. However, the assurance was apparently given by the Municipal Corporation to the World Bank that the services established under the India Population Project V will be continued even without the financial assistance from the World Bank. Accordingly, after 1996, the Municipal Corporation has made a provision for expenditure in its own budget for operation of the Health Posts created under the project. Each Health Post used to be apparently manned by one full-time Medical Officer, one Public Healthcare Nurse, 3 to 5 Auxiliary Nurses, 3 to 5 Multipurpose Workers and about 25 Part-time Woman Health Workers and a Center

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Attendant. To cover the entire territory area and population in Mumbai, 176 Health Posts were established.

5) For implementing various schemes under the Project and for providing health care services amongst communities especially the slum areas, the Municipal Corporation started hiring local women in the community. They were hired as part-time CHVs. The CHVs so engaged by the Municipal Corporation are paid fixed honorarium for number of hours of work performed by them. It appears that they were engaged for different hours every day. Some worked for 3 hours a day, some worked for 4 hours a day and it is claimed by Respondents in the present case that they have worked for 5 hours every day.

6) Mahapalika Aarogya-Seva Karmachari Sanghatana (**Union**) took up the cause of CHVs and raised a demand for their absorption as regular employees of the Municipal Corporation. At the instance of the Union, Reference (IT) No.39 of 2000 was referred to Industrial Tribunal, Mumbai. The Reference was resisted by the Municipal Corporation, questioning the status of CHVs as 'workman' under Section 2(s) of the Industrial Disputes Act, 1947 **(ID Act)** for maintainability of the Reference. Accordingly, the Industrial Tribunal framed preliminary issue about status of CHVs within the meaning of Section 2(s) of the ID Act. By Part-I Award dated 2 March 2002, the Industrial Tribunal held that Voluntary Women Health Workers/Community Health Workers were 'workman' within the meaning of Section 2(s) of the ID Act. Writ Petition No. 4027 of 2002 was filed in this Court challenging the Part-I Award, which was withdrawn with liberty to challenge Part-I Award. Final Award

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in Reference (IT) No. 39 of 2000 was made on 13 January 2004 by the Industrial Tribunal rejecting the demand for absorption in municipal service. However, the Municipal Corporation was directed to increase the honorarium by Rs.150/- per month so that CHVs were also entitled for remuneration of Rs.900/- per month w.e.f. 13 January 2004. The Municipal Corporation was also directed to ensure uniformity in working hours of CHVs.

7) The Union challenged the final Award dated 13 January 2004 by filing Writ Petition No.7958 of 2005, challenging rejection of demand Nos.1 and 3 to 6, relating to absorption etc. As against this, Municipal Corporation filed Writ Petition No.8947 of 2004, challenging Part-I Award upholding the status of CHVs as workman. This Court took up the cross Petitions for hearing with various other petitions relating to CHVs. By a common judgment and order dated 4 January 2017, this Court has dismissed Writ Petition No.7958 of 2005 filed by the Union as well as Writ Petition No.8947 of 2004 filed by the Municipal Corporation. The Municipal Corporation has filed Special Leave Petition (C) No. 9660 of 2017 before the Hon'ble Supreme Court, challenging the judgment and order passed by this Court on 4 January 2017. By Order dated 13 April 2017, the Hon'ble Supreme Court stayed operation of the impugned judgment. The leave has been granted in the SLP by order dated 28 August 2018. It is reported that the Appeal is still pending before the Hon'ble Supreme Court.

8) In the above background, Application Nos. 1 to 12 of 2016 was filed by CHVs and their Union under Section 20(2) of the Minimum

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Wages Act, 1948 before the Authority appointed under the Act seeking payment of difference of wages due according to minimum rates of wages fixed by Government Notification dated 24 February 2015 and the wages actually paid. Different amounts were quantified in each of the Applications and recovery thereof was sought from the Municipal Corporation.

9) The Applications were resisted by the Municipal Corporation by filing Written Statements. On behalf of the CHVs, their advocate was examined as a witness. On behalf of the Municipal Corporation, Dr. Pratibha Dilip Jadhav was examined as its witness. Shri. Sunil Tulsiram Jangale, Divisional Labour and Welfare Officer in the Municipal Corporation was also examined as a witness. After considering the pleadings, documentary and oral evidence, the Authority has passed common judgment and order dated 7 September 2020, allowing Application No. 1 to 12 of 2016 and has upheld the entitlement of CHVs to receive minimum wages under the Minimum Wages Act. Accordingly, the Municipal Corporation is directed to pay the quantified amounts of difference between minimum wages and the wages actually paid to CHVs. Municipal Corporation is aggrieved by the judgment and order dated 7 September 2020 and has filed the present petitions.

10) Mr. Peerzada, the learned counsel appearing for the Petitioner-Municipal Corporation submits that the Authority has grossly erred in allowing the applications preferred by the CHVs. He submits that CHVs are not employed by the Municipal Corporation in any manner. That since there is no employer-employee relationship, there is no

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question of Municipal Corporation paying minimum wages to them. That CHVs do not fit into definition of the term '*employee*' under Section 2(i) of the Minimum Wages Act. That in any case, the issue of status of CHVs is already pending before the Hon'ble Supreme Court and that the Award has already been stayed during pendency of the civil appeal. That therefore the Authority could not have adjudicated the issue of status once again when the same is *sub judice* before the Hon'ble Supreme Court. He therefore submits that CHVs are volunteers who are engaged for performing the task under a specific project. That no recruitment process is followed for their initial engagements. That their services are hired on need basis. That since wages are not paid to CHVs, there is no question of determining their entitlements under the Minimum Wages Act. That the applications were grossly barred by limitation. That issues were not properly framed by the learned Authority. That the Authority has failed to appreciate and consider various Awards passed by the Industrial Tribunal including Reference (IT) No. 5 of 2000 as well as order of this Court dated 4 January 2017 wherein entitlement of CHVs is upheld only to the extent of payment of honorarium. That their prayer for absorption in municipal service is already rejected. That the same prayers were sought to be introduced in an indirect manner after being unsuccessful in securing reliefs in Reference (IT) No. 5 of 2000, as well as before this Court.

