

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 681 of 2015 (DB)

- 1) Ruprao Ganpatrao Anjankar,
Aged about 57 years, Occ. Service,
R/o Kathane Layout, Nagpur Road, Wardha.
- 2) Rajesh Ramchandra Kidile,
Aged about 51 years, Occ. Service,
R/o 171, Kelkarwadi, Wardha.
- 3) Vinod Narayanrao Kanode,
Aged about 53 years, Occ. Service,
R/o Behind Jayant Talkies,
Ekori Ward, Chandrapur.
- 4) Dhananjay Gajananrao Kohade,
Aged about 53 years, Occ. Service,
R/o Warora, Distt. Chandrapur.
- 5) Deepak Subhashchandra Panwelkar,
Aged about 54 years, Occ. Service,
R/o M-5, Utkarsh Complex, Ring Road,
Kotwal Nagar, Nagpur.
- 6) Hira Chindhbaji Dhakate,
Aged about 54 years, Occ. Service,
R/o Jaiswal Colony, Sindewahi,
Chandrapur.
- 7) Kishor Pandharinath Sawane,
Aged about 55 years, Occ. Service,
R/o 76, Upganlawar Layout, Tukum,
Chandrapur.
- 8) Chetan Shrawan Undirwade,
Aged about 57 years, Occ. Service,
R/o Aakar Apartment, J.B. Nagar,
Chandrapur.

- 9) Ravindra Wamanrao Patil,
Aged about 54 years, Occ. Service,
R/o Duplex No.16, Biyani Nagar,
Tukum, Chandrapur.
- 10) Mohammad Abrar Inamdar,
Aged about 55 years, Occ. Service,
R/o A2, Poonam Plaza, Arvind Nagar,
Chandrapur.
- 11) Santosh Bapurao Sonekar,
Aged about 52 years, Occ. Service,
R/o Pragati Nagar, Bengali Camp,
Chandrapur.
- 12) Rahul Sambhaji Parulkar,
Aged about 54 years, Occ. Service,
R/o Anand Palace No. 7/8, Flat No. J-310,
Ayurvedic Layout, Umred Road, Nagpur.
- 13) Vijay Vinayakrao Kashikar,
Aged about 59 years, Occ. Service,
R/o Panchavati Nagar,
Pipri, Wardha.
- 14) Kishor Vasudeorao Deotare,
Aged about 58 years, Occ. Service,
R/o New State Bank Colony,
Nagpur Road, Wardha.
- 15) Vilas Purushottam Shrigod,
Aged about 57 years, Occ. Service,
R/o Mohini Nagar, Ward No.6,
Nagpur Road, Wardha.
- 16) Krushna Bhaduji Nagarale,
Aged about 59 years, Occ. Service,
R/o Vikramshila Nagar, Ward No.1,
Shindi (Meghe), Wardha.
- 17) Kishor Baburao Bansod,
Aged about 58 years, Occ. Service,
R/o Eagle Palace, Medical Square,
Untakhana, Nagpur.

- 18) Anil Bhagwanji Zade,
Aged about 53 years, Occ. Service,
R/o 41, Nagar Vikas Society,
Narendra Nagar, Nagpur.

Applicants.

Versus

- 1) The State of Maharashtra,
through the Secretary,
Water Resources Department,
Mantralaya, Mumbai-32.
- 2) Executive Director,
Vidarbha Irrigation Development Corporation,
Sinchan Seva Bhavan, Civil Lines, Nagpur.
- 3) The Chief Engineer,
Water Resources Department,
Sinchan Seva Bhavan, Civil Lines, Nagpur.
- 4) The Superintending Engineer,
Chandrapur Irrigation Project Circle,
Near Railway Station, Chandrapur.
- 5) The Superintending Engineer,
Irrigation Project Investigation Circle,
Sinchan Seva Bhavan, Civil Lines, Nagpur.

Respondents.

Shri J.R. Kidilay, Advocate for the applicants.

Shri M.I. Khan, P.O. for respondent nos. 1&2.

Shri P.V. Thakre, Advocate for respondent nos. 3 to 5.

WITH

ORIGINAL APPLICATION No. 375 of 2016 (DB)

- 1) Shri Ramkrushna Gangadha Choudhari,
Aged about 57 years, Occ. Service,
R/o 211, Bhagyashree Layout, Trimurti Nagar,
Nagpur-22.
- 2) Shri Sharad Gulabrao Bondre,
Aged about 55 years, Occ. Service,
R/o 136, Nagar Vikas Society, near Rly.
X-Wing, Manishnagar, Nagpur-15.
- 3) Shri Ulhas Prayagrao Lade,
Aged about 58 years, Occ. Service,
R/o Plot No.17, Navnirman Society,
Pratap Nagar, Nagpur-22.
- 4) Shri Rajan Anantrao Tillu,
Aged about 56 years, Occ. Service,
R/o Jagat Millennium, Flat No.306,
Amravati Road, Giripeth, Nagpur-10.
- 5) Shri Suresh Manikrao Darne,
Aged about 54 years, Occ. Service
R/o 60, Gajanan Nagar, near Sainagar Water Tank,
Manewada Ring Road, Nagpur-27.
- 6) Shri Dilip Onkar Nafde,
Aged about 57 years, Occ. Service,
R/o 31, Lokseva Nagar, Bhamti,
Nagpur-22.
- 7) Shri Sapan Kumar Bose,
Aged about 58 years, Occ. Service,
R/o 153, Surendra Nagar,
Nagpur-15.
- 8) Shri Vijay Narayanrao Khante,
Aged about 57 years, Occ. Service,
R/o Ramana Maroti Temple,
Harpur Nagar, Nagpur-9.
- 9) Shri Arvind Govindrao Charmode,
Aged about 57 years, Occ. Service,
R/o Ramana Maroti Temple,
Harpur Nagar, Nagpur-9.

