

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6402 OF 2013

(Jeevan s/o.Vitthalrao Labade .vs. The Zilla Parishad, Yavatmal, through its C.E.O. and anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

**CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.**

DATE : 10.2.2015.

Heard Mr.P.D.Meghe, learned Counsel for the petitioner, Mr.J.Y.Ghurde, learned Counsel for respondent no.1 and Mr.D.M.Kale, learned A.G.P. for respondent no.2.

Submissions tendered by Mr.J.Y.Ghurde, learned Counsel for respondent no.1 are taken on record. Admittedly, the petitioner joined employment along with one R.L.Ledange as Mistri with respondent no.1. Both have been appointed by an order dt.18.2.1976.

The petitioner thereafter obtained voluntary retirement in June, 2001.

The grievance made in the present petition is that the advantage of time bound promotion Scheme as per Government Resolution dt.8.6.1995 is not extended to the present petitioner.

Mr.P.D.Meghe, learned Counsel for the petitioner submits that benefit of the above Government Resolution has been extended to Mr.R.M.Ledange as per order dt.12.8.2011 w.e.f. 1.10.1994. He also submits that,

as the pay scale of Rs.1200-2040 is to be replaced after completion of 12 years of service by pay scale of Rs.1640-2900, availability of post, as such, has got no relevance in the matter.

Respondent no.1 in the reply-affidavit has pointed out that, on 20.5.1999, 22 posts with pay scale of Rs.1640-2900 became available and at that time, the petitioner as also Mr.Ledange could not be accommodated. Further 12 posts became available on 29.7.2003. But, at that time, the petitioner was already out of employment. Mr.J.Y.Ghurde, learned Counsel thereafter submits that the petitioner cannot be given benefit at all.

Mr.D.M.Kale, learned A.G.P. for respondent no.2 adopts the arguments of Mr.J.Y.Ghurde, learned Counsel for respondent no.1.

Perusal of order dt.12.8.2011 shows that benefit of pay scale of Rs.1640-2900 or then other similar benefits have been released to various incumbents retrospectively. All the employees whose names figure therein had retired before four to ten years of issuance of that order. Mr.Ledange also had superannuated on 30.4.2007.

This shows that the time bound promotion benefits has been given from the stipulated date i.e. the date on which it became due. In the present matter, Mr.Ledange has been given benefit w.e.f. 1.10.1994, but almost after 17 years i.e. by order dt.12.8.2011. The contention that only 22 posts were available on 20.5.1999 and other 22 posts became available on 29.7.2003, therefore, has hardly any relevance.

Perusal of the Scheme contained in Govt.

Resolution dt.8.6.1995 does not show that its working depends upon creation of any post as such. The idea of enhancing pay scale in time bound promotion is to relieve employee of stagnation. If retirement or availability of post or creation of post is associated and co-related with this Scheme, its object itself will be frustrated and it would be another regular promotion depending upon availability of vacancy. Stagnation ,as such, will then lose its relevance. We, therefore, find no substance in the defence raised by respondent no.1.

The petitioner should have been released the benefit of pay scale of Rs.1640-2900 from 1.10.1994 or from such other date on which he qualifies therefor in terms of the Government Resolution dt.8.6.1995.

Accordingly, we allow this Writ Petition. Respondent no.1 is directed to work out entitlement of the petitioner to such promotion and pay scale of Rs.1640-2900 within a period of six weeks from today.

Benefit flowing therefrom shall be made over to the petitioner within further two months. Acceptance of such benefit by the petitioner shall not preclude him from challenging correctness of the exercise undertaken by respondent no.1. The Writ Petition is accordingly disposed of. No costs.

JUDGE

JUDGE