11) Mr. Peerzada further submits that the impugned order of the learned Authority is in the teeth of judgment of this Court dated 4 January 2017. That definition of the term 'workman' under Section 2(s) of the ID Act is more or less similar to the term 'employee' under Section

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2(i) of the Minium Wages Act. That in the present case, none of the CHVs has stepped into the witness box and the evidence is adduced by an advocate. That Applications could not have been allowed by taking into consideration evidence of an advocate. That CHVs are already paid wages almost equivalent to minimum wages. That currently they are receiving honorarium of Rs.14,000/- per month for rendering services for only 5 hours in a day. That the scheme itself is such that the volunteers are never treated as part of the establishment of the Municipal Corporation. That since their prayer for absorption has been rejected, the same cannot be sought to be introduced in the form of payment under the Minimum Wages Act. In the above broad circumstances, Mr. Peerzada prays for setting aside the impugned order passed by the learned Authority.

12) Mr. Devdas, the learned counsel for the Respondents opposes the Petition. He submits that absorption in service is a concept different than payment of minimum wages as per the Minimum Wages Act and that therefore, mere rejection of Reference for absorption cannot be a ground for presuming that the Respondents will not get the relief of payment of dignified wages. That services of CHVs are being exploited by payment of meager honorarium. That the Notification for payment of minimum wages was issued on 24 February 2015 and therefore, CHVs filed an application before the learned Authority. That the issue of payment of minimum wages was not involved in Reference (IT) No. 39 of 2000. That in respect of several other CHVs , orders have been passed for payment of minimum wages to them. That except CHVs, all other temporary workers hired by the Municipal Corporation received

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minimum wages. That services of CHVs are being exploited by the Municipal Corporation. He therefore prays for dismissal of the Petitions.

13) Rival contentions urged on behalf of the parties now fall for my consideration.

14) The issue involved in the present Petition is about entitlement to receive minimum wages by the CHVs as per the Notifications issued from time to time under the Minimum Wages Act. Respondents are CHVs whose services are volunteered on part-time basis by the Municipal Corporation for implementation of various health related programmes and schemes. As observed above, India Population Project V was implemented by the Municipal Corporation in the year 1988, under which about 176 'Health Posts' were created as Urban Health Centers throughout the territory of Mumbai City with the financial assistance of the World Bank. The Project was meant to supplement the health services and family welfare programmes of the Municipal Corporation. Each Health Post was to be manned by one Medical Officer, one Public Health Nurse, 3 to 5 Auxiliary Nurses and other paramedical staff alongwith women volunteers on a part-time basis. It appears that the number of CHVs hired by the Municipal Corporation throughput the city of Mumbai is substantially high. In the order dated 4 January 2017, this Court has recorded the number of CHVs as 3400. Mr. Peerzada has submitted that as of now there are about 3000 CHVs utilised by the Petitioner-Municipal Corporation to serve as a link between Health Posts and the community served by such Health Posts. As observed above, the CHVs do not perform full-time work and are engaged on part-time basis.

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Their duty hours are varied. In some cases, they used to work for 3 hours a day. Mr. Devdas has submitted that the CHVs who are currently engaged, perform duties for 5 hours a day.

15) The CHVs so hired by the Municipal Corporation first made an attempt for their absorption in the municipal service through Reference (IT) No.39 of 2000. The Reference was for adjudication of following demands:

> १) सर्व महिला आरोग्य स्वयंसेविका (CHVS) याना महापालिकेच्या सेवेमध्ये कायम करण्यात यावे.
> २) सर्व महिला आरोग्य स्वयंसेविका (CHVS) यांना दरमहा रुपये १५००/- वेतन देण्यात यावे व त्यानंतर प्रत्येक वर्षी रुपये २५०/- देऊन मनपातील किमान वेतनाच्या ५०% वेतन देण्यात यावे.
> ३) सर्व बहुउद्देशीय आरोग्य कर्मचारी (MPW) व समन्वयक (Co-Ordinator) चे पदनाम बदलून सार्वजनिक आरोग्य निरीक्षक (Public Health Inspector) करण्यात यावे व त्यांना कनिष्ठ अवेक्षक (J.O.) च्या वेतनश्रेणीबरोबर आणण्यात यावे.
> ४) सहाय्यक परिचारिका व प्रास्तविक (A.N.M.S.) व महिला कार्यक्षेत्री (FFW) चे पदनाम बदलून ज्युनिअर हेल्थ व्हिजिटर करण्यात यावे व त्यांना ज्युनिअर हेल्थ व्हिजिटरच्या वेतन श्रेणीबरोबर आणण्यात यावे.
> ५) सार्वजनिक आरोग्य परिचारिका (PHNS) यांना महापालिकेच्या रुग्णालयातील सार्वजनिक आरोग्य परिचारिकाला लागू असलेली वेतनश्रेणी देण्यात यावी.
> ६) कोणत्याही खाजगी संस्थेचे काम भारतीय लोकसंख्या प्रकल्प - ५ मधील कर्मचाऱ्यांना देण्यात येऊ नये.
> ७) वरील कर्मचाऱ्यांची कामाची वेळ सात तास करण्यात यावी.

16) In the Reference, the Municipal Corporation questioned their status, contending that they do not answer the description of the term ‘workman’ appearing under Section 2(s) of the ID Act. The objection of the Municipal Corporation was repelled by the Industrial Tribunal by Part-I Award dated 2 March 2002. After upholding the status of CHVs as ‘workman’, the Industrial Tribunal proceeded to determine remaining issues and by final Award dated 13 January 2004, it has rejected demand Nos. 1, 3 to 6 as enumerated above. Thus, the demand for absorption in the municipal service is rejected. Similarly, demands No.3 to 6, which

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were not really concerning CHVs were also rejected. Demand No.2 was partly allowed by directing increase in the honorarium by Rs.150/- per month. Demand No.7 was also partly allowed by directing uniformity in working hours. The challenge to the Award by the Union of CHVs has been rejected by this Court vide judgment and order dated 4 January 2017. The cross challenge raised by the Municipal Corporation questioning status of CHVs as 'workman' has also been rejected by this Court. Now, the Appeals are pending before the Hon'ble Apex Court, in which the impugned judgment has been stayed.

