

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 3317 OF 2013

SUDHAKAR DATTATRAY MULEY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. S.K.Patil
AGP for Respondents: Mrs.S.A.Dhumal.
Advocate for Respondent No.4 : Mr. V.A.Bagal.

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CORAM : **S. V. GANGAPURWALA and
V.L. ACHLIYA, JJ.**

DATE : 22nd January, 2015.

P.C.:

1. Mr.Patil, learned counsel for the Petitioner submits that the Petitioner was granted time bound promotional pay scale from the year 1994. However, vide impugned order, the said date is changed to 1997. According to the learned counsel, the same is illegal, not in consonance with the legal position. The said order is also without authority and without notice to the Petitioner.

2. We have heard learned AGP also. According to the learned counsel for Respondent No.4, as the Petitioner had not passed the qualifying examination within the stipulated period, the order is rightly passed.

3. We have considered the submissions canvassed by the learned counsel for respective parties.

4. It is not disputed that vide order dated 18th July, 2012, the Petitioner was granted benefit of time bound promotional pay scale

initially w.e.f. 1st October, 1994. However, the said order has been revoked/ cancelled vide impugned order dated 6th February, 2013.

5 It is not disputed that the benefit which was already granted to the Petitioner vide earlier order has been withdrawn by the present order and the same is prejudicial to the interest of the Petitioner. When the pay scale which is granted from particular date is sought to be withdrawn by the subsequent date, it is necessary for the Authority to issue notice and obtain say of the said person, whose pay scale is sought to be changed. The same would be in conformity with the principles of natural justice as has been held by the Apex Court in a case of **Bhagwan Shukla Vs. Union of India and others**, reported in, **[AIR 1994 Supreme Court 2480]**.

6 In light of the above, the impugned order, to the extent of the Petitioner, is quashed and set aside. The Authority if it wants to take any further action with regard to the change in the date of grant of benefit of promotional pay scale, shall after giving notice to the Petitioner and obtaining say of the Petitioner, consider the same afresh.

7 Writ petition is accordingly, disposed of. No costs.

[V.L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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