

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

**Writ Petition No.6283 of 2013**

(Baba s/o. Ganpatrao Pimpalkar .vs. The Z.P., Yavatmal and anr.)

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

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Mr.P.D.Meghe, Adv. for the petitioner.  
Mr.R.D.Bhuibhar, Adv. for respondent no.1.  
Mr.D.M.Kale, A.G.P. for respondent no.2.

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

**DATE** : 10.2.2015.

Heard.

The petitioner, a Tracer who obtained voluntary retirement on 31.3.2001, seeks benefit of time bound promotion Scheme and therefore, placement in the pay scale of Rs.5500-9000 from 1.10.1994.

Mr.P.D.Meghe, learned Counsel for the petitioner submits that Government Resolution dt.8.6.1995 does not envisage any post as such and therefore, Tracer was always eligible and entitled to higher pay scale after rendering 12 years' continuous service. He invites our attention to reply-affidavit to urge that inclusion of post of Tracer in the category of Civil Engineering Assistant has got no relevance in these facts.

Mr.R.D.Bhuibhar, learned Counsel for respondent no.1 relies upon the reply-affidavit. He submits that, for the first time, on 5.8.2003, the cadre of Tracer has

been merged with the cadre of Civil Engineering Assistant and therefore, the Tracers in the employment on 5.8.2003 and thereafter, have been given benefit of time bound promotion Scheme. He points out that, order dt.21.7.2012, on which the petitioner has placed reliance, considers only those Tracers who were continuing in the employment on 5.8.2003 or thereafter.

Mr.D.M.Kale, learned A.G.P. appearing for respondent no.2/State Government adopts the arguments of Mr.R.D.Bhuibhar, learned Counsel for respondent no.1.

We find that the entitlement to higher pay scale after a particular length of service flows from Government Resolution dt.8.6.1995. It assures higher pay scale as time bound promotion to avoid stagnation. Particular post, as such, is not dealt with in that Government Resolution. The contention that cadre of Tracer has been recognized as a part of cadre of Civil Engineering Assistant for the first time on 5.8.2003, therefore, has no relevance.

Even if it is presumed that the order dt.5.8.2003 has got any bearing, as urged by respondent no.1/Zilla Parishad, perusal of order dt.21.7.2012 shows that Tracers mentioned therein have been given benefit for a period prior to 5.8.2003. They have been given benefit from 1.10.1994. Hence, even on this count, we fail to understand insistence on availability of petitioner in the cadre and in service on 5.8.2003. The Colleagues of petitioners who worked along with him from 1.10.1994 onwards till 31.3.2001 have received the benefit of said scale and for same work done by them, they are paid more salary. Thus, the requirement of Article 14 of the Constitution of India of equal pay for equal

work in this situation will clearly be violated, if that scale is denied to petitioner in absence of any express bar.

Accordingly, we direct respondent no.1 to work out entitlement of the petitioner to revised pay of Rs.5500-9000 from the date on which he completed requisite length of service as per G.R. dt.8.6.1995. This exercise shall be completed within six weeks from today. The amount accordingly worked out shall be released to him within next six weeks. Acceptance of that amount shall not preclude the petitioner from challenging correctness of the exercise undertaken by respondent no.1. The petition is accordingly disposed of. No costs.

**JUDGE**

**JUDGE**