

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

WRIT PETITION NO.2176 OF 2017

Laxman Vishwanath Jadhav & others.

Petitioners.

Versus

The State of Maharashtra & others.

Respondents.

Mr. S.V. Gundre, Advocate for the petitioners.

Mr. A.V. Deshmukh, A.G.P. for respondent No.1.

Mr. R.R. Tandale, Advocate for respondent Nos.2 to 4.

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

Dated : **17th July, 2018.**

FINAL ORDER :-

Mr. Gundre, learned Counsel for the petitioners submits that the petitioners were working as Mistri Grade-I. The Resolution was issued in the year 1999 for merging 7 posts such as Mistri Grade-I, Grade-II, Road Clerks, Muster Clerks as Civil Engineering Assistants. The learned Counsel submits that the petitioners are appointed in the year 1971. They ought to have been granted first time bound benefit in the year 1994. Thus, the petitioners completed 45 years of age in the year 1998-99. On that date they should have

been granted further benefit of pay-scale of Junior Engineer. According to the learned Counsel for the petitioners, on completion of 45 years of age the petitioners were eligible for the salary of Junior Engineer in view of the ACPS Scheme. The respondents have miserably failed to consider the said aspect.

2. Mr. Tandale, the learned Counsel submits that the petitioners retired as Mistri Grade-I and they were never appointed as Civil Engineering Assistants. The higher pay-scale was granted to the petitioners in the year 1997 and before completion of next 12 years the petitioners retired from the service. In view of that fact, the second benefit could not be given to the petitioners.

3. We have considered the submissions.

4. The date of appointment of the petitioners as Mistri Grade-I is not disputed. It is also not disputed that the petitioners on no material point of time were absorbed as Civil Engineering Assistants and they retired as Mistri Grade-I. Further, it also appears that the petitioners were given benefit of higher pay-scale in February-1997 and all these petitioners retired in the year 2004-05 on attaining the age of superannuation. Even if it is assumed that first time bond benefit should have been given to the petitioners in the year 1994, still 12 years would be completed in the year 2006 and all these petitioners retired prior to 2005.

5. Thus, the petitioners were regularised in the post of Mistri in the year 1985 and as such were granted benefit in the year 1997. The petitioners could not have been granted the benefit of second ACPS as they stood retired before completion of 12 years of service.

6. In light of that, no relief can be granted to the petitioners. The Writ Petition is disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

vdd/