

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

157 WRIT PETITION NO. 3074 OF 2018

SAINATH JAIRAM KORPAKWAD AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr. Dighe Vithal H. And Wagh Shirinivas S  
AGP for Respondent no.1 : Mr. N.T.Bhagat  
Advocate for Respondents 3 and 4 : Mr. Patil Sham B.

-----

**CORAM : S.V.GANGAPURWALA**  
**AND**  
**SUNIL K.KOTWAL, JJ.**

**DATE : JULY 23, 2018**

**O R D E R :**

Learned counsel for the petitioners submits that the petitioners were granted for the first time time bound promotional benefit ACPS on 11.2.2011 and the same is withdrawn pursuant to the impugned order assailed before the Maharashtra Administrative Tribunal. Original Application is rejected on erroneous grounds. According to the learned counsel for the petitioners, petitioner no.1 attained age of 45 years on 11.2.2011 and petitioner attained age of 45 years on 11.6.2011. When they attained age of 45 years, they were given first ACPs benefit. Petitioner no.1 was

appointed on 5.2.1992 and petitioner no.2 was appointed on 2.1.1997. They were absorbed as Civil Engineering Assistants in April 2005 and June 2005, respectively. According to the learned counsel, there was no error in granting ACPS benefit to the petitioners on attaining age of 45 years.

2. Mr. Patil, learned counsel for respondent nos. 3 and 4 submits that the Tribunal has rightly considered the computation of 12 years from the date they were absorbed as Civil Engineering Assistants. The benefit was erroneously granted to the petitioners and as such is rightly cancelled by the respondents. The Tribunal has not committed any error in passing the impugned order.

3. Learned AGP also supports the arguments of Mr. Patil, learned counsel for the respondents.

4. It would be seen that petitioner no.1 is

appointed on 5.2.1992. He completed 45 years of age on 11.2.2011. He would be entitled for first ACPS benefit on completion of 12 years of service or on attaining age of 45 years for being eligible for grant of exemption from passing departmental examination whichever is latter. Petitioner no.1 completed 12 years of service in April 2004 and has attained age of 45 years on 11.2.2011. Petitioner no.2 is appointed on 2.1.1997 and he completed 12 years of service in January 2009 and has attained age of 45 years on 11.6.2011. The benefit granted to the petitioners was legal and proper and in consonance with the judgment passed by this Court in Writ Petition No. 6700 of 2012, dated 10.12.2013 and Writ Petition No. 5182 of 2012, dated 30.1.2014.

5. In the light of above, the impugned judgment of the Tribunal and the order impugned before the Tribunal are quashed and set aside. In case if any recovery is made by the petitioners the same shall be

refunded back.

6. Writ Petition is accordingly allowed. No costs.

[ **SUNIL K.KOTWAL, J.** ] [ **S.V.GANGAPURWALA, J.** ]

dbm