

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3708 OF 2016

Bhagwan Murlidhar Khandelwal .. **Petitioner**
Versus
The State of Maharashtra and others.. **Respondents**

WITH
WRIT PETITION NO. 13582 OF 2017

Dnyandeo Shankar Matkar .. **Petitioner**
Versus
The State of Maharashtra and others.. **Respondents**

WITH
WRIT PETITION NO. 12305 OF 2015

Madhukar Ramkrushna Kadbane .. **Petitioner**
Versus
The State of Maharashtra and others.. **Respondents**

WITH
WRIT PETITION NO. 4336 OF 2016

Kashinath Sitaram Chaudhari .. **Petitioner**
Versus
The State of Maharashtra and others.. **Respondents**

Mr. Hanumant P. Jadhav, Advocate for the
Petitioner in Writ Petition No. 3708 of 2016.
Mr. R. P. Bhumkar, Advocate for the Petitioners in
Writ Petition Nos. 13582 of 2017, 12305 of 2015
and 4336 of 2016.
Mr. S. K. Tambe, A.G.P. for Respondent / State.
Mr. Deepak P. Bakshi, Advocate for Respondents.

**CORAM: S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.**

DATE: 25th September, 2018

PER COURT :

1. In these petitions the petitioners were working as Mistry Grade - I. The claim of the petitioners for time bound promotional pay scale has been negatived. Aggrieved thereby the present petitions.

2. The learned counsel for the petitioners submit that in Writ Petition No. 4336 of 2016 the petitioner possesses the necessary qualification. The learned counsel further submits that the only ground for negating the claim of the petitioners is that the petitioners do not possess the professional qualification. On attaining the age of 45 years the petitioners are exempted from passing the professional examination. The learned counsel rely upon the letter issued by the State Government dated 04.11.2004, the Government Resolution dated 08.08.2001 and the Government Resolution dated 19.09.2002.

3. Mr. Bakshi, the learned counsel for the respondents submits that as the petitioners did not possess the necessary qualification as per the Government Resolution dated 26.02.2002, the

petitioners are not entitled for time bound promotional pay scale.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. It is not disputed that the petitioners were working with the respondent as Mistry Grade – I. The dispute is with regard to the time bound promotional pay scale. Some of the petitioners have already retired from service. While negating the claim of the petitioners it appears that the respondent has not considered the Government Resolution dated 19.09.2002, the letter issued by the State Government dated 04.11.2004 and the Government Resolution dated 08.08.2001.

6. Considering the above, we direct the respondents to reconsider the claim of the petitioners for time bound promotional pay scale as claimed by them by considering the Government Resolution dated 19.09.2002, 08.08.2001 and the Government letter dated 04.11.2004 as may be applicable, and take decision afresh, expeditiously and preferably within a period of three (3) months from today. The petitioners may represent themselves before the authority and produce relevant Government Resolutions.

7. In Writ Petition No. 3708 of 2016, the learned counsel for the petitioner submits that recovery has been made to the extent of Rs. 50,000/- without issuing notice to the petitioner.

8. It is trite that, the order adverse to a party cannot be passed without issuing notice to him. In case, the recovery has been made by the respondents without issuing notice to the petitioner, then the respondents are liable to return the same to the petitioner. The same be done within a period of three (3) months.

9. Writ Petitions accordingly stand disposed of.
No costs.

[S. M. GAVHANE, J.] [S. V. GANGAPURWALA, J.]

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