

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 334 OF 2018**

**Shri Suresh Bhanudas Shinde & Anr
Vs.**

..Petitioners

**The State of Maharashtra through
Principal Secretary & Ors**

..Respondents

**IN
WRIT PETITION NO. 343 OF 2018**

**Shri Prakash Bhanudas Nalawade
Vs.**

..Petitioner

**The State of Maharashtra through
Principal Secretary & Ors**

..Respondents

**IN
WRIT PETITION NO. 1493 OF 2018**

**Sheikh Shaffiuddin Fayassoddin
Vs.**

..Petitioner

**The State of Maharashtra through
Principal Secretary & Ors**

..Respondents

**IN
WRIT PETITION st NO. 29375 OF 2017**

**Maharashtra Sate Secondary School
non-Teaching Organizaton Corporation & Anr
Vs.**

..Petitioners

**The State of Maharashtra through
Principal Secretary & Ors**

..Respondents

**IN
WRIT PETITION st NO. 31949 OF 2017**

**Sadashiv Bhanudas Pawar & Ors
Vs.**

..Petitioners

**The State of Maharashtra through
Principal Secretary & Ors**

..Respondents

IN
WRIT PETITION st NO. 34294 OF 2017

Talwar Shrishail Gauranna & Ors	..Petitioners
Vs.	
The State of Maharashtra through Principal Secretary & Ors	..Respondents

IN
WRIT PETITION st. NO. 16881 OF 2018

Krishna Baliram Chaudhary & Ors	..Petitioners
Vs.	
The State of Maharashtra through Principal Secretary & Ors	..Respondents

IN
WRIT PETITION NO. 5629 OF 2018

Maharashtra Rajya Madhyamik Shala Shikshaketar Sanghatnache Mahamandal & Ors	..Petitioners
Vs.	
The State of Maharashtra through Principal Secretary & Ors	..Respondents

IN
WRIT PETITION st NO. 11245 OF 2018

Arjun Shripati Kamble & Ors	..Petitioners
Vs.	
The State of Maharashtra through Principal Secretary & Ors	..Respondents

IN
WRIT PETITION st NO. 11256 OF 2018

Maruti Dnyandeo Patil & Ors	..Petitioners
Vs.	
The State of Maharashtra through Principal Secretary & Ors	..Respondents

**IN
WRIT PETITION st. NO. 16880 OF 2018**

Santosh Bajirao Marathe & Ors

..Petitioners

Vs.

**The State of Maharashtra through
Principal Secretary & Ors**

..Respondents

**Shri Sagar Mane for the Petitioners in Writ Petition Nos.334 of 2018 and
343 of 2018**

Shri Sudhir Nandode for the Petitioners in Writ Petition No.1493 of 2018

**Shri C.G.Gavnekar I/b Shri S. S. Raut for the Petitioners in Writ Petition St
Nos.29375 of 2017, 31949 of 2017 and 34294 of 2017**

**Shri. N.V. Bandiwadekar I/b Ms Ashwini Bandiwadekar for the Petitioner
in Writ Petition No.5629 of 2018**

**Shri. M. S. Topkar for the Petitioner in Writ Petition st.Nos.16881 of 2018,
11245 of 2018, 11256 of 2018 and 16880 of 2018**

Shri. A. I. Patel Addl G. P. for State in all Writ Petitions

**Shri. F. A. Wasif I/b Mr. N. R. Bubna for the Respondent No.4 in Writ
Petition No.1493 of 2018**

**CORAM :R. M. SAVANT, &
NITIN W. SAMBRE, JJ
DATE : 4th OCTOBER, 2018**

P.C.

1 The above group of Petitions exemplify the reluctance of the State Government to extend the benefits of the Assured Career Progression Scheme to the Petitioners for the reasons which can be said to be totally untenable and unjustified. It is not necessary to burden this order with unnecessary details.

Suffice it would be to state that the Petitioners above named who have been

This order has been corrected pursuant to the order dated 9-10-2018

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3 of 7

partly given benefits of the Assured Career Progression Scheme have approached this court for being granted the benefit of promotion after 24 years of service. There is a prayer to the said effect in all the above Petitions.

