Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 76 OF 2026
IN
WRIT PETITION NO. 8783 OF 2024

SHABNOOR AYUB PATHAN

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1. Pravin Shantaram Ghag
2. Mahesh Shantaram Ghag
3. Rakesh Vitthal Jadhav
4. Ashok Harishchandra Dabhade
5. Nilesh Ramchandra Haryan
6. Rajesh Ramchandra Haryan
7. Santosh Shriram Shelar
8. Haresh Shriram Shelar
9. Priyanka Prabhakar Ghag
10. Santosh Yashwant Salvi
11. Vasant Babu Varose
12. Santosh Ramchandra Tambe
13. Nilesh Dattaram Patkare
14. Sandesh Shantaram Salvi
15. Arvind Babu Varose
16. Anil Ramnath Gound
17. Deepak Shyamu Kharat
18. Deepak Ganpat Sawant
19. Ajay Janardan Ahire
20. Arun Waman Thosar
21. Chandanshive Prashant Bhimrao
22. Pol Roshidas Keru
23. Khan Amjad Mehmood

24. Solanki Vijay Chhaganlal
25. Waman Shivram Pawar
26. Santosh Shivram Pawar
27. Jangale Sanjay Zilu ... Petitioners

Vs.

1. The Commissioner, Municipal Corporation of Greater Mumbai, CST Station, Fort, Mumbai 400 001
2. Ujwala Deshpande, Legal Officer, Legal Branch, Municipal Corporation of Greater Mumbai, Oppo. CST Station, Mumbai 400 001
3. Smt. Jogi, Education Officer, Education Department, Municipal Corporation of Greater Mumbai, Dadar Hindu Colony, Lakhamshi Nappu Marg, Dadar (East), Mumbai 400 014 ... Respondents

Mr. S. C. Naidu a/w Manoj Gujar, Divya Yajurvedi, Pradeep Kumar i/b C. R. Naidu & Co., for the Petitioners.

Mr. Santosh Parad, for Respondent – BMC.

CORAM : AMIT BORKAR, J.

RESERVED ON : JUNE 16, 2026

PRONOUNCED ON : JUNE 17, 2026

JUDGMENT:

1. I have gone through the review application filed by the respondent workers, reasons, and conclusions already recorded in the main judgment.

2. Before looking to the argument based on Clause 4 of Circular dated 27 November 2002, one thing is required to be kept in mind. Review jurisdiction is limited in nature. Review is not same as appeal. In review, Court does not again sit and hear whole dispute from start as if earlier judgment was never passed. Purpose of review is confined. Interference can be made only when some mistake is seen from record, or when some important material already on record and having bearing on outcome remained not considered. Merely because another interpretation may be possible, or another view may be taken, that's not sufficient ground for review.

3. Law regarding review proceeds on basis that litigation must stop at some point of time. If every unsuccessful party is allowed to reopen dispute by bringing fresh argument or by giving different reading to same material, then proceedings will never attain finality. Therefore, while exercising review powers, Court is concerned with seeing whether there exists some apparent error apparent on the face of record in judgment. Court is not expected to again appreciate evidence from beginning or revisit findings merely because one party feels another conclusion was also possible. Keeping this position in mind, contention raised by review applicants based upon Clause 4 of Circular dated 27 November 2002 is required to be considered.

4. Main submission of workmen is based upon Clause 4 of policy decision dated 27 November 2002. According to them, said clause creates continuing protection in favour of khada badli, casual and temporary workers. Their case is that clause provides

that workers who do not exercise option within prescribed time under scheme would still continue on same post, though they may not get benefits available under scheme. On strength of this clause, it is argued that even if respondents are held not entitled for regularisation or other benefits under scheme, still they possess right to continue on posts where they were earlier engaged. Respondents have argued that policy decision taken in October 2008 nowhere removed Clause 4. According to them, since there is no provision taking away Clause 4, protection under that clause continues even thereafter. It is therefore contended that this aspect was not noticed while deciding main matter and such non consideration itself gives rise to ground for review.

5. At first look, submission may appear to carry some force because Clause 4 does contain words relating to continuation of certain workers. However, after examining record, I am unable to accept said contention. First difficulty faced by respondents is that Clause 4 was never projected before Tribunal as foundation of their claim in manner in which it is now sought to be projected.

6. Careful reading of statement of claim, additional statement of claim, evidence before Tribunal and arguments advanced therein does not show that Clause 4 was pleaded as source of right for continuance. Throughout, respondents based their case mainly on regularisation, absorption, implementation of scheme, parity with other workers and alleged discrimination. Present argument stands on different footing. Therefore, Corporation is justified in saying that respondents are now placing reliance on provision which was not made centre point of original claim.

7. This aspect becomes important because Court decides issues arising from pleadings and evidence. If point is not properly pleaded, ordinarily no issue is framed on that point. If there is no issue, parties do not lead evidence specifically directed towards that controversy. Consequently, no finding comes to be recorded. In present matter, there is no specific finding by Tribunal regarding interpretation or effect of Clause 4. This absence is because Clause 4 was never placed before it in manner now sought to be argued. Therefore, respondents cannot use review proceedings for creating fresh foundation after original dispute stands decided.

8. Review jurisdiction cannot be converted into forum for rebuilding whole case. Party cannot proceed on one line of argument during original proceedings and, after losing, search for another provision and seek reopening of matter on that basis. Such exercise goes beyond limits of review. In substance, respondents are seeking fresh adjudication based upon contention which was not basis of their original claim. Such course cannot be permitted.