17) In the present case, however, this Court is not concerned with the issue of absorption of CHVs in the municipal service. In that sense, pendency of appeals before the Hon'ble Supreme Court would not *ipso facto* come in the way of this Court deciding the issue of payment of minimum wages to the CHVs. Mr. Peerzada has however submitted that there are overlapping issues in the Reference and in the Application for minimum wages. According to him, the issue of status of CHVs which is pending before the Apex Court has a material bearing on right of CHVs to receive minimum wages. He submits that the Municipal Corporation has challenged the declaration of status of CHVs as 'workman' by the Industrial Tribunal and by this Court before the Hon'ble Apex Court and that till the said issue is decided, the Authority under the Minimum Wages Act could not have gone into the issue of payment of minimum wages to the CHVs. However, I am not inclined to accept the contention raised by Mr. Peerzada.

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18) The demand for absorption in municipal service raised in the earlier Reference has nothing to do with the demand for payment of minimum wages under the Minimum Wages Act. Even a person not in regular employment of the establishment can raise a demand for minimum wages. It appears that definition of the term 'workman' under Section 2(s) of the ID Act is substantially different from definition of the term 'employee' under Section 2(i) of the Minimum Wages Act. It would be apposite to reproduce both the definitions:

Section 2(s) of ID Act	Section 2(i) of the Minimum Wages Act
(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person— (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or (ii) who is employed in the police service or as an officer or other employee of a prison; or (iii) who is employed mainly in a managerial or administrative capacity; or (iv) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.	(i) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces of the Union.

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19) Thus, definition of the term 'employee' under Section 2(i) of the Minimum Wages Act appears to be substantially wider. So, every person who is employed for hire or reward to do any work, which is skilled or unskilled, managerial or clerical, in the scheduled employment is covered by definition of the term 'employee' under Section 2(i) of the Minimum Wages Act. What needs to be established is that the employment for hire or reward to do work is under the scheduled employment for which the minimum rates of wages have been prescribed. There is no dispute to the position that establishment of the Petitioner-Municipal Corporation is a scheduled employment within the meaning of the Minimum Wages Act. The only contention of the Petitioner-Municipal Corporation is that CHVs are not 'employed' by the Municipal Corporation and that therefore they cannot be treated as 'employees' within the meaning of Section 2(i) of the Minimum Wages Act.

20) In my view, the term 'employed' appearing under Section 2(i) of the Minimum Wages Act is not to be confused with the concept of 'appointment'. Ordinarily, appointments on the establishment of Municipal Corporation need to be made by following the established procedure and in accordance with the Rules and Regulations. The employees, who are appointed in municipal service are regular employees of the Municipal Corporation. The word 'employed' in the definition under Section 2(i) has to be read in conjunction with the words 'for hire or reward'. Therefore, every person who is paid remuneration for services rendered for Municipal Corporation would be covered by the expression 'employee' for the purpose of Minimum Wages

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Act. Such employee may be permanent, temporary, casual, ad hoc, work charged, contractual, *badli* etc. The nomenclature may be different, but the common thread that runs across the entire class is employment for hire or reward. Thus, when a person is hired and serves the establishment and receives a fixed sum every month as a reward, he becomes employee within the meaning of the Minimum Wages Act. In that sense, whether CHVs answer the description of 'workman' under Section 2(s) of the ID Act or not is an irrelevant factor and what needs to be examined is that they are 'employees' for the limited purpose of determining their entitlement to wages under the Minimum Wages Act.

21) In my view, mere branding of wages paid to the CHVs as 'honorarium' would not deny them the status of 'employees' for the purpose of payment of minimum wages. If the nomenclature of reward paid for hire becomes the decisive factor, it would be easy for the employer to treat the wages as honorarium to escape the liability under the Minimum Wages Act. The word 'wages' has been defined under Section 2(h) of the Minimum Wages Act as under:

> (h) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes house rent allowance, but does not include—
>
> (i) the value of—
>
> (a) any house-accommodation, supply of light, water, medical attendance, or
>
> (b) any other amenity or any service excluded by general or special order of the appropriate Government;
>
> (ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;
>
> (iii) any travelling allowance or the value of any travelling concession;

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(iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
(v) any gratuity payable on discharge;

22) So, every 'remuneration', which is capable of being expressed in terms of money, which is payable to a person in respect of his employment becomes wages. Thus, 'remuneration' drawn by CHVs during the course of their engagements, though branded as 'honorarium' , would be covered by definition of the term 'wages' under Section 2(h) of the Minimum Wages Act.

23) There is no dispute to the position that Municipal Corporation pays minimum wages to temporary employees. However, minimum wages are denied in the present case to the volunteers on the ground that they are never employed by the Municipal Corporation. However, it is a matter of fact that CHVs work for a considerable period of time for the Municipal Corporation. Many of them are continued as volunteers till they cross the age of retirement. Their relationship with the Municipal Corporation is virtually like an employee. They are supervised by Health Post doctors and nurses. Their muster rolls are maintained. Thus, they are not volunteers in true sense who work on voluntary basis to assist the Municipal Corporation. Ordinarily, the word 'volunteer' means a person who offers or agrees to do something without being forced or paid for. In the present case, Respondents are not volunteers as understood in common parlance. They have to report for duties, perform duty for 5 hours, obey orders of Health Post doctors and nurses, and are paid fixed remuneration every month.

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24) It must also be borne in mind that engagement of Respondents as CHVs is not a matter of casual engagement for few days as per need. Though the scheme of providing of health related services commenced in the year 1988 towards implementation of Project funded by the World Bank, the said scheme is continued for the last 38 long years. There appears to be no reason why the Municipal Corporation would discontinue offering health related services to the community. It is commonly known fact that about 40% population of Mumbai City resides in slums. The Municipal Corporation has undertaken the noble task of creating health awareness through community volunteers. The community volunteers play a dual role. Since they are a part of the same community, they are well versed with the needs of the residents of locality. They are more accessible within the community and play an important role in providing necessary medical facilities to the community concerned. Thus, they provide an important linkage/bridge between the doctors and nurses posted at Health Post and the community which they serve. They are thus communicators or conveyors of needs and information of residents in a community to the Doctors and Nurses at the Heath Post. Additionally, they perform the duties assigned to them by the Doctors and Nurses at the Health Post. This is how engagement of local community women assists the Municipal Corporation in gauging the needs of the community and spread the health awareness programs in an effective manner.