2 In so far as the whether the benefit of the Assured Career Progression Scheme to the non teaching staff is concerned, the struggle of the said class of employees seems to be unending. The issue as to the applicability of the scheme to the non teaching staff was resolved at the first instance. Thereafter whether it could be made applicable to the unaided institutions was resolved and lastly whether the services put in the non aided section could be counted for computing the initial period of 12 years was resolved. It is after the aforesaid issues were resolved by orders passed by this court from time to time that the issue as to whether the second benefit i.e. after 24 years of service under the Assured Career Progression Scheme could be given, raised its head. There is no dispute about the fact that all the Petitioners have been given the first benefit i.e. the benefit after putting in 12 years of service and what remains to be given is therefore the second benefit after putting in 24 years of service. The said issue is no more res-intergra and is covered by the orders/judgments of this court in Writ Petition No.922 of 2014 and Writ Petition No.924 of 2014.

3 In Writ Petition No.922 of 2014 the relief sought was identical to

the relief sought in the instant Petitions. The Learned AGP appearing in the said Writ Petition No.922 of 2014 had fairly conceded that the Petitioner in the said Writ Petition was identically situated as the Petitioner in Writ Petition No.6089 of 2013, in which an order dated 26-4-2013 came to be passed by a Division Bench of this Court by recording the statement of the Learned AGP that the said Writ Petition No.6089 of 2013 came to be allowed resulting in the benefit of the second promotion being granted to the Petitioners in the said Writ Petition No.922 of 2014. In so far as Writ Petition No.924 of 2014 is concerned, the factual basis can be said to be the same as in the instant Petitions. The said Writ Petition came to be allowed by a Division Bench of this Court by order dated 3-5-2017 relying upon the orders passed in Writ Petition No.2897 of 2012 dated 26-4-2012 and Writ Petition No.922 of 2014 i.e. the order dated 26-3-2015. The order passed in Writ Petition No.922 of 2014 is sought to be distinguished on the ground that the said order has been passed on the basis of a concession made by the Learned AGP. We are unable to countenance the said submission especially having regard to the fact that the factual basis in the said Writ Petition No.922 of 2014 is the same as in the instant Petitions.

4 In so far as Writ Petition No.924 of 2014 is concerned, there is absolutely no answer forthcoming as to why the said order is not applicable in the facts and circumstances of the present Writ Petition. Significantly an

affidavit in reply is filed in the above Writ Petition No.334 of 2018. In paragraph 4 of the said affidavit, it is stated that on account of the loan waiver and incentive benefit scheme for the farmers, the State is expected to incur expenditure putting heavy burden on already stretched State Finances if the benefits of Assured Career Progression Scheme are extended, the same would adversely affect the infrastructure projects in sectors such as irrigation, power and transport. Hence the stand taken by the State Government is on account of the stretched State Finances i.e. on account of financial stringency that the State Government would be facing and not based on any legal disentitlement of the Petitioners.

5 Having regard to the fact that there are already precedents by way of order passed in Writ Petition No.922 of 2014 and Writ Petition No.924 of 2014, we deem it appropriate to follow the said precedents. We are also informed by the Learned Counsel appearing on behalf of the Petitioners that the second benefit is already extended by the Higher Education Department by Government Resolution dated 15-2-2011 to the non teaching staff, as also the teachers working in the School Education Department are getting the said benefit. We therefore find no reason as to why the said benefit cannot be extended to the Petitioners above named. The above Petitions are accordingly allowed to the extent of directing the Respondents to grant the second benefit after 24 years of service to the Petitioners, if they are entitled to the same.

The same to be done within 8 weeks from date. Rule is accordingly made absolute in the aforesaid terms.

6 We hope and trust that the Respondents would extend the benefit of the Assured Career Progression Scheme in so far as the second benefit after 24 years is concerned to all the non teaching staff who are similarly situated as the Petitioners above named and it would not be necessary for them to approach this court for getting the said relief.

[NITIN W. SAMBRE, J]

[R.M.SAVANT, J]

Digitally
signed by
Meera
Mahesh
Jadhav
Date:
2018.10.12
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