

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

WRIT PETITION NO. 13481 OF 2017

Kishan Tukaram Ubale and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri V. H. Dighe, Advocate for Petitioners.

Shri A. V. Deshmukh, A.G.P. for the Respondent No. 1.

Shri S. B. Patil, Advocate for Respondent Nos. 2 to 4.

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

DATE : 28TH JUNE, 2018.

FINAL ORDER :

. The dispute is about grant of II Assured Career Progression Scheme (for short "ACPS") benefit as far as petitioner Nos. 1 and 2 are concerned and grant of I and II ACPS benefit as far as the petitioner No. 3 is concerned.

2. We have heard Mr. Dighe, the learned advocate for petitioners, Mr. Deshmukh, the learned Assistant Government Pleader for the respondent No. 1 and Mr. Patil, the learned counsel for respondent Nos. 2 to 4.

3. The following dates are undisputed.

Name of Petitioner	Date of Appointment	Date of attaining age of 45 years	Date of absorption as C.E.A.	Date of Retirement
K. T. Ubale Petitioner No. 1	24.11.1983	09.06.2005	01.04.2005	30.06.2018
M. M. Bakkewar Petitioner No. 2	13.06.1983	23.03.2009	01.04.2005	31.03.2022
M. P. Gaikwad Petitioner No. 3	05.03.1979	04.09.2003	01.06.2005	30.09.2016

4. The petitioner Nos. 1 and 2 have been given I ACPS benefit i. e. first time bound promotional pay scale in November 1995 and June 1995 respectively.

5. The petitioner Nos. 1 and 2 would be entitled for II ACPS benefit upon completion of twelve years after getting I ACPS benefit or on completion of 45 years of age when they are entitled for exemption from passing the departmental examination whichever is later.

6. The petitioner No. 1 would complete twelve years after the I ACPS benefit in November 2007 and would get exemption from passing departmental examination on 09.06.2005. As far as the petitioner No. 1 is concerned, he would get II ACPS benefit in

November 2007.

7. The petitioner No. 2 would complete twelve years after grant of I ACPS benefit in June 2007. Whereas, he completes 45 years of age and gets exemption from passing the departmental examination on 23.03.2009. He will be entitled for II ACPS benefit from 23.03.2009.

8. The grievance of the petitioner No. 3 is that, he has not been given I ACPS benefit, nor II ACPS benefit. The reason was that the petitioner No. 3 being appointed from reserved category had not produced the validity certificate. It is not disputed that the petitioner No. 3 has subsequently produced validity certificate thereby validating his caste. In view of that, the petitioner No. 3 will be entitled for I as well as II ACPS benefit. The petitioner No. 3 will be granted I ACPS i. e. first time bound promotional pay scale benefit with effect from 01.10.1994. The petitioner No. 3 completes 45 years of age on 04.09.2003 and becomes eligible for exemption from passing departmental examination. He completes twelve years after I ACPS benefit in October 2006. In view of that, the petitioner No. 3 shall be granted II ACPS benefit with effect from October 2006.

9. The respondents shall grant the ACPS benefit to petitioners as directed above expeditiously and preferably within

a period of six (06) months from today. The order of the Maharashtra Administrative Tribunal stands modified accordingly. The writ petition as such is allowed in above terms. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/June 18