

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 254 of 2020 (S.B.)**

- 1) Pradip Narayanrao Bhelande,  
aged- Adult Occupation : Retired  
R/O Anandvihar Layout,  
near Malu Scool, Dasturnagar Road,  
Amravati Tq. & Dist. Amravati.
- 2) Subhash Mahadevrao Banubakde,  
aged- Adult Occupation: Retired  
R/O "Chintamani Niwas" 2,  
Vindhwasini Colony, near Gunwant Lawn,  
M.I.D.C. Road, Amravati Tq. & Dist. Amravati.
- 3) Manohar Mahadevsa Banubakde  
aged- Adult Occupation: Retired  
R/O "Sanket Colony, near Viddhut Nagar  
V.M.V.Road, Amravati Tq. & Dist.Amravati.
- 4) Manik Sapantrao Pakade  
aged- Adult Occupation: Retired  
R/O Abhiyanta Colony near Ganesh Nagar,  
Amravati 444607 - Tq. & Dist. Amravati.
- 5) Maroti Ganpatrao Kalaskar,  
aged- Adult Occupation: Retired  
R/O 19, Yogakshem Colony,  
near Eknathpuram Society, Amravati.
- 6) Ashok Ganpatrao Ughade,  
aged- Adult Occupation: Retired  
R/O 4, Puja Colony, Farshi stop  
Chhatri Talav Road, Amravati 444606.
- 7) Vasant Tukaramji Deshmukh,  
aged- Adult Occupation: Retired  
R/O 7, Tribhuvan Colony near Kaloti Nagar, Amravati -444606.
- 8) Mahadev Sapantrao Pakade  
aged- Adult Occupation: Retired R/O Abhiyanta Colony near Ganesh  
Nagar Amravati - 444607 Tq. & Dist. Amravati.

**Applicants.**

**Versus**

- 1) The State of Maharashtra  
through its Secretary Water Resources Department,  
Mantralaya, Mumbai - 400 032.
- 2) The Chief Engineering  
Water Resources Department,  
Shivaji Nagar, Amravati Tq. & Dist. Amravati.
- 3) The Superintending Engineer  
Upper Wardha Project, Irrigation Circle,  
Shivaji Nagar, Amravati Tq. & Dist. Amravati.

**Respondents.**

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**Shri V.A. Kothale, Advocate for the applicants.**

**Shri A.M. Khadatkhar, learned P.O. for respondent nos.1&2.**

**Shri T.M. Zaheer, Advocate for respondent no.3.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 19/06/2023.**

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**JUDGMENT**

Heard Shri V.A. Kothale, learned counsel for the applicants, Shri A.M. Khadatkhar, learned P.O. for respondent nos.1 and 2 and Shri T.M. Zaheer, learned counsel for respondent no.3.

2. Shri T.M. Zaheer, learned counsel for respondent no.3 has filed the copy of the G.R. dated 18/10/2022 along with pursis. It is marked Exh-X.

3. The case of the applicants in short is as under –

The applicants were appointed before the year 1981 on the post of Junior Engineer in the Irrigation Department. On 16/04/1984, the pay scale of diploma holder Civil Junior Engineers was upgraded by designating them as a Sectional Engineer, Grade-II and was given upgraded pay scale of Rs.600-30-750-40-950 w.e.f. 01/04/1981. The Irrigation Department realizing up-gradation of pay scale by mentioning gazetted status withdrawn the word Grade-II and designated as Sectional Engineer from 18/07/1984. Upgradation of Sectional Engineer was made subject to seeking concurrence from MPSC. Sectional Engineer grade-II is converted as a Sectional Engineer by way of office order of respondent no.2, dated 24/03/1995. Senior scale on completion of 12 years from the next promotional cadre was decided to be given w.e.f. 01/10/1994 as per the G.R. dated 08/06/1995. It is the case of the applicants that the upgradation on the post of Sectional Engineer is not a promotion and therefore they are claiming the benefit of first time bound promotion from the date of initial appointment and thereafter 2<sup>nd</sup> time bound promotion as per the G.Rs. dated 08/06/1995 and 20/07/2001.

4. The O.A. is strongly objected by the respondent nos.2 and 3 on the ground that the post of applicants were upgraded and therefore they cannot claim the promotional benefits as per the G.R. dated 08/06/1995 from the date of their initial appointments. The

applicants were given the benefit of upgradation in the year 1984 and it was made applicable w.e.f. 01/04/1981.

5. During the course of submission, the learned counsel for the applicant Shri V.A. Kothale has pointed the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No. 2330/2021 with connected WPs., decided on 19/09/2022. The learned counsel for the applicants has also pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.884/2022, decided on 22/08/2022.

6. Shri T.M. Zaheer, learned counsel for respondent no.3 has pointed the Judgment of the Hon'ble Supreme Court in the case of **Lalit Mohan Sharma Vs. S. Verma** in Spl. Leave Petition (C) No.1485/1992, dated 29/04/1992. He has pointed out the G.R. 18/10/2022. As per his submission, the post of Junior Engineer was upgraded as a Sectional Engineer and therefore the applicants are not entitled to get time bound promotion after completion of 12 years of service as per the G.R. dated 08/06/1995.

