

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

**CIVIL APPLICATION NO.677/2017
IN RAST 37310/2016 IN
WRIT PETITION NO.217/2015**

**DAMODHAR GANGADHAR THENGDE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

...
**Mr.U.R.Aute h/f Talekar & Associates for applicants
Mrs.M.A.Deshpande, Addl.Govt.Pleader for R-State**
...

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

DATE : 03/02/2017

PER COURT :-

Notice to respondents. Learned Additional Government Pleader waives service of notice for respondent.

2] Mr.Aute, learned counsel for the petitioner submits that services of the petitioner were regularised as per orders of the Apex Court. Whenever the services are regularised, the same relate back to the initial date of appointment. The learned counsel relies on judgment in the case of **S.Sumnyan and others V/s Limi Niri and others reported in (2010) 6 S.C.C. 791**. The learned counsel further submits that even Clause-B of Government Resolution dated 22/7/1997 does not disentitle the petitioner from continuity in service.

As such 12 years are required to be counted from the initial date of appointment. As such petitioner would be entitled for the benefits for time bound promotional pay scale on completion of 12 years service to be counted from initial date of appointment. The learned counsel submits that similarly situated persons are given said benefits. The petitioner is being discriminated.

3] The learned Additional Government Pleader submits that Clause-B of the Government Resolution dated 22/7/1997 specifically states that the petitioner would not be entitled for the wages during the period of his termination and absorption, however said period would only be counted for the purpose of pensionary benefits. According to the learned Additional Government Pleader, in case of other persons, they had completed 12 years of continuous service.

4] We have considered the submissions. The Review cannot be considered as an Appeal in disguise. At the time when the Writ Petition was decided, the judgment of the Tribunal was assailed on the ground that the petitioner is entitled to time scale promotion which is granted to similarly situated employees and the Government Resolution dated 22/7/1997 issued on the basis of the directions in Special Leave to Appeal No.11901/95 and 638/95 would not be applicable as the case of the petitioner was decided in the year 2004.

5] It was observed that those who were granted time scale benefits were working continuously for a period of 12 years and Clause-B of the Government Resolution dated 22/7/1997 specifically dis entitled the petitioner for claiming any salary for the period from termination till their absorption and the said period is to be counted only for the purpose of pensionary benefits. Considering said aspect, we have dismissed the Writ Petition. No error apparent on the face of the application is found. In view of that, Review Application is dismissed. No costs.

(V.L.ACHLIYA,J.)

(S.V.GANGAPURWALA.J)

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