

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

80 WRIT PETITION NO. 8391 OF 2013

KUMAR BHAURAO YELIKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Irale Patil D.R.
AGP for Respondent Nos. 1 & 2 : Mr.P.K. Lakhotiya.
Advocate for Respondent No. 3 : Mr. Swami Mahesh C.

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

DATE : AUGUST 6, 2018

O R D E R :

Mr. Irale Patil, learned counsel for petitioner submits that the petitioner initially was appointed as Junior Engineer to the establishment of Zilla Parishad, Aurangabad on 22.1.1986. The petitioner successfully passed post recruitment examination in 2004. The petitioner was granted status of Assistant Engineer from 14.8.2008. The petitioner has passed graduation of Engineering (Bachelor of Engineering) in the year 2008. The placement was given to the petitioner under order dated 2.12.2009. Learned

counsel submits that abruptly under impugned communication dated 3.3.2010 same was cancelled on the ground that it was inconsistent with rules.

2. The learned counsel submits that there are no rules and states that after getting Bachelor of Engineering qualification the placement cannot be given in the said seniority.

3. The petitioner is not claiming benefit of 3/8th service but petitioner's claim is that after having completed graduation of Bachelor of Engineering he is entitled for deserving placement in the said seniority.

4. Mr. Lakhotiya, learned AGP submits that, as yet policy has not been framed by the Government for placing diploma holders, who have subsequently completed graduation, in Junior Engineer category. After policy decision is taken further steps would be

undertaken.

5. We have considered the submissions canvassed by respective parties.

6. No rules and regulations are pointed out which leads to an inference that diploma holder after having secured graduation is entitled for the placement in the seniority and to be considered for the post of Assistant Engineer Grade-I.

7. Affidavit is filed by the State which reads thus :-

“ 4. I say and submit that, the Government has not taken any policy decision in respect of the subject matter and which benefit was withdrawn vide G.R. dated 29.5.2007. And thereafter as soon as the policy decision is taken the benefit for which the petitioner will be entitled in accordance with law and policy decision will be given to the petitioner by the competent authority. So far as the relief claimed by the petitioner is concerned, no policy decision has yet been taken by the Government and therefore no benefit can be given to the petitioner.

6. I say and submit that, the State Government is still considering the proposal for inclusion of Junior Engineer with Diploma qualification acquiring Degree

qualification while in service in the State level Seniority List Part-I from the date of acquisition of such degree qualification. The policy decision in respect of the same is not yet taken."

8. As the policy decision has not yet been finalized by the respondent, it would be premature to take any decision upon the grievance of the petitioner. If the respondent/State takes policy decision, then depending upon the policy decision taken by the State, the petitioner may agitate his right.

9. With these observations, Writ Petition is disposed of. No costs.

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

mahajansb/