

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7361 OF 2018

Mahadev Vishwasrao Musale

..**Petitioner**

Versus

The State of Maharashtra and others..**Respondents**

Shri D. R. Irale Patil, Advocate for the
Petitioner.

Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1
to 3.

Shri S. S. Tope, Advocate for Respondent No. 4.

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

DATE: **30th July, 2018**

PER COURT:

1. Heard finally.

2. It is not in dispute that the petitioner joined services as Junior Engineer on 19.01.1987 and while in service, he obtained degree in civil engineering in December - 2006. As per policy then in existence, he was to be given benefit of 3/8th of earlier service for the purpose of calculation of his seniority after obtaining B.E. degree. He, therefore, moved an application for that purpose on 10.10.2006.

3. It is submitted that the petitioner was given proper placement under order dated 17.11.2015 but in view of the Government Resolution dated 29.05.2007 the benefit is withdrawn.

4. Mr. Tope, the learned counsel submits that the benefit was given by the Zilla Parishad but in view of the orders of the Government the same were withdrawn.

5. Learned A.G.P. Shri Karlekar invites our attention to the Government Resolution dated 29.05.2007 and more particularly to clause 3 therein, to urge that the State Government has expressly prohibited Zilla Parishads from extending the benefit thereunder after 29.05.2007.

6. Perusal of the Government Resolution dated 29.05.2007 shows that the facility or benefit of counting 3/8th of earlier service to graduate junior engineers has been discontinued from the date of issue of said

resolution i.e. 29.05.2007. The petitioner had already obtained B.E. degree in December - 2006 which is long before change in policy by said Government Resolution. Merely because no decision was taken on the representation made by the petitioner, he became victim and changed policy has been applied in his case.

7. Reading of Government Resolution dated 29.05.2007 does not show that it is applicable to the candidates like present petitioner who have already obtained graduate degree prior to issuance of said Government Resolution. In such situation, retrospective application of said Government Resolution cannot be sustained. In this view of the matter, we do not find it necessary to quash and set aside the Government Resolution dated 29.05.2007.

8. Accordingly, we partly allow the petition and direct the Respondents to give benefit to the petitioner of 3/8th of his earlier

service, by ignoring the Government Resolution dated 29.05.2007. Appropriate orders in this respect be issued within a period of 12 weeks from today. The impugned order dated 15.06.2018 is quashed and set aside. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

marathe