

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

**CIVIL APPLICATION (CAO) NO. 406 OF 2017**

**IN M.C.A(ST.) NO.4932 OF 2017 IN WRIT PETITION NO.2880 OF 2008.**

(SHIR ARUNKUMAR S/O GAJANAN PALANDURKAR...VS.. ASHOKKUMAR S/O VASANTRAO  
SONEWANE AND OTHES. )

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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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Shri. Nitin Meshram Advocate h/f. Shri. Shankar borkute, Advocate  
for Petitioner.  
Miss. Nidhi Singhvi Advocate h/f. Shri. A. S. Kilor, Advocate for  
Respondents.  
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**CORAM : Z.A.HAQ, J.**

**DATED : 1<sup>st</sup> JULY, 2017.**

Heard.

Accepting the explanation given in the  
application, delay of 26 days in filing review application is  
condoned.

The Civil Application is allowed.

**Misc. Civil Application (Stamp) No.4932 of 2017**

Taken up for hearing.

By this application, the original respondent No.2  
seeks review of the judgment passed by this Court in Writ  
Petition No.2880 of 2008 on 5<sup>th</sup> January, 2017 by which the  
petition filed by the petitioner is allowed, the order passed by

Education Officer is set aside, it is held that the petitioner is senior to respondent Nos.2 to 4 treating the date of appointment of petitioner as 13<sup>th</sup> July, 1984.

The contention on behalf of the respondent No.2/applicant is that the original petitioner was appointed on adhoc basis for academic session from 13<sup>th</sup> July 1984, for academic session 1985-86, for academic session 1986-87, for academic session 1987-88 and then he was appointed on regular basis on 23<sup>rd</sup> January, 1990 and in view of the proposition laid down in the judgment given in the case of **Direct Recruit Class II Engineering Officer's Association ..vs.. State of Maharashtra and Others**, reported in (1990) **2 Supreme Court Cases 715**, the original petitioner cannot be given the benefit of his service as adhoc employee.

The learned advocate for the original petitioner has submitted that the petitioner has retired on 30<sup>th</sup> June, 2017 on attaining the age of superannuation.

As the original petitioner has retired on attaining the age of superannuation, the challenge of the original respondent No.2/applicant, in my view, is rendered academic.

The learned advocate for the original respondent No.2/applicant has submitted that because of the impugned judgment, the original respondent No.2/applicant will be deprived of his entitlement regarding seniority with effect from the date of his appointment i.e. 30<sup>th</sup> September, 1989. The submission is misdirected. The respondent No.2/applicant had filed Writ Petition No.790 of 1990 before this Court which is decided by the judgment given on 9<sup>th</sup>

April, 1992. The Division Bench of this Court has directed that the respondent No.2 (who was petitioner in Writ Petition No.790 of 1990) be given seniority with effect from 30<sup>th</sup> September, 1989 which was the date of his last appointment. Furthermore, the dispute in present matter is about seniority of original petitioner Ashokkumar Vasantrao Sonewane viz-a-viz the original respondent Nos.2 and 4 and as the original petitioner has retired nothing survives for adjudication in this review application.

The review application is disposed of.

In the circumstances, parties to bear their own costs.

**JUDGE**

*PBP*