9. There is another aspect also which assumes importance. Clause 4 cannot be read separately by cutting it away from remaining parts of scheme and from policy developments. Policy document must be read as whole. One clause cannot be picked up and interpreted independently without seeing overall scheme in which it operates. Scheme of 2002 was framed for dealing with daily rated workers who were then in service and who fulfilled conditions prescribed under scheme. Different categories of workers were contemplated and different conditions were laid down regarding absorption and regularisation.

10. Record further shows that thereafter policy decision came to be taken in October 2008. This decision was taken after considering law laid down in *State of Karnataka v. Umadevi (3), (2006) 4 SCC 1*. Object of that decision was to bring Corporation policy in line with constitutional requirements relating to public employment. Decision dealt with regularisation and made clear that workers who had not fulfilled prescribed conditions, including required service, would not be granted permanency. It is also significant that respondents never challenged validity of said 2008 decision. Decision remained operative and continued to govern field. Once such decision has been taken by competent authority and remains unchallenged, its effect cannot be ignored while interpreting earlier circular. Respondents seek to read Clause 4 as if it continues independently and remains untouched by all later developments. In my view, such reading is not possible.

11. Argument of respondents is that Clause 4 was not expressly deleted. However, issue is not merely whether there was express deletion. Real question is whether any enforceable right survives after later policy came into existence. Merely because a clause continues to remain in earlier document does not mean that it creates surviving legal right in all situations irrespective of later policy decisions. Policies are required to be read harmoniously. Later decision taken by competent authority, particularly one based upon binding law declared by Supreme Court, cannot be rendered ineffective by isolating one clause from earlier circular.

12. In my opinion, respondents are trying to derive from Clause 4 a much wider right than what clause itself appears to provide.

Clause may indicate continuation of certain arrangement in some circumstances. But it does not create everlasting right of employment. It does not grant permanency. It does not guarantee indefinite continuation. It nowhere says that future policy decisions shall not apply. Therefore, even on its own language, clause does not support interpretation now sought to be placed upon it.

13. If interpretation suggested by respondents is accepted, every temporary arrangement under earlier circular would become source of permanent rights. Such consequence would not be consistent with nature of temporary engagement. Respondents were casual, temporary or khada badli workers. Their engagement was not against regular appointments made through regular recruitment process. Therefore, existence of clause referring to continuation in limited context cannot be elevated into permanent right overriding all subsequent policy decisions.

14. I also find considerable force in submission advanced by Corporation that review applicants are, in effect, attempting to improve their case after failure in main proceedings. Review is not meant for that purpose. Jurisdiction exists for correction of mistakes and omissions. It is not intended to provide fresh route for obtaining same relief which already stands refused. In present case, no apparent error on face of record has been demonstrated. What is sought is fresh interpretation of Clause 4 and fresh adjudication based upon that interpretation. Such exercise falls outside scope of review.

15. There is one more circumstance which also cannot be ignored. Even if Clause 4 is examined separately, language used therein falls much short of creating unconditional right of endless continuation. At highest, it appears to deal with arrangement concerning workers who did not exercise their option within prescribed period. It does not confer any vested right capable of surviving irrespective of later policy decisions. Therefore, even on plain reading, clause does not support broad claim now sought to be advanced by respondents.

16. When Clause 4 is read together with scheme, policy decision of 2008, law declared in *Umadevi* and factual position on record, no relief can be granted in review application. Respondents have failed to point out any mistake apparent on face of record.

17. According to review petitioners, although the point was raised before the Court, there is no separate and express discussion upon the said contention in the judgment under review. Merely because some argument raised by one party is not discussed separately under different heading, that by itself does not mean that Court has not considered that argument at all. Judgment is required to decide dispute and issues arising in matter. It is not necessary that every argument, every sentence in written submissions, or every point stated during oral hearing must get detailed answer in judgment. If reasons recorded in judgment substantially deal with issue and conclusion reached by Court goes against that argument, then it cannot be said that point remained undecided.

18. In present case, even if it is assumed that contention based on Clause 4 was argued during oral hearing and was also mentioned in written submissions, still question remains whether absence of separate discussion on that contention amounts to an error apparent on face of record. In my view, it does not. Judgment under review proceeded on basis that respondents failed to establish any enforceable right of continuance, regularisation or absorption under Scheme of 2002. Court also considered effect of later policy decision of 2008 and legal principles flowing from decision in *Umadevi*. Once those findings were reached, contention based on Clause 4 stood answered by necessary implicatio.

19. It is required to be remembered that review jurisdiction does not arise merely because one party feels that one of its submissions should have received more elaborate discussion. Real test is whether non discussion of that argument has resulted in some apparent error affecting final conclusion of judgment. Unless omitted point is of such nature that, if considered, it would have changed result of case, review cannot be granted. Mere absence of separate reasoning on every submission is not enough to invoke review jurisdiction.

20. For all these reasons, I am unable to hold that respondents have established any ground warranting exercise of review jurisdiction. Accordingly, I hold that contention founded upon Clause 4 of Circular dated 27 November 2002 is without substance. Review applicants have failed to make out any case for interference with judgment.

21. Review applications therefore deserve rejection and are accordingly dismissed.

(AMIT BORKAR, J.)