

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.9874 OF 2014

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.M.H.Shaikh, advocate for the petitioner.
 Mrs.S.A.Dhumal, Asstt.Govt. Pleader for the State.
 Smt.Palve (Ghule Renuka B.) for Respondent Nos.3 to 5.

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

Date : 02.02.2015.

PER COURT :

1. Heard.
2. The petitioner assails the order passed by the Respondent No.5, thereby reducing the salary which is already fixed. The learned counsel submits that this Court vide order dated 16.11.1999, in W.P.No.1008/1987, has allowed the Writ Petition and directed the earlier service to be counted for the purpose of retiral benefits. The petitioner is deemed to be regularised on the day, five Junior Engineers are regularised. This Court did not award back wages but has considered the case of the petitioner for regularisation from the date the other persons who were appointed as Junior Engineers were regularised. According to the learned counsel, considering the same, the pay fixation is done, however,

vide the impugned order, the same has been reduced.

3. Learned counsel for the Respondents submits that the petitioner did not join services upto the year 1999, this Court has specifically refused back wages. As such the services from the year 1986-1999 can not be counted. In light of that, the impugned order has been rightly passed.

4. It is not a case that petitioner has been paid any wages from 1986-1999. The petitioner is not also entitled for the same in view of the judgment of this Court in W.P.No. 1008/1987 dated 16.11.1999, however, the said period can be counted for all other benefits, such as retiral. The Court in para 10 has observed as under :

“For the reasons set out in the foregoing paragraphs, we partly allow the petition and direct the Respondent Nos.1 and 2 to reinstate the petitioner in service as Junior Engineer and give him the benefit of regularisation of service on para with the other five Junior Engineers who were appointed and continued pursuant to the appointment order dated 25th November, 1986. We make it clear that the petitioner shall not be entitled for the back wages and he shall be treated to be a regular employee of the Zilla Parishad from the date he is reinstated and for the purpose of his retiral benefits his service as regular employee shall be counted from the date the other five Junior Engineers have been regularised.”

5. In light of the above, except salary for the period 1986-99 is concerned, the petitioner would not be entitled. However, he has to be treated as regular employee and his date of regularisation would be the same as other five Junior Engineers who have been regularised. Except the salary for the intervening period, the petitioner would be entitled for the same pay fixation as done of other five Junior Engineers who have been regularised as observed by this Court in order supra.
6. In light of the above, the impugned order is quashed and set aside. In case any recovery is made, pursuant to the said order, the same be refunded to the petitioner.
7. The Writ Petition is disposed of. No costs.

(V . L . ACHLIYA, J .)

(S . V . GANGAPURWALA, J .)

Dt..02.02.2015.
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