25) The Governments and its instrumentalities do need to employ causal and temporary workers for various purposes. Such casual workers, who do no not have right of absorption in service and who

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remain at the mercy of the employer, were also being denied dignified salaries which regular employees earn in the organization. The judgment of the Apex Court in ***State of Punjab and Ors. vs. Jagjit Singh and Ors.***[2] marks a watershed movement in the area of guaranteeing dignified wages to such casual and temporary workers. As a result of the judgment of the Apex Court in ***Jagjit Singh*** (supra), now it is mandatory for Governments and its instrumentalities to pay wages at the minimum of the pay scales payable to regular employees once it is established that both perform same nature of duties. In para-54 to 61 of the judgment, the Apex Court has held as under:

> 54. The Full Bench of the High Court while adjudicating upon the above controversy had concluded that temporary employees were not entitled to the minimum of the regular pay scale, merely for the reason, that the activities carried on by daily wagers and regular employees were similar. The Full Bench however, made two exceptions. Temporary employees, who fell in either of the two exceptions, were held entitled to wages at the minimum of the pay scale drawn by regular employees. The exceptions recorded by the Full Bench of the High Court in the impugned judgment are extracted hereunder : (*Avtar Singh case* [*Avtar Singh* v. *State of Punjab*, 2011 SCC OnLine P&H 15326 : ILR (2013) 1 P&H 566] , SCC OnLine P&H para 37)
>
> > "(*1*) A daily wager, ad hoc or contractual appointee against the regular sanctioned posts, if appointed after undergoing a selection process based upon fairness and equality of opportunity to all other eligible candidates, shall be entitled to minimum of the regular pay scale from the date of engagement.
> >
> > (*2*) But if daily wagers, ad hoc or contractual appointees are not appointed against regular sanctioned posts and their services are availed continuously, with notional breaks, by the State Government or its instrumentalities for a sufficient long period i.e. for 10 years, such daily wagers, ad hoc or contractual appointees shall be entitled to minimum of the regular pay scale without any allowances on the assumption that work of perennial nature is available and having worked for such long period of time, an equitable right is created in such category of persons. Their claim for regularisation, if any, may have to be considered separately in terms of legally permissible scheme.

[2] (2017) 1 SCC 148

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(*3*) In the event, a claim is made for minimum pay scale after more than three years and two months of completion of 10 years of continuous working, a daily wager, ad hoc or contractual employee shall be entitled to arrears for a period of three years and two months."

54.1. A perusal of the above conclusion drawn in the impugned judgment (passed by the Full Bench), reveals that the Full Bench carved out an exception for employees who were not appointed against regular sanctioned posts, if their services had remained continuous (with notional breaks, as well), for a period of 10 years. This category of temporary employees was extended the benefit of wages at the minimum of the regular pay scale. In *Umadevi (3) case* [*State of Karnataka* v. *Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , similarly, employees who had rendered 10 years' service were granted an exception (refer to para 53 of the judgment extracted in the preceding paragraph). The above position adopted by the High Court reveals, that the High Court intermingled the legal position determined by this Court on the subject of regularisation of employees, while adjudicating upon the proposition of pay parity, emerging under the principle of "equal pay for equal work". In our view, it is this mix-up, which has resulted in the High Court recording its afore-extracted conclusions.

54.2. The High Court extended different wages to temporary employees by categorising them on the basis of their length of service. This is clearly in the teeth of the judgment in *Daily Rated Casual Labour case* [*Daily Rated Casual Labour* v. *Union of India*, (1988) 1 SCC 122 : 1988 SCC (L&S) 138] . In the above judgment, this Court held that classification of employees based on their length of service (those who had not completed 720 days of service, in a period of 3 years; those who had completed more than 720 days of service—with effect from 1-4-1977; and those who had completed 1200 days of service), for payment of different levels of wages (even though they were admittedly discharging the same duties), was not tenable. The classification was held to be violative of Articles 14 and 16 of the Constitution.

54.3. Based on the consideration recorded hereinabove, the determination in the impugned judgment rendered by the Full Bench of the High Court, whereby it classified temporary employees for differential treatment on the subject of wages, is clearly unsustainable and is liable to be set aside.

55. In view of all our above conclusions, the decision rendered by the Full Bench of the High Court in *Avtar Singh* v. *State of Punjab* [*Avtar Singh* v. *State of Punjab*, 2011 SCC OnLine P&H 15326 : ILR (2013) 1 P&H 566] , dated 11-11-2011, is liable to be set aside, and the same is hereby set aside. The decision rendered by the Division Bench of the High Court in *State of Punjab* v. *Rajinder Singh* [*State of Punjab* v. *Rajinder Singh*, 2009 SCC OnLine P&H 125] is also liable to be set aside, and the same is also hereby set aside. We affirm the decision rendered in *State of Punjab* v. *Rajinder Kumar* [*State of Punjab* v. *Rajinder Kumar*, 2010 SCC OnLine P&H 13009] , with the modification

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that the employees concerned would be entitled to the minimum of the pay scale, of the category to which they belong, but would not be entitled to allowances attached to the posts held by them.

56. We shall now deal with the claim of temporary employees before this Court.

57. There is no room for any doubt that the principle of "equal pay for equal work" has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India under Article 141 of the Constitution of India. The parameters of the principle have been summarised by us in para 42 hereinabove. The principle of "equal pay for equal work" has also been extended to temporary employees (differently described as work-charge, daily wage, casual, ad hoc, contractual, and the like). The legal position, relating to temporary employees has been summarised by us, in para 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us yet again.

