

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO.1169 OF 2007

Vasant S/o Ramchandra Puranik,
Age 64 years, Occ.Retired
Sr.Assistant Water Supply,
R/o Flat No.1, Shrirang Arcade,
Pundlik Nagar Road, Garkheda,
Aurangabad. ... Petitioner.

Versus

1. The State of Maharashtra,
through the Secretary,
Revenue Dept. Mantralaya,
Mumbai-400 032.
2. The Chief Executive Officer,
Zilla Pariahds, Aurangabad.
3. The Executive Engineer,
Water Supply Department,
Zilla Parishad, Aurangabad. ... Respondents.

...

Mr.S.D.Joshi, advocate for the petitioner.
Mrs.M.A.Deshpande, Addl. Government Pleader for
the State.
Mr.A.A.Jagatkar, advocate for Respondent Nos.2
and 3.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 09.12.2016.

PER COURT :

1. Heard.

2. Mr.Joshi, learned counsel for the petitioner strenuously contends that the petitioner was entitled for the grant of time scale promotion. The juniors to the petitioner were granted the benefit of time scale promotion. The petitioner was denied the said benefit. The reason for denial of the said benefit was communicated to the petitioner after his retirement on 15.7.2000. The petitioner retired from service in April 1999. The learned counsel submits that it is mandatory to communicate the adverse remarks to the petitioner. In fact all gradings are required to be communicated. The learned counsel relies on the judgment of the Apex Court in a case of **"DEV DUTT Vs. UNION OF INDIA AND OTHERS"** reported in **(2008) 8 Supreme Court Cases 725**. The learned counsel further submits that if the Confidential Reports are not sent to the delinquent Officer by Registered Post, there is no evidence to indicate that the same were received by the petitioner. Denial of

senior time scale to the petitioner is arbitrary and unjust. The learned counsel relies on the judgment of the Apex Court in a case of **"Vijay Kumar, I.A.S., Vs. State of Maharashtra and others"** reported in **AIR 1988 Supreme Court 2060**. The learned counsel further submits that even the Government has instructed that the adverse remarks are required to be communicated on or before 1st of June of the said year. Even if it is assumed that the petitioner was communicated of the adverse remarks in the Confidential Reports on 5.8.1997 of the years 1995-96 and on 20.10.1997 for the years 1996-97, the same is belated. The petitioner is denied opportunity to represent in respect of the adverse remarks. The petitioner be provided with the senior time scale.

3. The learned counsel for the Zilla Parishad, Mr.Jagatkar, submits that considering the Confidential Reports, the Departmental Promotional Committee has found the petitioner ineligible.

4. We have heard learned A.G.P. also.

5. If the adverse remarks in the Confidential Reports are not communicated to the delinquent, certainly those adverse remarks can not be used against the said delinquent as he would not get any opportunity to represent against the said adverse remarks.

5. In the present case, it is manifest from the letter dated 15.7.2000 that the petitioner has been served with the Confidential Reports for the year 1995-96 and 1996-97 on 5.8.1997 and 20.10.1997 respectively. There is no express denial to the same by the petitioner, even in his representation made to the authorities on 9.4.1999.

6. The Departmental Promotion Committee has considered the Confidential Reports of various persons in its meeting held on 10.12.1998. The petitioner could have represented about the adverse remarks appearing in his Confidential Report during this period of

more than one year and if the petitioner would have represented against the said adverse remarks and if the authorities would not have considered the same then the grievance of the petitioner could have been considered.

7. Considering the fact that the petitioner did not represent to the authority with regard to the adverse remarks which were served upon him for more than one year, it would not be possible to accept the contention of the petitioner.

8. Considering above, the Writ Petition is disposed of. Rule discharged. No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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