

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

**WRIT PETITION NO. 5085 OF 2017**

Mohammad Sarwar Abdul Gani

.. **Petitioner**

**Versus**

The State of Maharashtra and another

.. **Respondents**

Shri Suresh D. Dhongade, Advocate for the Petitioner.

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

Respondent No. 2 served.

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

**DATE** : **9<sup>th</sup> January, 2018**

**PER COURT :**

1. The petitioner assails the judgment of the tribunal to the extent of non grant of back wages and annual increment.

2. Mr. Dhongade, learned advocate for the petitioner submits that similarly situated employees are granted the benefit by this court. The petitioner in view of the said judgment was representating the respondents to give the similar benefit. As the respondents have not considered the representations of the petitioner, eventually the petitioner filed the present writ petition. The learned advocate submits that petitioner cannot be discriminated as against the similarly situated employees. This court had granted benefit to those employees. The petitioner will

have to face lot of hardship and still loose almost 4 to 5 increments.

3. Learned A.G.P. submits that order of the tribunal is confirmed by this court in Writ Petition No. 8353 of 2012, under its judgment and order dated 16.12.2011.

4. As represented by the learned A.G.P. this court in Writ Petition No. 8353 of 2012 under order dated 10<sup>th</sup> October, 2012 had confirmed the judgment of the tribunal and this court made following observations-

***“3) After considering the matter, the Tribunal found that nearly one year and seven months have lapsed since termination of the respondents. The Tribunal in para 6 of the order considered the circumstances. The respondents were appointed on compassionate ground. When they were terminated two posts remained vacant. The respondents were expected to acquire proficiency in computer operation by August 2010 but they acquired the same in October and December 2010 respectively. Under the relevant rule 6 of the State has powers to relax the rigor of rule 4. In the facts of the case, the Tribunal was of the opinion that it is a fit case for relaxation of period of two years. The Tribunal***

***accordingly directed the State to grant relaxation to the respondents and reinstate them in Class III service. The Tribunal rightly denied salary for the period of absence and any increment during the said period to the respondents.”***

5. The judgment of this court is not subject matter of challenge.

6. This court had considered the judgment of the tribunal to be reasonable and had found that there is no error in the said judgment and has confirmed it. After the long slumber of 4 years it would not be possible to consider the grievance of the petitioner, that too in the wake of the judgment of this court delivered in Writ Petition No. 8353 of 2012, in case of petitioner.

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

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

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

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