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

59. We would also like to extract herein Article 7 of the International Covenant on Economic, Social and Cultural Rights, 1966. The same is reproduced below:

"7. *The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular*:

(*a*) *Remuneration which provides all workers, as a minimum, with*:

(*i*) *Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work*;

(*ii*) *A decent living for themselves and their families in accordance with the provisions of the present Covenant*;

(*b*) Safe and healthy working conditions;

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(*c*) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(*d*) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays."

(emphasis supplied)

India is a signatory to the above Covenant having ratified the same on 10-4-1979. There is no escape from the above obligation in view of different provisions of the Constitution referred to above, and in view of the law declared by this Court under Article 141 of the Constitution of India, the principle of "equal pay for equal work" constitutes a clear and unambiguous right and is vested in every employee—whether engaged on regular or temporary basis.

60. Having traversed the legal parameters with reference to the application of the principle of "equal pay for equal work", in relation to temporary employees (daily-wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the employees concerned (before this Court), were rendering similar duties and responsibilities as were being discharged by regular employees holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of "equal pay for equal work" summarised by us in para 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals were appointed against posts which were also available in the regular cadre/establishment. It was also accepted that during the course of their employment, the temporary employees concerned were being randomly deputed to discharge duties and responsibilities which at some point in time were assigned to regular employees. Likewise, regular employees holding substantive posts were also posted to discharge the same work which was assigned to temporary employees from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State that any of the temporary employees would not be entitled to pay parity on any of the principles summarised by us in para 42 hereinabove. There can be no doubt, that the principle of "equal pay for equal work" would be applicable to all the temporary employees concerned, so as to vest in them the right to claim wages on a par with the minimum of the pay scale of regularly engaged government employees holding the same post.

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61. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding that all the temporary employees concerned, in the present bunch of cases would be entitled to draw wages at the minimum of the pay scale (at the lowest grade, in the regular pay scale), extended to regular employees holding the same post.

26) The law expounded by the Apex Court in ***State of Punjab vs. Jagjit Singh*** has been reiterated in ***Sabha Shanker Dube vs. Divisional Forest Officer and Ors.***[3]**,** in which it has held in paras-10 to 12 as under:

10. On a comprehensive consideration of the entire law on the subject of parity of pay scales on the principle of equal pay for equal work, this Court in *Jagjit Singh* [(2017) 1 SCC 148] held as follows: (SCC p. 223, para 58)

> "*58*. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

11. The issue that was considered by this Court in *Jagjit Singh* is whether temporary employees (daily-wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and likewise) are entitled to the minimum of the regular pay scales on account of their performing the same duties which are discharged by those engaged on regular basis against the sanctioned posts. After considering several judgments including the judgments of this Court in *Tilak Raj* [*State of Haryana* v. *Tilak Raj*, (2003) 6 SCC 123] and *Surjit Singh* [*State of Punjab* v. *Surjit Singh*, (2009) 9 SCC 514] , this Court held that temporary employees are entitled to draw wages at the minimum of the pay scales which are applicable to the regular employees holding the same post.

12 In view of the judgment in *Jagjit Singh*, we are unable to uphold the view of the High Court that the appellants herein are not entitled to be paid the

[3] (2019) 12 SCC 297

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> minimum of the pay scales. We are not called upon to adjudicate on the rights of the appellants relating to the regularisation of their services. We are concerned only with the principle laid down by this Court initially in *Putti Lal* [*State of U.P.* v. *Putti Lal*, (2006) 9 SCC 337] relating to persons who are similarly situated to the appellants and later affirmed in *Jagjit Singh* that temporary employees are entitled to minimum of the pay scales as long as they continue in service.

27) Thus, post ***Jagjit Singh*** era, it is not permissible for Government and its instrumentalities to exploit casual workers by paying them wages as per whims and caprices of the employer. Now it is a right for even casual/temporary workers to receive dignified wages at least at the minimum of scales drawn by permanent employees. They may not earn promotions or increments and there is no guarantee for employment. However, so long as they are continued, they are guaranteed dignified wages.

28) In the present case, the ratio of the judgment of the Apex Court in ***Jagjit Singh*** may not strictly apply on account of the fact that CHVs do not perform duties and responsibilities of permanent workers. However, the spirit behind the judgment needs to be appreciated. The spirit is that once a person is hired for reward by Governments or its instrumentalities, they must be paid dignified wages and should not be exploited.

29) The Municipal Corporation is aware of the important role played by the CHVs. It is aware that the vital health related programs cannot be taken to the grassroots levels unless assistance of community women volunteers is taken. Recognizing the vital role played by the CHVs, the Municipal Corporation has increased the remuneration

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payable to them from time to time. As of now, the remuneration payable to CHVs is represented as Rs.14,000/- per month. No doubt, they do not perform full-time work. They are expected to discharge duties for only 5 hours in a day. In my view therefore, they need to be paid wages at the minimum rates prescribed in the Notification at least for those 5 hours.

30) There are several types of workers who are given the nomenclature 'volunteers' by Governments and its instrumentalities like ASHA workers (*Accredited Social Health Activist*), *Anganwadi Sevikas* etc. I do not propose to broaden the scope of enquiry in the present case so as to cover ASHA workers engaged by National Health Mission or *Anganwadi Sevikas* engaged under the Integrated Child Development Services Scheme in the matter of payment of minimum wages. However, so far as MCGM is concerned, in my view, CHVs need to be paid at least dignified wages so long as their services are hired. As observed above, MCGM is already paying them what they call as honorarium of Rs.14,000/-. The MCGM therefore cannot really be accused of 'exploiting' them, in real sense, by paying them meager wages. However, though the amount of remuneration of Rs.14,000/- offered by MCGM to CHVs may not be called pittance, at the same time, law requires MCGM to pay minimum wages to every worker as notified under the Minimum Wages Act.

