

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 398 OF 2021

DISTRICT:- AHMEDNAGAR

Vasant Ramchandra Medhe,
Age : 64 years, Occu: Pensioner,
R/o: Savidhan Bangla, Plot No.9,
Abhiyanta Colony, Near Tawale
Nagar, Nagar-Aurangabad Road,
Ahmednagar,
Dist. Ahmednagar 414 003

.. **APPLICANT**

V E R S U S

- 1) The State of Maharashtra
(Through its Principal Secretary)
Water Resources Department,
Main Building, 3rd Floor,
Madam Kama Road, Hutatma
Rajguru Chowk, Nariman Point,
Mantraya, Mumbai – 400 032.
- 2) The Chief Engineer,
Water Resources Department,
North Maharashtra Region,
Sinchan Bhavan, Traymbak Road,
Nashik, Dist. Nashik 422 02.
- 3) The District Collector (EGS),
G.P. Road, Hatampura,
Ahmednagar,
Dist. Ahmednagar 414 001.

.. **RESPONDENTS**

APPEARANCE : Shri V.B. Wagh, learned counsel for the
applicant.
: Shri M.P. Gude, learned Presenting
Officer for the respondent authorities.
: Shri S.D. Dhongde, learned counsel for
respondent No. 2.

CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN

DATE : 30.01.2023

ORAL ORDER

Heard Shri V.B. Wagh, learned counsel for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent authorities and Shri S.D. Dhongde, learned counsel for respondent No. 3.

2. The only grievance of the applicant in the present Original Application is that though the benefit of first ACPS was liable to be granted in his favour w.e.f. 28.4.2010, the same was granted to him w.e.f. 1.8.2013. The applicant has, therefore, prayed for direction against the respondents to extend the benefit of first ACPS w.e.f. 28.4.2010 and the consequential benefits.

3. The contentions raised in the application and the prayers made therein are opposed by the respondents on the ground that the ACPS of the relevant period pertaining to the applicant was not liable to release since the departmental enquiry was required to be initiated against the applicant on the allegation of misappropriation, which was of the same period i.e. of the year 2003 onwards.

4. It is undisputed that the applicant entered into the Government service on 13.8.1979 as the Junior Engineer. On 1.4.1986 he was designated as Sectional Engineer. On 29.4.1998 the applicant was promoted as Sub Divisional Engineer and thereafter

was not granted any further promotion. The applicant retired from the Government service on 31st May, 2015 on attaining the age of superannuation.

5. Learned counsel for the applicant submitted that the benefit of first ACPS was liable to be extended in favour of the applicant w.e.f. 28.1.2010 i.e. after completion of 12 years of service after having promoted to the post of Sub-Divisional Engineer. It is further contended that the reasons which are assigned for not granting the benefit from the said date but from some later date are unsustainable.

6. Shri S.D. Dhongde, learned counsel appearing for respondent No. 2 sought to contend that the misconduct alleged has been proved in the Departmental Enquiry and the applicant was imposed with some punishment also. Learned counsel further submitted that amount of misappropriation which was determined of the share of applicant has also been deposited by the applicant with the State. Learned counsel further submitted that for holding the applicant eligible for first ACPS his Annual Confidential Reports of the relevant period were required and since they could not become available the applicant has not been given the said benefit.

7. After having heard learned counsel appearing for the applicant and learned Presenting Officer appearing for the State authorities and after having gone through the documents filed on record it appears to

me that the reasons which are put-forth cannot be the valid reasons for depriving the applicant from the benefit of first ACPS after he completed the period of 12 years of his service and was not given any further promotion in the said period. The departmental enquiry was admittedly initiated in the year 2014, more particularly on 11.4.2014. As such, initiation of departmental enquiry also cannot be a ground for not extending the said benefit from the due date. The respondents have not stated any such reason on basis of which it could have been said that the applicant was not entitled for the first ACPS from the date as has been quoted by him. On the contrary, from the record it is quite evident that the applicant completed 12 years of service on 28.4.2010 and the applicant was thus, entitled for the benefit of first ACPS from the said date. In the circumstances, the Original Application deserves to be allowed. Hence, the following order: -

ORDER

- (i) The Original Application is allowed.
- (ii) The applicant is held entitled for the benefit of first ACPS from 28.4.2010.
- (iii) The respondents shall grant the said benefit accordingly and remitted all consequential benefits arising out of the said benefit from the said date within a period of 12 weeks from the date of this order.

VICE CHAIRMAN