- 10) Shri Sunil Amrutrao Shekokar,
Aged about 56 years, Occ. Service,
R/o Yashwant Apartment, Borkute Layout,
Near BSNL Tower, Nagpur-15.
- 11) Shri Laxman Sakharam Khapekar,
Aged about 59 years, Occ. Service,
R/o 63, Shaktimata Nagar, Kharbi Road,
Near Water Tank, Nagpur-24.
- 12) Shri Mohammad Aslam,
Aged about 59 years, Occ. Service,
R/o Plot No.3, Niwara Society, Mahesh Nagar,
Near Ahbab Colony, Nagpur-13.
- 13) Shri Ashok Bhaiyyalal Thakre,
Aged about 52 years, Occ. Service,
R/o 28, Adarsh Nagar, Koradi Road,
Nagpur-30.
- 14) Shri Kishore Rambhau Babhare,
Aged about 52 years, Occ. Service,
R/o Girish Heights, Flat No.208, LIC Chowk,
Sadar, Nagpur.
- 15) Shri Anil Kalyanrao Khapre,
Aged about 59 years, Occ. Service,
R/o Plot No.74, Navjivan Colony,
Wardha Road, Nagpur-15.
- 16) Shri Ramesh Govindrao Gharpure,
Aged about 58 years, Occ. Service,
R/o 20, Shridhasu Complex, Ulhas Nagar,
Manewada Road, Nagpur-27.
- 17) Shri Bhaurao Ganpatrao Shambharkar,
Aged about 53 years, Occ. Service,
R/o MIG, 21/2, Trimurti Nagar, Ring Road,
Nagpur-22.
- 18) Shri Sopan Soniramji Sapate,
Aged about 57 years, Occ. Service,
R/o B-502, Shiv Heights, Pruthviraj Nagar,
Beltarodi, Nagpur-15.

- 19) Shri Vivek Annaji Yete,
Aged about 53 years, Occ. Service,
R/o Dendekar Layout, Santaji Colony,
Narendra Nagar, Nagpur-15.
- 20) Shri Madan Vasudeorao Shirao,
Aged about 54 years, Occ. Service,
R/o Ramna Maroti Nagar, Flat No.3, Block-C,
Nagpur-09.

Applicants.

Versus

- 1) The State of Maharashtra,
through the Principal Secretary,
Water Resources Department,
Mantralaya, Mumbai-32.
- 2) The Secretary (CAD),
Water Resources Department,
Mantralaya, Mumbai-32.
- 3) Executive Director (VIDC),
Sinchan Seva Bhavan,
Nagpur.
- 4) The Chief Engineer,
Water Resources Department,
Sinchan Seva Bhavan,
Nagpur.
- 5) Superintending Engineer and
Administrator, Command Area Development,
Nagpur.
- 6) Superintending Engineer,
Irrigation Project Investigation Circle,
Nagpur.
- 7) Executive Engineer,
Minor Irrigation Division,
Wainganga Nagar, Nagpur-03.

- 8) Executive Engineer,
Irrigation Project Division,
Nagpur-03.

Respondents.

**S/Shri B.D. Pandit, Chanakya Dasgupta, Advs. for the applicants.
Shri M.I. Khan, P.O. for respondents.**

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Anand Karanjkar, Member (J).**

Date of Reserving for Judgment : 30th August, 2019.

Date of Pronouncement of Judgment : 3rd September, 2019.

COMMON JUDGMENT

Per : Anand Karanjkar : Member (J).

(Delivered on this 3rd day of September,2019)

Heard Shri J.R. Kidilay, learned counsel for the applicants, Shri M.I. Khan, learned P.O. for respondent nos. 1&2 and none for respondent nos. 3 to 5 in O.A.No.681/2015. Heard Shri B.D. Pandit, learned counsel for the applicants and Shri M.I. Khan, Id. P.O. for the respondents in O.A.No.375/2016.

2. The issues involved in both the applications are identical, therefore, both the applications are heard together and they are decided by this common Judgment.

3. It is grievance of all the applicants that they were appointed in service as Junior Engineers diploma holders and as per

the 1984 G.R. their pay scale was revised and they were designed as Sectional Engineers after completion of 5 years service.