31) It must be noted that even when contracts are awarded by Municipal Corporations on a turnkey basis, it is ensured that workers engaged by contractors are paid minimum wages. In all the tenders issued by the Municipal Corporation, a specific condition is put for

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ensuring that minimum wages are paid by the contractors to the workers. To illustrate, when a contract for handling the solid waste is issued by the Municipal Corporation, though the contract may be on the basis of volume of solid waste handled without reference to wages of workers, the Municipal Corporation still insists that the contractor must pay minimum wages to his worker. This is also because the Municipal Corporation has the responsibility of paying minimum wages even to workers of the contractors on account of provisions of Section 21 of Contract Labour (Regulation and Abolition) Act, 1970 in capacity as principal employer. It is thus unfathomable that Municipal Corporation ensures payment of minimum wages to someone who is hired by contractor and with whom there is no absolutely no relationship with the Municipal Corporation, but to CHVs, who are directly paid remuneration by the Municipal Corporation, minimum wages are not payable.

32) Neither of the parties have brought to the notice of this Court any judgment of the Apex Court dealing with the issue of payment of minimum wages to volunteers engaged in schemes implemented by the Governments. It would however be apt to refer to views taken by some of the High Courts. The Gujarat High Court in ***State of Gujarat and Ors. vs. Adarsh Gujarat Anganwadi Union and Ors.***[4] had an occasion to deal with the issue of wages payable to *Anganwadi* workers. The demand for treatment of *Anganwadi* workers and helpers as regularly selected permanent employees holding civil posts is rejected by the Gujarat High Court. It has held that the *Anganwadi* centers do not have permanent

[4] 2025 SCC Online Guj 3426

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status and can be closed once the objective of the scheme is achieved. The prayer for payment of 'equal pay for equal work' is also rejected by the Division Bench. However, so far as the issue of determination of wages is concerned, the Gujarat High Court has held that *Anganwadi* workers and helpers are entitled to receive 'living wages' which is above minimum and fair wages. The Gujarat High Court held as under:

> **67.** The final issue, which remains to be deliberated upon, is the conferment of minimum wages to the AWWs and AWHs.
>
> **68.** In this regard, we may borrow the perception of the Constitution Bench of the Apex Court in the decision rendered in the case of *Hindustan Times Ltd., New Delhi* v. *Workmen*, AIR 1963 SC 1332, wherein the Apex Court, while examining the issue of fixation and revision of wages under the Industrial Disputes Act, 1947, has held as under:
>
> > "***5.*** *The fixation of wage structure is among the most difficult tasks that industrial adjudication has to tackle. On the one hand not only the demands of social justice but also the claims of national economy require that attempts should be made to secure to workmen a fair share of the national income which they help to produce, on the other hand, care has to be taken that the attempt at a fair distribution does not tend to dry up the source of the national income itself. On the one hand, better living conditions for workmen that can only be possible by giving them a "living wage" will tend to increase the nation's wealth and income on the other hand, unreasonable inroads on the profits of the capitalists might have a tendency to drive capital away from fruitful employment and even to affect prejudicially capital formation itself. The rise in prices that often results from the rise of the workmen's wages may in its turn affect other members of the community and may even affect prejudicially the living conditions of the workmen themselves. The effect of such a rise in price on the Country's international trade cannot also be always ignored. Thus numerous complex factors, some of which are economic and some spring from social philosophy give rise to conflicting considerations that have to be borne in mind. Nor does the process of valuation of the numerous factors remain static.*
> >
> > ***6.*** *In trying to keep true to the two points of social philosophy and economic necessities which vie for consideration, industrial adjudication has set for itself certain standards in the matter of wage fixation. At the bottom of the ladder, there is the minimum basic wage which the employer*

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of any industrial labour must pay in order to be allowed to continue an industry. Above this is the fair wage, which may roughly be said to approximate to the need based minimum, in the sense of a wage which is "adequate to cover the normal needs of the average employee regarded as a human being in a civilised society." Above the fair wage is the "living wage" a wage "which will maintain the workman in the highest state of industrial efficiency, which will enable him to provide his family with all the material things which are needed for their health and physical well-being, enough to enable him to qualify to discharge his duties as a citizen." (Cited with approval by Mr. Justice Gajendragadkar in Standard Vacuum Company's Case *(1) from "The living Wage" by Philip Snowden)."*

69. Subsequently, in the case of *Workmen represented by Secretary* v. *Reptakos Brett. & Co. Ltd.*, (1992) 1 SCC 290, the Apex Court has reiterated as under:

"***12.*** *The concept of 'minimum wage' is no longer the same as it was in 1936. Even 1957 is way behind. A worker's wage is no longer a contract between an employer and an employee. It has the force of collective bargaining under the labour laws. Each category of the wage structure has to be tested at the anvil of social justice which is the live-fibre of our society today. Keeping in view the socioeconomic aspect of the wage structure, we are of the view that it is necessary to add the following additional component as a guide for fixing the minimum wage in the industry:*

> "*(vi) children's education, medical requirement minimum recreation including festivals/ceremonies and provision for old age marriages etc. should further constitute 25 per cent of the total minimum wage."*

13. *The wage structure which approximately answers the above six components is nothing more than a minimum wage at subsistence level. The employees are entitled to the minimum wage at all times and under all circumstances. An employer who cannot pay the minimum wage has no right to engage labour and no justification to run the industry".*

14 *A living wage has been promised to the workers under the Constitution. A 'socialist' framework to enable the working people a decent standard of life, has further been promised by the 42nd Amendment. The workers are hopefully looking forward to achieve the said ideal. The promises are pilling-up but the day of fulfilment is nowhere in sight. Industrial wage-looking as a whole - has not yet risen higher than the level of minimum wage."*

70. Albeit, we have addressed the financial implications of "regularization"-absorption" of AWWs and AWHs on Class-III and Class-IV posts however,