7. There is no dispute about the appointment of applicants. Their dates of appointment appear to be in the year 1981 and one of the applicant was appointed in the year 1987. They were granted 1<sup>st</sup> time bound promotion in the year 2001. As per the contentions of the applicants, they were entitled to get first time bound promotion after

completion of 12 years of service from the date of their first appointment on the post of Junior Engineer, i.e., from the year 1981 and 1987. The Judgment pointed out by the learned counsel for respondent no.3 is on different footing. It was a case of termination. The learned counsel for respondent no.3 has submitted that there is inordinate delay for filing the present O.A. In support of his submission pointed out the para-8 of the Judgment of the Hon'ble Supreme Court in the case of **Lalit Mohan Sharma Vs. S. Verma** (*cited supra*). The Hon'ble Supreme Court has held that "there is another aspect of the matter. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner -----".

8. The cited decision was in respect of termination of service. In the present matter, the claim of applicants is in respect of financial benefits, i.e., time bound promotion as per the G.R. of 1995. It is a continuous cause of action and therefore period of limitation will not apply. Moreover, no such objection was raised before the admission of this O.A. Hence, the cited decision is not applicable.

9. The Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No. 2330/2021 with connected W.Ps. has held in para nos.8,9 and 10 as under –

*" (8) We find that all the objections raised by Mr. Wasmatkar, are completely misplaced. He has unnecessarily mixed up the issue*

*involved in the present case with that of MACP Scheme. The petitioners have not demanded the benefit of MACP Scheme in the present petition nor are we called upon to decide the issue of applicability or otherwise of MACP Scheme to the Respondent organisation. We proceed on an admitted position that ACP Scheme has been applied in Respondent organisation and would limit the issue of entitlement of the Petitioners for financial upgradation only under ACP Scheme. All that the petitioners demand is to ignore the upgradation granted to the post of Sectional Engineer for the purpose of grant of financial upgradation under the ACPS. Therefore, the difficulties expressed by Mr. Wasmatkar, about the implementation of the MACP Scheme are totally irrelevant.*

*(9) So far as, the objection of Mr. Wasmatkar, about the exact pay scales to be extended to the petitioners, we do not express any opinion in that regard. It is for respondent Nos. 2 and 3 to examine each case on merits and determine as to whether, the respective petitioner is eligible for grant of financial upgradation under the ACPS or not and if found so eligible, what exact pay scale is to be granted to him/her by way of financial upgradation under ACPS. We express no opinion about the same.*

*(10) Consequently, Writ Petitions are allowed by directing respondents not to take into consideration the upgradation granted on the post of Sectional Engineer while considering the entitlement of the petitioners for grant of financial upgradation under the ACPS. In case the petitioners are found eligible for grant of such financial upgradation, the consequential benefits be extended to them within a period of four months from today. The Writ Petitions are allowed to the above extent.”*

10. The Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.884/2022, decided on 22/08/2022 in the case of the State

**of Maharashtra and another Vs. Pundlik Dadaji Pipare** has held that “higher pay scale of Junior Engineer before he completes 12 years of continuous service as a Civil Engineer Assistant and the benefit given under ACPS to the respondent was from 01/10/2006, i.e., before completing 12 years of service. Therefore, the order of the Maharashtra Administrative Tribunal was quashed and set aside. In para-24 of the Judgment, the Hon’ble Bombay High Court, Bench at Nagpur has held that “the non functional upgradation to the post of Sectional Engineer is not the promotion.”

11. In the present matter, the applicants were upgraded from the post of Junior Engineer to the post of Sectional Engineer. Therefore, in view of the Judgment of Hon’ble Bombay High Court, Bench at Aurangabad, they are entitled to get financial upgradation under the ACPS.

12. Shri T.M. Zaheer, learned counsel for respondent no.3 has pointed out the G.R. 18/10/2022. From the perusal of the G.R., it is clear that Civil Engineer Assistants are entitled to get benefit of first ACPS after completion of 12 years of service. The applicants are claiming the same relief. They are claiming that 12 years of service shall be counted from the date of their initial appointments as a Junior Engineer. Therefore, the applicants are entitled to get relief. Hence, in view of the Judgement of the Hon’ble Bombay High

Court, Bench at Aurangabad in Writ Petition No. 2330/2021 with connected W.Ps., decided on 19/09/2022, the following order is passed –

**ORDER**

i) The O.A is allowed.

ii) The respondents are directed not to take into consideration the upgradation granted on the post of Sectional Engineer while considering the entitlement of the applicants for grant of financial upgradation under the ACPS. In case the applicants are found eligible for grant of such financial upgradation, the consequential benefits be extended to them within a period of four months from the date receipt of this order.

iii) No order as to costs.

**Dated** :- 19/06/2023.

dnk.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**



I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 19/06/2023.