4. It is submitted that the Government of Maharashtra issued G.R. dated 20/07/2001. It is contention of the applicants that as per this G.R. dated 20/7/2001 decision was taken by the Government to withdraw the time bound promotion scheme and to introduce Assured Career Progressive Scheme (ACP). It is submitted that as per this scheme, the applicants were entitled for the first ACP and thereafter as per G.R. dated 1/4/2010 on completion of 12 years after seeking the first ACP, they become entitled for the second ACP. It is grievance of the applicants that the respondents issued Circular dated 13/06/2016 and on the basis of this Circular the second ACP is refused to the applicants. It is submitted that this action of the respondents is in violation of law because as per the G.R. issued on 16 April 1984 after completion of 5 years service, the posts of the Junior Engineer diploma holders were upgraded and their pay was revised. It is submission of the applicants that this was not time bound promotion and therefore the applicants were entitled for the second ACP on completion of 12 years service after seeking the first ACP in view of the G.R. of 1/4/2010.

5. The respondents have submitted their reply. It is contention of the respondents that the O.As. are time barred because

as per the contention of the applicants first ACP was given to them in 2001, therefore, they became eligible for the second ACP after 12 years, i.e. in the year 2013. It is submitted that the application was not filed within one year from 2013, therefore, both the applications are time barred.

6. The second submission of the respondents is that the first promotion was given to the applicants as per the policy in G.R. dated 16/04/1984 and therefore the second ACP was given to the applicants in the year 2001. On the basis of this, it is contention of the respondents that the Circular dated 13/06/2016 was rightly issued by the Government as the applicants were not entitled for the third benefit. It is submitted that there is no illegality committed by the respondents in refusing the claim of the applicants and therefore both the applications are liable to be rejected.

7. We have heard the leaned counsel for the applicants in both the O.As. and learned P.O. Our attention is invited to the Judgment deliver by the Hon'ble Bombay High Court in Writ Petition No. 2605/2017 on 6/2/2019. The Hon'ble Division Bench examined the similar contentions raised by the respondents and the applicant. The Hon'ble High Court examined the situation where the Government introduced the ACP scheme vide G.R. dated 20/7/2001

after repealing the time bound promotion scheme. In the Writ Petition, it was contention of the respondents that as benefit of 16 April 1984 G.R. was given to the Writ Petitioners, therefore, they were not entitled for the benefit of G.R. dated 1/4/2010 and they were not entitled to claim second ACP because earlier as per the G.R. dated 16/04/1984 they were promoted.

8. The Hon'ble Division Bench examined what reliefs were given by the G.R. dated 16/04/2018. In Para-31 of the Judgment, the Hon'ble Bombay High Court has observed as under –

“31. It is evident that the aforesaid GR was an exercise in cadre review. The principal object of the aforesaid GR was to give gazetted status (ClassII) to junior engineers working at the lowest level. Not only the restructuring was done in the lowest cadre of junior engineers but also the immediately superior cadre of Assistant Engineer ClassII and ClassI were restructured. Yet, most importantly, the duties and functions which the erstwhile junior engineers discharged, were mandated to be discharged by the Assistant Engineers Gradell and Sectional Engineers.

32. The primary purpose of the aforesaid GR was, thus, restructuring of the cadre and rechristening of the designation of the post. The placement of the under-qualified and unqualified junior engineers in the newly designated post of sectional engineers was deferred, till they put in the specified years of service. It is pertinent to note that no new posts were sought to be created under the said GR. The fact that a new pay-scale was prescribed for both Assistant Engineers Gradell and Sectional Engineers, was incidental”.

9. In para-35 the Hon'ble Division Bench held that the Hon'ble Lordships were unable to agree with the reasoning given by the learned Vice Chairman of MAT. Ultimately, the Hon'ble Bombay High Court Division Bench held that the up-gradation under the G,R, dated 16/4/1984 does not constitute grant of non-functional pay scale and cannot be treated as the first benefit within the meaning of Clause 2 (b) (3) of the G.R. dated 1/4/2010. Ultimately direction was given by the Hon'ble Bombay High Court that if any amount was recovered from the salary of the petitioners in pursuance of the Circular dated 13/6/2016 then it be refunded to the Petitioners within three months from today.

10. Now position is made clear that whatever benefit was given to the applicant as per the G.R. dated 16/04/1984 was not the first benefit as per Clause 2 (b) (3) of the G.R. dated 1/4/2010 the consequence is that all the applicants are entitled for the second ACP.

11. So far as question of limitation is concerned, it must be remembered that the representations were made by the applicants time to time and the representations were in consideration, therefore we do not see any merit in the contention that the O.As. are barred by limitation. Secondly, we would like to point out that instead of dragging the respondents in litigation in own wisdom, the applicants

made representation to the respondents, but when they realized that it was invain, therefore, they rushed to the legal forum for the redressal. In this situation, it is not possible to accept that the O.As. are barred by limitation. Once it is accepted that only one ACP is given to the applicants, therefore, the applicants are entitled for the second ACP.

12. In view of this, both the O.As. are allowed in terms of prayer clause (i) & (ii) (O.A.681/2015) and prayer clause A&C (O.A. 375/2016). No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 03/09/2019.

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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 V.C. and Member (J).

Judgment signed on : 03/09/2019.

and pronounced on

Uploaded on : 03/09/2019.

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