

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

**WRIT PETITION NO. 4675 OF 2011
WITH
WRIT PETITION NO. 4674 OF 2011**

**PRABHAKAR SHRIPATI BHAWAL
VERSUS
THE STATE OF MAH AND ANR**

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Advocate for Petitioner : Mr. V C Patil
AGP for Respondent no.1: Mr. R.B.Bagul
Advocate for Respondent no.2 : Mr. R.K.Ingole
Patil in WP 4674/2011
None for respondent no.2 in WP 4675/2011

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 22nd FEBRUARY, 2017

O R D E R :

The petitioners assail the communication dated 19.5.2011 whereby the benefits given to the petitioners have been recalled.

The petitioners were initially appointed as Junior Engineering Assistants. The services of the petitioners were to continue till the candidates from the Selection Board are available. The petitioners stood terminated in 1994. Many of

the petitioners approached this Court wherein interim orders were passed. The Government Resolutions dated 17.8.2000 and 27.7.2000 considered the grievances of the petitioner and issued appointment order thereby reappointing the petitioners with condition that the appointment would be fresh and they will be considered to be appointed from the date fresh appointment order is issued. The condition further states that the petitioner would not be entitled for the benefit of past services. Pursuant to the said Government Resolution, the petitioners were inducted. Thereafter relying upon the letter dated 20.11.2007 issued by the Secretary, Maharashtra State, the Chief Executive Officer passed order on 6.9.2007 giving benefit of past services to the petitioners. Under the impugned order the said benefit stands withdrawn.

2. Mr. Patil, learned counsel for the petitioners states that petitioners are similarly situated as the other 51 Junior Engineering

Assistants who were appointed along with the petitioners in different Zilla Parishads. The petitioners were appointed in Zilla Parishads Hingoli and Latur. The persons who were similarly appointed like petitioners with Zilla Parishads Jalna and Aurangabad are given continuity in service and the benefit of past service. The Government has made distinction between those in whose favour blanket interim order was passed and those in whose favour interim order was limited to the extent the services were protected till the appointment of candidate through selection Board. According to the learned counsel, representation was made by all such candidates. The Chief Executive Officer forwarded the grievances of the petitioners to the State. The State considered the same and thereby issued letter dated 20.11.2007 unequivocally accepting the petitioners to be entitled for the service period from 1994 to 2000, so also entitled to the salary and the bhatta. According to the learned counsel now vide impugned order the Government has withdrawn the

benefit, same is not permissible. There was no misrepresentation on the part of the petitioners or the Chief Executive Officer. All the facts were before the Government. Relying upon the letter issued by the Secretary of the Government the benefit was given to the petitioners, which now cannot be taken away.

3. Mr. Ingole, learned counsel submits that relying upon the letter dated 20.11.2007 the Chief Executive Officer had given the benefits. Learned A.G.P. submits that the subordinate officer of the Chief Executive Officer, Hingoli and Latur are responsible for the monetary loss caused to the Government. It was on the basis of faulty instructions the authorities have been communicated for withdrawing previous letters and ordered to recover whole of the amount paid to the petitioners.

4. We have considered the submissions canvassed for respective parties.

5. The petitioners in these petitions have not assailed the Government Resolutions, dated 17.8.2000 and 27.7.2000. It is by virtue of these Government Resolutions the petitioners were appointed and were given fresh appointment orders. So also the benefit of past service was not given to the petitioners. The said Government Resolutions will be binding on the parties. The same cannot be replaced by a letter of the Additional Secretary.

6. The grievance of the petitioners is that similarly situated Junior Engineering Assistants appointed to the same period as that of the petitioners with Zilla Parishad Jalna and Aurangabad were given the benefit of continuity and the petitioners are not given the same. The said aspect ought to be dealt with by the Government. In absence of challenge to the terms and conditions of Government Resolutions by virtue of which the petitioners are appointed, the contention of the petitioners in the present Writ

Petitions is not tenable. It cannot be considered.

7. It is for the Government to consider the grievance of the petitioners seeking parity with that of the other Junior Engineering Assistants who were similarly placed as the petitioners herein and in case such representation is made by the petitioners, the Government shall consider the same expeditiously preferably within six months from the date of representation.

8. As far as monetary benefit is concerned, it would appear that the petitioners are group 'C' employees. It is not the case that the petitioners have misrepresented. The petitioners have bona fide prosecuted their demand so as to get parity with the other similarly situated Junior Engineering Assistants appointed in Zilla Parishads Aurangabad and Jalna. The recovery period would be beyond five years. Considering the afore aspects, we refrain the respondents from

claiming recovery of the benefit that has already been paid to the petitioners.

9. With the above observations, the Writ Petitions disposed of. No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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