

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 676 of 2017 (S.B.)**

Ravibhushan S/o Hariprasad Ramidhami,  
Aged about 50 years, Occ. Retired, R/o. 33, Khedkar Nagar,  
Sudhir Colony Road, Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary, Water Resource Department,  
Mantralaya. Mumbai-32.
- 2) Chief Engineer,  
Special Project, Water Resource Department Amaravati  
Office at Sinchan Bhavan, Shivaji Nagar. Amaravati.
- 3) Superintending Engineer,  
Akola irrigation Circle Office at B&C Compound, Akola.
- 4) Assistant Superintending Engineer,  
Akola Irrigation Circle, Office at B&C Compound,  
Akola.
- 5) Executive Engineer,  
Akola Irrigation Division, Akola Office at Alsi Plot,  
Murtijapur Road. N.H. No.6, Akola.

**Respondents.**

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**Shri N.L. Jaiswal, Advocate for the applicant.**  
**Shri A.P. Potnis, learned P.O. for respondent no.1.**  
**Shri H.D. Marathe, Advocate for respondent no.2.**  
**S/Shri V.G., N.A. Palshikar, Advocates for resp. nos.2/3 to 5.**

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

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**Date of Reserving for Judgment : 23<sup>rd</sup> April, 2024.**

**Date of Pronouncement of Judgment : 7<sup>th</sup> May, 2024.**

**JUDGMENT****(Delivered on this 7<sup>th</sup> day of May,2024)**

Heard Shri N.L. Jaiswal, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for respondent no.1. None for respondent nos.2 to 5.

2. The case of the applicant in short is as under –

The applicant was appointed on the post of Technical Assistant on 01/10/1986. He was promoted on the post of Junior Engineer. On 16/04/1984, the Government has issued G.R. to give status of Gazetted Officer to Junior Engineer. As per the said G.R., the Junior Engineers who are holding 3 years diploma in Engineering and 5 years of experience would be given the status of Gazetted Officers. This G.R. also deals with the Junior Engineers who are holding 2 years of diploma and Junior Engineers who are not holding any diploma. The applicant is holding 3 years diploma in Civil Engineering. As per this G.R., the Junior Engineer holding diploma and completion of required service shall be upgraded as a Sectional Engineer.

3. The Government of Maharashtra on 28/09/1984 has again issued G.R. in respect of up-gradation of diploma holders Junior Engineer. The Government of Maharashtra on the footing of G.Rs. dated 01/04/1981 and 16/04/1984 constituted promotional committee. The applicant was promoted on the post of Junior Engineer on

21/11/2005 as he was holding the diploma of 3 years in Civil Engineering. In view of the government decisions after completion of 5 years as a Junior Engineer, he was entitled for up-gradation to the post of Sectional Engineer which is a post of gazetted officer and equivalent to Assistant Engineer, Grade-II with the same pay scale. As applicant was eligible for up-gradation to Sectional Engineer, his proposal was forwarded on 07/05/2013 to the Government of Maharashtra by Superintending Engineer, Washim Irrigation Corporation, Washim. In the said proposal after scrutiny, it was found that there were some queries / objections. The State Government on 07/08/2013 pointed out that seniority number in Junior Engineer's list was not given to the applicant. Proposal for up-gradation was sent back. Again it was sent, but again returned back on the ground that seniority was not fixed.

4. The applicant made representation stating that Shri S.R. Harwale was shown at Sr.No.10430 who had joined the cadre of Junior Engineer with the applicant. The name of applicant not appeared in the seniority list. After great persuasion, the State Government had published amended seniority list on 21/10/2016 and seniority of applicant was placed at 10430A. Thereafter, the proposal of applicant was forwarded by the Chief Engineer, Amravati.

