

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7366 OF 2018

Udhav Limbajirao Dambale

.. **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 Sambhaji 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 18.02.1985 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. The learned counsel for the petitioner submits that benefit was also given to the petitioner under order dated 17.11.2015, however, the same is withdrawn under order dated 15.06.2018.

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submits that the benefit was given by the Zilla Parishad but in view of the orders of the Government the same were withdrawn.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

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