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concurrently, we cannot be seen as intransigent for enhancement of wages. Indubitably, the AWWs and AWHs are being paid a meager amount of Rs. 10,000/- and Rs. 5,500/- respectively. Though, the foregoing decisions of the Apex Court relate to the fixation of wages of workmen/labourers governed by the Labour Laws, the observations made by the Apex Court relating to the socio-economic factors, while fixing the wages, cannot be ignored and will apply to the working conditions, responsibilities and the onerous duties of the AWWs and AWHs, more particularly on their inclusion under the umbrella of the Payment of Gratuity Act, 1972. The Constitution Bench of the Apex Court almost 60 years back has emphasized the living conditions of workmen, rise in prices and various complex factors, some of which are economic and some spring from social philosophy give rise to conflicting considerations that have to be borne in mind. The Apex court has categorized, 'minimum basic wage', 'fair wage' and 'living wage'. The 'minimum basic wage' is paid in order to be allowed to continue an industry. Thereafter, above that is the 'fair wage', which may roughly be said to approximate to the need based minimum, in the sense of a wage which is "adequate to cover the normal needs of the average employee regarded as a human being in a civilized society." Above the fair wage is the "living wage" a wage "which will maintain the workman in the highest state of industrial efficiency, which will enable him to provide his family with all the material things which are needed for their health and physical well-being, enough to enable him to qualify to discharge his duties as a citizen. Subsequently, in the case of *Reptakos Brett. & Co. Ltd.* (supra), the Apex Court has asserted the socio-economic facet of the wage structure. The Apex Court held that while fixing the minimum wage, the industry has to add the component of children's education, medical requirement minimum recreation, including festivals/ceremonies and provision for old age marriages etc. It further held that a wage structure, which approximately answers the above six components, is nothing more than a minimum wage at subsistence level, and the employees are entitled to the minimum wage at all times and under all circumstances. The Apex Court has also cautioned that an employer, who cannot pay the minimum wage, has no right to engage labour and no justification to run the industry.

71. In the decision of *Maniben* (supra), the Apex Court has held that "*Thus, the honorarium paid to AWWs and AWHs will also be covered by the definition of "wages". As AWWs and AWHs are employed by the State government for wages in the establishment to which the 1972 Act "applies", the AWWs and AWHs are employee within the meaning of 1972 Act. In view of the said Rules of the Gujarat Government, the Aanganwadi Centers are not under the control of the Central Government. Therefore, the State Government will be an appropriate Government within the meaning of clause(a) of Section 2 of the 1972 Act.*"

72. Thus, considering the nature of duties and the mode of appointment, in our considered opinion, the AWWs and AWHs are entitled to at least "Living wage" above the 'Minimum' and 'Fair wage' so that it may supply the need of

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their families with all the material things, which are needed for their health and physical well-being, enough to enable them to qualify to discharge their duties as a citizens. The meager amount of Rs. 10,000/- and Rs. 5,500/- to the AWWs and AWHs impinges their arduous obligations. The irony is that the AWWs and AWHs, who fulfill the needs of pregnant and lactating mothers, health and education of minors, are deprived of living a life with dignity and respect for want of apposite remuneration. Hence, the denial of "Living Wage" to the AWWs and AWHs is violative of fundamental rights enshrined under Article 21 of the Constitution of India.

33) The Allahabad High Court in ***Gobinddas & Anr. Vs. State of UP***[5] has dealt with the issue of payment of minimum wages to *Safaikarmis* engaged for sweeping activities in police stations who were being paid a fixed honorarium of Rs. 1200/- per month.

22. Accepting the respondents' case that the petitioners are part-timers, they are clearly entitled to receive minimum wages, fixed and revised from time to time under the Act of 1948, and not in accordance with the Government Order dated 09.03.2019. The Government Order dated 09.03.2019 is an executive order of the Government, revising wages for part-time sweepers, employed in police stations, chowkis, from Rs.600/- per month to Rs.1200/-. It has to give way to the minimum wages fixed by a notification issued by the State Government under the Act of 1948, in case of a scheduled employment. The rates fixed by the notification under the Act of 1948 is statutory in character and would, therefore, prevail over the Government Order dated 09.03.2019, a purely executive order.

23. A similar question arose in case of part-time sweepers, employed in the establishment of the Regional Ayurvedic/ Unani Officers, Behraich in Amarjeet Yadav v. State of U.P. and others, 2022 (4) ADJ 540 (LB). In Amarjeet Yadav (supra), it was held:

"8. From the above it becomes abundantly clear that since sweeping as an employment finds mention under the list of scheduled employment, therefore, the
employment of the petitioner engaged by respondent No. 3 as a sweeper falls under the purview of Scheduled Employment.

9. Next issue is whether the respondents as an employer are exempted from the application of the Act of 1948. Section 2(e)

[5] Writ A 10655 of 2024 decided on 15 November 2025

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> when read with Section 26 of the Act of 1948 makes it clear that unless there is an express exemption by the appropriate Government, employers of the scheduled employment will always be under the purview of this Act. Section 2(e) (ii) reads :
>
> xxxx
>
> 11. The Learned Standing Counsel has failed to place on record any notification issued under Section 26 of the Act of 1948 exempting the respondent department from the application of the Act of 1948. In view thereof, petitioner is entitled for the minimum wages under the Minimum Wages Act, 1948.
>
> 12. Therefore, respondent No. 3 Regional Ayurvedic/Unani Officer, Bahraich is directed to pay minimum wages to the petitioner as notified under the Minimum Wages Act, 1948 with regard to part-time sweepers within a period of two months from the
> date a certified copy of this order is placed before him."

> 24. In the overall conspectus of facts while holding that the petitioners are part-time wagers and working as such in the Police Stations Madanpur and Barrar Narahat, District Lalitpur, it is also held that they are entitled to be remunerated according to the minimum wages notified from time to time under the Act of 1948 and not in accordance with Government Order dated 09.03.2019.