5. The applicant applied for Voluntary Retirement as per letter dated 20/07/2015. The said proposal was forwarded by the Superintending Engineer to the Chief Engineer, Amravati and lastly forwarded to the State Government by the Chief Engineer, Special Project Water Resources, Amravati. The Desk Officer, Government of Maharashtra on 08/09/2015 issued communication that entry regarding the permanency of post is missing in the service book of applicant and directed the Chief Engineer that such entries regarding the permanency of post should be entered in accordance with the G.R., after completion of the same, service book of applicant should be sent to the Government. The State Government further directed the Chief Engineer not to voluntarily retire the applicant until further order. Superintending Engineer further communicated that in view of direction of the State Government, the department not to grant voluntary retirement to the applicant. The applicant again requested for V.Rs. on 19/06/2015 w.e.f. 28/09/2015, but in view of direction of the State Government dated 08/09/2015 the present applicant was not voluntarily retired. Again he made representation. The State Government on 14/01/2016 has rejected the request of the applicant on the ground that he has already requested for V.Rs. on 12/06/2015 w.e.f. 28/09/2015 and he had not made any change before 28/09/2015. The applicant was retired voluntarily w.e.f. 19/12/2015.

The applicant was working till 15/01/2016. The respondents have not paid the salary of near about one month, therefore, the applicant has filed the present O.A. for the following reliefs –

*“(1) Direct the respondents to grant all monitory benefits of up-gradations to the post of Sectional Engineer after completion of 5 years by applicant on the post of Junior Engineer i.e. from 21/11/2010 to applicant along with interest @ 18% p.a.;*

*(2) Quash and set aside the communication dated 15/01/2016 issued by Assistant Superintending Engineer, Akola Irrigation Circle, Akola (at Annex. A-16) and direct the respondents to pay salary from 20/12/2015 to 16/01/2016 along with other monitory benefits to applicant along with interest @18% p.a. and further direct respondents to consider 16/01/2016 as date of retirement of applicant.”*

6. The respondent nos.2 to 4 filed reply and material contentions are admitted. In the last para it is submitted that the claim for salary from 20/12/2015 to 16/01/2016 is denied. It is submitted that the applicant was granted up-gradation w.e.f. 01/04/2011 as per the order dated 20/01/2018. Hence, the O.A. is liable to be dismissed.

7. Heard Shri N.L. Jaiswal, learned counsel for the applicant. He has pointed out the documents filed on record and submitted that material contention of the applicant is admitted by respondent nos.2 to 5. None appeared for respondent nos. 2 to 5. From the perusal of G.Rs. dated 16/04/1984 and 28/09/1984 it is clear that Junior

Engineers who are holding three years diploma of engineering and having five years experience shall be upgraded on the post of Sectional Engineer. The applicant has completed five years in the year 2010. The proposal was moved, but it was returned due to the fault on the part of respondents. The applicant's seniority was not recorded and after great persuasion his seniority was recorded. Therefore, respondents were at fault for not granting up-gradation as per the G.R. issued by the Government.

8. The applicant applied for voluntary retirement, but it was not granted. The Superior Officer was directed by the Government not to relieve the applicant until further orders. Ultimately the respondents have accepted the V.Rs. w.e.f. 19/12/2015, but in fact the applicant was relieved on 16/01/2016. The respondents have not paid salary from 20/12/2015 to 16/01/2016. The applicant has worked upto 16/01/2016. He was retired on 19/12/2015. The relieved order is placed on record which shows that the applicant was relieved on 16/01/2016. The respondents have not paid the salary upto 16/01/2016. The applicant has worked on that post and therefore he is entitled for salary. Hence, the following order –

### **ORDER**

(i) The O.A. is allowed.

(ii) The respondents are directed to grant up-gradation of the post of Sectional Engineer after completion of five years by the applicant on the post Junior Engineer i.e. from 21/11/2010 and give all the monetary benefits along with interest @ 6 % p.a.

(iii) The respondents are directed to pay salary from 20/12/2015 to 16/01/2016 along with interest @ 6% p.a.

(iv) No order as to costs.

**Dated** :- 07/05/2024.

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

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 07/05/2024.