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

REVIEW APPLICATION NO.61 OF 2018 IN
WRIT PETITION NO.4676 OF 2007

Milind s/o Rangnathrao Kulkarni & ors. ... APPLICANTS

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Shri A.S. Deshmukh, Advocate holding for
Shri Rajendra S. Deshmukh, Advocate for applicants
Shri A.S. Deshpande, Special Counsel with
Shri P.G. Borade, A.G.P. for respondents/ State
.....

CORAM: T.V. NALAWADE AND
 SUNIL K. KOTWAL, JJ.

DATED : 28th MARCH, 2018.

ORAL ORDER :

1. Notice. Learned Special Counsel Mr. Deshpande
waives service for respondents. Heard both sides immediately.

2. Learned counsel for the applicants mainly submitted
that, the employees did not want actual postings on Gazetted
Posts - Class II but they wanted only the status. He submitted
that, the interpretation of Government Resolution dated

16.4.1984 is not correctly made by this Court, and the intention of the Government was different. All the points raised in this review petition are squarely dealt with by this Court and the observations in that regard in para No.9, which runs as under :

9. The facts of the present matter show that present respondents had not faced regular process of recruitment for getting the post of Junior Engineer, they were appointed by Local Committee on the post of Junior Engineer which is Class III post. As per the scheme, the respondents could not have been appointed on Grade II post. The basic requirement for giving appointment as Junior Engineer by using the scheme was Diploma course. Thus, by presuming that the respondents were holding necessary qualification like Diploma, they were given Grade III post like Junior Engineer. Due to that, it was not open to them to say that they were degree holder Junior Engineers. If such case is accepted, that will automatically place them or make them entitle to get the post of Assistant Engineer, Grade II, which was to be given only to regularly appointed Junior Engineers who were degree holders. Thus, the Government had taken a policy decision and due to the policy decision and also due to other GRs, giving benefit to such Project Affected Persons or persons entitled to get appointment on compassionate ground, they were treated as persons eligible to the post of Junior Engineer for which the qualification was diploma and not degree. The respondents were to get Class III post and not Class II post. In accordance with this GR, appointment was given and for giving

appointment undertaking was taken from the respondents that they will not be claiming the post of Assistant Engineer, Grade II. They were to put in at least five years of service and only after that they would have got post of Sectional Engineer. These undertakings given in the year 1997 were in accordance with the scheme prepared by the Government under GR of 1984. Thus, the respondents were treated as diploma holders and only because there was some scheme of the Government, they were given appointment directly on the post of Junior Engineer, Class III post. Due to these circumstances, it is not open to them to claim the post of Assistant Engineer, Grade II by using GR of 1984. GR of 1984 was definitely not for their benefit.

3. This Court has made it clear that, the petitioners could not have been given higher post than the post which was given to them and they were treated as Diploma Holders and they could not have been treated as Degree Holders in view of the scheme of giving appointment on compassionate ground. In view of these circumstances, the contentions made by learned counsel for the applicants do not fall within the purview of review. Learned counsel for the applicants placed reliance on some observations made by the Apex Court in the case of **[M.M. Thomas Vs. State of Kerala]** reported in **[2000 AIR (SC) 540]**. These observations of the Apex Court are of no use in this matter as this Court formed opinion that whatever contended in

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the proceedings is already dealt by this Court and reasoned decision is given. In the result, the review petition stands dismissed.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

fmp/