

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

WRIT PETITION NO. 6904 OF 2014

1. Bansi s/o Uttamrao Mote
Age 69 yrs. Occ. Pensioner,
r/o Sant Namdeo Nagar
Dhanora Road, Beed,
Dist. Beed.
 2. Arjun s/o Krishnarao Birajdar
Age 68 yrs. Occ. Pensioner,
r/o Omerga, Tq. Omerga
Dist. Osmanabad
- ... Petitioners

Versus

1. The State of Maharashtra
(Copy to be served with the G.P.
High Court of Bombay bench at Aurangabad)
For Secretary, Rural Development
And Water Conservation Department,
Mantralaya, Mumbai-32.
 2. The Secretary
Rural Development
And Water Conservation Department,
Mantralaya, Mumbai-32.
 3. The Divisional Additional Commissioner
Aurangabad Division, Aurangabad.
 4. The Chief Executive Officer,
Zilla Parishad, Osmanabad
- ... Respondents

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Mr. D. R. Irale Patil, Advocate for petitioners.
Mr. A. S. Shinde, AGP for respondent Nos. 1 to 3 – State.
Mr. R. D. Raut, Advocate for respondent No.4.

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CORAM : R. G. AVACHAT, J.
RESERVED ON : 03rd OCTOBER, 2019
PRONOUNCED ON : 15th OCTOBER, 2019

JUDGMENT :-

1. Heard learned counsel for the parties.
2. The petitioners have filed this writ petition for the following main relief.

“B) The Hon'ble Court may be pleased to pass necessary order and quash and set aside the impugned orders impugned order No.DB/Appeal/Cell/100/2012 dated 18.02.2013 passed by the Respondent No.1 & the impugned order dated 17/5/2012 passed by Respondent No.2 and direct the respondents to provide the benefit of pay scale attached to the post of Sectional Engineer with effect from 1981 within time limit as provided under the G.R. Dated 11th March, 1987 issued by Rural Development Department, Mantralaya, Mumbai 32.”

3. Shri Irale Patil, learned counsel appearing for the petitioners, would submit that the petitioners were appointed as Sub-Overseers with the Zilla Parishad, Osmanabad, way back in 1965. Both the petitioners completed 10 years service and subsequently, promoted to

the post of Junior Engineer. The petitioners became eligible for grant of status of Sectional Engineer and pay scale attached thereto w.e.f. 01.04.1981, pursuant to the Government Resolution (G.R.) dated 31.03.1987. Respondent No.4 – Chief Executive Officer (C.E.O.), Zilla Parishad, Osmanabad, therefore, on 05.08.1988 submitted proposal to respondent No.3 – Additional Divisional Commissioner, Aurangabad, for grant of status of Sectional Engineer to the petitioners. Respondent No.3, however, kept the said proposal pending for indefinite period while approving the similar proposals in respect of other junior engineers. Although, the petitioners had completed 10 years of service prior to G.R. dated 01.04.1981, they have still been given the benefit from 15.03.1989 and 01.04.1989 respectively. Respondent No.3 returned the original proposals of the petitioners to respondent No.4 in April 1991 and called their confidential reports for the period from 1978 to 1984. Thereafter, the government vide resolution dated 17.11.1994 cancelled the said benefit retrospectively from 12.09.1990. The monetary benefits received by the employees, have, however, been protected with a direction, not to recover the same. Thereafter, the government vide G.R. dated 16.04.2001 continued to grant status of Sectional Engineers as contemplated therein. The petitioners have retired on superannuation in March-2002. The petitioners made several

representations, but in vain. They have, therefore, filed Writ Petition No.915/2012 before this Court. This Court was pleased to dispose of the said writ petition with the direction to respondent No.4 to decide the representation of the petitioners. Respondent No.4 turned down the representation on 17.05.2012. The petitioners challenged the said order before respondent No.3. The petitioners have, however, been unsuccessful therein. They, therefore, filed revision before respondent No.2 – The Secretary, Rural Development and Water Conservation Department, Mantralaya, Mumbai-32. The revision application came to be rejected.

4. The learned counsel for the petitioners took me through the relevant G.Rs. filed on record. According to the learned counsel, it was a question of fixation of pay in the cadre of Sectional Engineer. Unless and until the pay is fixed, it gives a recurring cause of action. The department did not furnish the annual confidential reports of the petitioners. The petitioners have, thus, been deprived of their legitimate claim. The other employees along with whom the names of the petitioners were recommended for grant of status of Sectional Engineer, have been granted benefit, in spite of the scheme being withdrawn under G.R. dated 17.11.1994. The monetary benefits received by them have not been withdrawn. Since, the petitioners have

retired on superannuation, they would get notional increments and their pension would be re-fixed, the same would constitute a nominal benefit to the petitioners, which would be necessary for them during the evening of their lives.

5. The respondents, on the other hand, filed affidavits-in-reply. Learned counsel representing the respective respondents made submissions consistent with the averments in the affidavits-in-reply.