34) A Reference can also be made to judgment delivered by this Court in ***Municipal Corporation of Greater Mumbai vs. Mumbai Mahanagarpalika Karyalayeen Karmachari Sanghatana***[6], wherein this Court has upheld the order passed by the Industrial Court holding that Welfare Centre Volunteers are eligible to appear for examination for appointment as Clerks. In that case, two Welfare Center Volunteers were already appointed as Clerks by the Municipal Corporation after they clearing the examination. The remaining 5 Welfare Center Volunteers could not be appointed as Clerks as they were not allowed to appear in

[6] Writ Petition No.13695 of 2016 decided on 14 July 2026

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the selection. This Court has therefore granted them compensation. The relevant portion of the judgment reads thus:

> 18) So far as the 5 volunteers, whose names appear at serial nos.3 to 7 in the complaint are concerned, the Industrial Court directed the Petitioner to permit them to appear in the examination for promotion to the post of Clerk, whenever conducted. The said direction is issued on the ground that the Municipal Corporation relaxed the criteria of 4 hours per day and 8 years of service to 3 hours per day and 9 years of service. However, there is no direct document on record to draw such presumption. The requirement of 4 hours duty is indicated in the Rules of 1979, which are applied in every Circular. Even in 2011, when selection was held, the prescribed eligibility criteria for part-time workers was 4 hours duty every day. The Industrial Court further referred to the decision taken in the meeting for relaxation of the said criteria. This is clear from the following observations in the impugned order of the Industrial Court:
>
> xxx
>
> 19) It appears that the Industrial Court also took note of Written Statement filed in Reference (IT) No.34 of 1999 for recording a finding that volunteers working in welfare centers, who put in 9 years of service were eligible for being considered as Clerk provided they had put in 3 hours per day. In addition to Written Statement, it appears that evidence was led by Petitioner's witness in the said Reference recognizing the right of volunteers of welfare centers putting in 3 hours of service for 9 years. This is clear from the following findings of the Industrial Court :
>
> xxx
>
> 20) Thus, there appears to be pleading as well as evidence on behalf of the Petitioner in Reference (IT) No. 34 of 1999 about providing opportunity to welfare center volunteers putting in 3 hours of service for 9 years for promotion to the post of Clerk. In that view of the matter, though the Rule does not appear to be specifically amended, there appears to be a policy decision adopted as well as practice followed for permitting part-time workers with 3 hours of duty and 9 years of service to participate in selection for promotion to the post of Clerk. Therefore, the Industrial Court cannot be seriously faulted in directing Petitioner to provide opportunity to the 5 volunteers to participate in examination for promotion to the post of Clerk as and when conducted.
>
> 26) I have not found any infirmity in the view taken by the Industrial Court that the Municipal Corporation had relaxed the condition and had promised to consider welfare center volunteers with 3 hours duties and 9 years' service for appointment on the post of Clerk. By making that representation, Reference (IT) No. 34 of 1999 was defeated by the Municipal Corporation. Thus, denial of

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> opportunity to the 5 volunteers in the 2011 selection appears to be improper. No relief can be granted to them on account of they not securing opportunity to compete in the selection process. All of them have crossed the age of retirement. In my view therefore, it would be appropriate to award lump sum compensation to those 5 volunteers who have missed the bus of becoming regular Clerks on par with their two cohorts. Considering the facts of the case, it would be appropriate to award compensation of Rs.2,00,000/- to each of those volunteers. This arrangement is being done considering the peculiar facts and circumstances of the case, which shall not be treated as precedent in any other case.

35) This Court is not referring to the judgment in ***MCGM vs. Mumbai Mahanagarpalika Karyalayeen Karmachari Sanghatana*** (supra) for holding that Respondents are direct employees of the Municipal Corporation. Even if they are not treated as direct employees for purposes such as regularization, appointments as Clerks, etc, still the benefit of minimum wages cannot be denied to them in view of the above discussions.

36) The Respondents have relied on some of the orders passed by the Industrial Court during pendency of the Petition to buttress their contention that CHVs are otherwise held to be employees of Municipal Corporation. It appears that in Complaint (ULP) No.24 of 2016 filed by the Mumbai Mahanagarpalika Karmachari Mahasangh, directions are issued by the Industrial Court for appointment of committees as per agreement dated 19 September 2011 for resolving demands such as minimum wages for contract labourers, labourers under the Dattak Vasti Scheme, and community organisers under the Nehru Rojgar Yojana. However, it would not be appropriate for this Court to refer to the orders passed by the Industrial Court in unrelated cases for the purpose of assuming existence of employer-employee relationship in the present

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case. The present case relates to a very basic demand of payment of dignified wages to CHVs without involving any other element such as regularisation, promotion etc.

37) Conspectus of the above discussion is that CHVs are utilized by the Municipal Corporation for carrying out vital activities of spreading heath awareness amongst the community. Their engagements are not casual for satisfying a temporary need of the Municipal Corporation. The program on which they are engaged has continued for 38 long years. Though branded as volunteers, CHVs almost work as workers of the Municipal Corporation. They do not merely 'volunteer' in real sense but actually discharge vital duties for the Municipal Corporation for reward. They have worked for the Municipal Corporation for the last over 38 long years. Many of them have crossed age of retirement. They are not being absorbed in municipal service. They do not receive other service benefits like increments, promotions, leave wages etc. They would also not receive pension. They do not have any right to remain as CHVs and they can be discontinued when need for their services ceases. However, so long as they are utilized, they must be paid wages prescribed under the Notification issued under the Minimum Wages Act. Therefore, for the limited purpose of payment of dignified wages, they will have to be treated as 'employees'.

38) I am therefore of the view that denial of minimum wages to CHVs is clearly against the legislative objective of the Minimum Wages Act. The Industrial Tribunal has rightly upheld entitlement of CHVs to minimum wages. No doubt, award of minimum wages to CHVs may put

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some financial burden on the Municipal Corporation. However, financial burden alone cannot be a reason for denying dignified and living wages to CHVs who now form part of mainstream activities of the Municipal Corporation. Mere grant of minimum wages to CHVs does not make them entitled to any other benefits. By mere reason of grant of minimum wages, they cannot claim absorption/permanency in municipal service. In my view therefore, except some financial burden, grant of minimum wages to CHVs does not prejudice the Municipal Corporation in any manner. They will be entitled to draw minimum rates of wages corresponding to the number of hours of duty performed by them. I am therefore not inclined to interfere in the order passed by the Industrial Tribunal.

39) The Writ Petitions are devoid of merits. They are accordingly dismissed without any order as to costs.

[SANDEEP V. MARNE , J.]

40) After the judgment is pronounced, the learned counsel appearing for Municipal Corporation seeks stay of the judgment for a period of six weeks. It is however seen that there has been no stay on implementation of the judgment and order dated 7 September 2020 during pendency of the present Petitions. In that view, prayer for stay is rejected.

[SANDEEP V. MARNE , J.]

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