

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

**WRIT PETITION NO. 10171 OF 2015**

Bharat Laxman Fere and others

.. **Petitioners**

**Versus**

The State of Maharashtra and another

.. **Respondents**

Shri V. R. Bhumkar, Advocate for the Petitioners.

Shri A. S. Shinde, A.G.P. for the Respondent No. 1.

Shri Suresh N. Rodge, Advocate for Respondent No. 2.

**CORAM : S. V. GANGAPURWALA &  
A. M. DHAVALA, JJ.**

**DATE : 1<sup>st</sup> February, 2018**

**PER COURT :**

1. Heard learned advocate for the petitioners and learned advocate for the respondents.

2. The learned advocate for the petitioners submits that the petitioners were working as Mistry Grade – II and they are entitled for time bound promotional pay scale on completion of their 12 years and not from the date the petitioners were

appointed as a Civil Engineering Assistant. Learned advocate submits that benefit is given to the petitioners but from the date the petitioners are appointed as Civil Engineering Assistant and not on completion of 12 years as Mistry Grade – II. Learned advocate submits that the matter is covered by the various Judgments of this court and relies on the order in Writ Petition No. 4095 of 2016, dated 4<sup>th</sup> December, 2017.

3. Mr. Rodge, learned advocate for respondent No. 2 accepts the said fact.

4. In view of that, we follow the same course.

5. The basic contention is that the services rendered by the petitioners as Mistry Grade - II would not be considered while considering 12 years service for time bound promotion pay scale. The Division Bench of this court in Writ Petition No. 5182 of 2012 under Judgment dated January 30<sup>th</sup>, 2014 had reproduced the observations of Writ Petition No. 6212 of 2011 which reads thus:

***“11. Perusal of various Government circulars***

*including Government circular dated 21<sup>st</sup> March, 2006 and 23<sup>rd</sup> August 2010 would reveal that the Chief Executive Officer, Zilla Parishad has been empowered to grant exemption to the employees from appearing into the professional examination on their completion of 45 years of age. Perusal of the communication addressed by the State of Maharashtra to all the Chief Executive Officers, would also reveal that the State of Maharashtra has approved granting of pay scale to Junior Engineers to the persons, who are absorbed as Civil Engineering Assistants from the post of Mistry Grade-I, Mistry Grade-II, Tracer etc. upon completion of 12 years of their service.*

*12. In that view of the matter, we find that the Chief Executive Officer-respondent no. 1 had rightly passed the order dated 13<sup>th</sup> April, 2010 of granting higher pay scale to the petitioners upon completion of 12 years of service in the cadre of Mistry Grade-I, Mistry Grade-II, Muster Clerk, Time Keeper, Draftsman, Tracer etc. and attaining the age of 45 years. It is to be noted that upon completion of 45 years of age the Chief Executive Officer is empowered to grant exemption from appearing in the professional examination.”*

6. The Division Bench of this court has further held in Writ Petition No. 5182 of 2012 that the petitioner is entitled to the pay scale of Junior Engineer upon completion of 12 years service on the post of Mistry Grade-I. The same view is taken by various Division Benches, reference can be had to the Judgment dated August 12, 2014 in Writ Petition No. 1495 of 2014 with connected

writ petitions. The Judgment and order dated 19.9.2013 in Writ Petition No. 4915 of 2012.

7. The petitioners will be entitled for the time bound promotional pay scale on completion of 12 years of their services as Mistry Grade – II and if the 12 years period is completed before 1994, then from 1994.

8. The writ petition is accordingly disposed of. No costs.

**[A. M. DHAVAL, J.]**

**[S. V. GANGAPURWALA, J.]**

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