6. It is the case of the respondents that the petition is liable to be rejected solely on the ground of delay and laches. The State of Maharashtra introduced the G.R. dated 17.11.1994, whereby the G.R. dated 12.09.1990, came to be withdrawn with retrospective effect. The monetary benefit granted to some of the employees pursuant to the G.R. dated 12.09.1990 has been directed not to be recovered as a special case, since, some of them had approached this High Court and obtained orders in that regard. Therefore, the monetary benefits granted to some of the employees has not been recovered.

7. Both the petitioners joined the service with the Zilla Parishad, Osmanabad, in February-1966 and December-1965, respectively. Both the petitioners claimed to have had passed Sub-Overseers course. Both of them completed continuous 10 years service on the post of Junior

Engineer in 1977 and 1978, respectively. By virtue of G.R. dated 11.03.1987, the petitioners claimed to have had become eligible for conferment of status of Sectional Engineer and the pay scale attached thereto w.e.f. 01.04.1981. Both have, however, been granted the said status w.e.f. 01.04.1988 and 01-04-1989, respectively. The petitioners have retired on superannuation w.e.f. 31.03.2002.

8. The State of Maharashtra, in Rural Development Department, vide G.R. dated 11.03.1987 decided to confer Sectional Engineers' grade with the necessary pay scale attached thereto to the Junior Engineers (graduate or diploma holders) who have put in not less than 10 years of service. The said benefit was also decided to be conferred on the Junior Engineers who are neither graduate nor diploma holders. The benefit of the said G.R. has been conferred w.e.f. 01.04.1981, 01.04.1982, 01.04.1983 and 01.04.1984. In the very G.R., there is reference to G.R. dated 09.06.1986 and government circular dated 02.04.1986. Both the said G.R. and the circular, are not before the Court. The C.E.O., Zilla Parishad, Osmanabad, by letter dated 05.08.1988, made a communication with the Divisional Commissioner, Aurangabad, recommending one Shri M. I. Inamdar, for conferment of Sectional Engineer's grade. Along with the said communication, the names of some other employees, including petitioner No.1 - Shri Bansi

Mote was recommended. He was, however, recommended for conferment of Sectional Engineer's status w.e.f. 01.04.1988. Accordingly, he has been conferred with the said status from 01.04.1988. Petitioner No.2 - Shri Arjun Birajdar had also been conferred with the said status w.e.f. 01.04.1989.

9. The government, vide G.R. dated 12.09.1990, decided to confer Sectional Engineer's status to those employees who had completed 10 years of service in the cadre of Sub-Overseers and Junior Engineers. Meaning thereby, the period of service of Sub-Overseers was allowed to be calculated while counting the period of 10 years of service as a Junior Engineer. Both the petitioners, therefore, claimed to have completed such 10 years of service in 1977 and 1978 respectively and therefore, became entitled for Sectional Engineer's status w.e.f. 01.04.1981. It appears that the proposal of both the petitioners were forwarded to the office of the Divisional Commissioner for consideration of their case for grant of benefit w.e.f. 01.04.1981. It appears that the proposals of both the petitioners were returned, since their annual confidential reports from the period 1978 to 1984 were not submitted along with the proposals. The C.E.O. was directed to resubmit the proposals of the petitioners.

10. Unfortunately for the petitioners, the government issued G.R. dated 10.05.1991, whereby and whereunder the G.R. dated 12.09.1990 came to be stayed for until further orders. Although, the petitioners had become eligible for grant of Sectional Engineer's status w.e.f. 01.04.1981 by virtue of G.R. dated 12.09.1990 to the petitioners further dismay, the government issued G.R. dated 17.11.1994 withdrawing the G.R. dated 12.09.1990 with retrospective effect. The directions were issued to recover the monetary benefit received by the employees who have been granted Sectional Engineer's status by virtue of G.R. dated 12.09.1990. Some of such employees appear to have had approached this Court. They have been granted relief against recovery of the monetary benefits received by them. The government, thereafter, issued G.R. dated 19.11.2004, directing not to make recovery of monetary benefits received by such employees. The said G.R. was issued as a special case.

As such, the claim of the petitioners was based on the G.R. dated 12.09.1990. The State Government withdrew the said G.R. During enforcement of the said G.R., the petitioners could not be granted with the benefits of Sectional Engineer's status. The petitioners could not claim equity with those who could be granted such benefit. Later on, the Government had directed to withdraw the benefits of those

employees as well, but for the intervention of the High Court. Thus, the petitioners could not be heard to say to be entitled to the benefit under the G.R. which is no longer in force.

11. The petitioners have retired on superannuation in 2002. It appears that the petitioners, first time, approached the State Government in August, 2011, asking for the reliefs. By the time, the petitioners first approached the State Government, a period of over 21 years had passed. The petition, thus, also suffers from delay and latches. The representation preferred by the petitioners has therefore rightly been turned down by the C.E.O. and the Divisional Commissioner, as well.

12. This Court do not find any reason to take a different view. The writ petition, thus, fails. The same is therefore, dismissed. Rule discharged.

[R. G. AVACHAT, J.]

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