

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

**REVIEW PETITION (ST) NO. 35733 OF 2015
IN
WRIT PETITION NO. 9874 OF 2014**

The Chief Executive Officer,
Zilla Parishad, Parbhani and Others

..PETITIONERS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mrs. Renuka B. Ghule - Palve, Advocate for petitioners.

Mr. S.W. Mundhe, A.G.P. for State.

Mr. Shaikh Mobin, Advocate for Respondent No.3.

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

DATED : 29th SEPTEMBER, 2017

ORDER :

1. The petitioners seek review of the order dated 02nd February, 2015 passed by this Court in Writ Petition No. 9874 of 2014. In the said writ petition, the petitioner therein had assailed the order passed by the respondents therein, refusing salary which is already fixed.

2. Mrs. Ghule, learned Counsel for the petitioners submits that the original petitioner was not on duty from 1986 to 1999. As the

original petitioner was not in service from 1986 to 1999, grant of annual increment in salary cannot be considered. According to the learned Counsel, as per Rule 39 (2)(b) of M.C.S.R. Rules, 1981, the said period cannot be considered as extra ordinary leave, though it is covered in Rule 36. Letter is issued by the Government to that effect.

3. We have disposed off Writ Petition No. 9874 of 2014 by order dated 02nd February, 2015 on the basis of the judgment that was already delivered in Writ Petition No. 1008 of 1997 on 16th November, 1999 between the parties by observing as under :

“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 the 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.”*

4. It would be clear that this Court in Writ Petition No. 1008 of 1987 had specifically observed that the petitioner would be treated as regular employee of Zilla Parishad and for the purpose of retiral benefits his service shall be counted from the date the services of other five Junior Engineers have been regularised. The petitioner was not given back wages from 1986 to 1999 but the said period is counted for the purpose of regularisation of services. The benefits available to regular employee shall apply to the petitioner.

5. The order dated 02nd February, 2015 of which review is sought is based on the order dated 16th November, 1999 passed in Writ Petition No. 1008 of 1987. In the light of the above, no case is made out for review. Hence the Review Petition is dismissed.

(V. L. ACHLIYA, J.)
SSD

(S.V. GANGAPURWALA, J.)