

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

921 WRIT PETITION NO. 10395 OF 2016

SHRINIWAS GURUNATH GANGTHADE ..PETITIONER

VERSUS

PRINCIPAL SECRETARY RURAL DEVELOPMENT DEPARTMENT
MUMBAI AND OTHERS ..RESPONDENTS

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Mr. V. D. Sapkal, Advocate for the Petitioner.
Mr. S. P. Sonpawale, AGP for Respondent-State.
Mr. P. R. Tandale, Advocate for the Respondent
No.2.

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

DATED : 06th SEPTEMBER, 2018.

PER COURT:-

1. The petitioner seeks directions against respondent no.1 to correct the regular date of appointment of the petitioner as 04.04.1992 and to correct the seniority list to the extent of petitioner showing the date of his regular appointment as 4.4.1992 instead of 8.3.1999.

2. Mr. Sapkal, learned counsel for the petitioner submits that the petitioner was initially appointed in the year 1986, when the selection board was not in existence. The petitioner had filed a Writ Petition bearing no.369 of 1991. In the said Writ Petition the communication was placed on record where it was

clarified that the petitioner has been absorbed in permanent employment of Zilla Parishad and name of the petitioner is at serial no.90. The learned counsel submits that in the said list it is shown that the petitioner's date of continuous appointment is 30.01.1990 and that the petitioner has passed the professional examination of Association Membership of Institution of Engineering (AMIE) in the year 1995 and the petitioner is promoted. The learned counsel submits that one Mr. Joshi who was also selected alongwith the petitioner and in fact was shown lower in the list is granted benefit of continuous appointment. It is clearly stated that those who are appointed prior to 10.02.1988 are left out of the purview of the selection board and such candidate should be considered as regularly appointed candidates and they would be absorbed on the vacant post. The petitioner is appointed in the year 1986. The learned counsel relies on the appointment order dated 8.12.1986.

3. The learned A.G.P. submits that the petitioner was irregularly appointed, as such came to be regularized subsequently as per Government Resolution dated 08.03.1999 and reference is also given to the Government Resolution dated 29.04.1999. It is stated that their services will be counted from the date of the said Government Resolution, pursuant to which the petitioner is regularized. The benefit of earlier service would

not be granted. In view of that, the respondents have rightly shown the employment of the petitioner as from 1999. There is no need to change the seniority list. The order dated 21.02.2017 passed by Chief Executive Officer is to the same effect.

4. The petitioner seems to have been appointed on 8.12.1986, as Junior Engineer in a pay scale of 395-900. It is also on record that a fresh appointment order is issued on 30.01.1990 appointing the petitioner as a Junior Engineer/Assistant Engineer in the pay scale of 1400-1800. The name of the petitioner appears at serial no.3, alongwith petitioner one Mr. G. K. Joshi is also appointed, his name is at serial no.17. It is not disputed that the petitioner was in continues service. Thereafter, the petitioner filed Writ Petition No.369 of 1991. The purpose of the writ petition stood fructified. The writ petition was disposed of with liberty to the petitioner to approach the authority concerned on the issue of seniority. Mr. Joshi, who was appointed alongwith the petitioner was given benefit from 09.04.1987. It is seen that the petitioner is appointed for the first time in the year 1986. In view of the Government Resolution dated 24.01.1990 the said date would be relevant. The said Government Resolution is applied for considering the case of Mr. Joshi, when the order for Mr. Joshi was issued as per the corrigendum

dated 24.01.2002.

5. The list prepared by the respondent also states the date of continuous appointment of the petitioner as 30.01.1996 and having passed the qualifying examination, so also it is shown that the petitioner is promoted. The name of the petitioner appears on serial no.19 in the said list. The same is a seniority list.

6. In light of the above, as the initial appointment of the petitioner was of the year 1986. The Government Resolution dated 8.3.1999 and 29.04.1999 relied by the respondents would not apply to the petitioner. Considering the above, the seniority of the petitioner shall be fixed as on the basis of continuous officiation from the year 1992 as mentioned in the service book. The impugned order as such is quashed and set aside.

7. Writ Petition accordingly disposed of. No costs.

(S. M. GAVHANE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/September-18

Devendra
Nandkumar
Kale

Digitally signed
by Devendra
Nandkumar Kale
Date: 2018.09.12
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