

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

994 WRIT PETITION NO.10440 OF 2018

BHAUSAHEB KADUBA DANDGE AND ORS  
VERSUS  
THE STATE OF MAHARASHTRA AND ORS  
WITH  
WRIT PETITION NO.5240 OF 2018

SHRIPATI SHIVRAM MADHALE, THROUGH 1rS. SHANTABAI  
SHRIPATI MADHALE  
VERSUS  
THE STATE OF MAHARASHTRA AND ORS  
WITH  
WRIT PETITION NO.9637 OF 2018

SUDAM JAGANATH GONDHALE AND ORS  
VERSUS  
THE STATE OF MAHARASHTRA AND ORS  
WITH  
WRIT PETITION NO.9948 OF 2018

BHAGWAN RAMDAS DHONGDE THROUGH LRS  
RATNMALA BHAGWANRAO DHONGDE  
VERSUS  
THE STATE OF MAHARASHTRA AND ORS  
WITH  
WRIT PETITION NO.10667 OF 2018

SAYEED NAIMUDDIN SAYEED ZIA UDDIN  
VERSUS  
THE STATE OF MAHARASHTRA AND ORS  
WITH  
WRIT PETITION NO.12479 OF 2018

BHIKAJI LAXMAN SHENGULE  
VERSUS  
THE STATE OF MAHARASHTRA AND ORS

Advocate for Petitioners : Mr. Sapkal V. D.  
AGP for Respondents State: Mr. S.P.Tiwari  
Advocate for Respondents 2&3: Mrs Ashwini S. Hoge Patil

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

**DATE : 26<sup>th</sup> April, 2019**

**PER COURT :**

1. Petitioners seek declaration that the petitioners are entitled for pay scale of Junior Engineer on the basis of the order passed by the authority.

2. Mr. Sapkal, the learned Advocate for the petitioners submits that all these petitioners were brought on CRTE on the respective dates. They are entitled for the benefit of time bound promotional pay scale from the date of completion of 12 years from the date they are brought on CRTE. The order was also passed in the year 2007 by the competent authority granting them benefit of time bound promotional pay scale. However, the same was not implemented. The petitioners were also entitled for the second time bound time bound promotional scale. According to the learned counsel, reliance placed by respondent Nos. 2 and 3 on the Government Resolution dated 28.07.2014 is misplaced. The learned Advocate for the petitioners relies on the judgment and order passed by this Court

in Writ Petition No. 3132/2017, dated 22<sup>nd</sup> March, 1999 decided by the Division Bench of this Court to which one of us (S.V. Gangapurwala, J.) was party.

3. Mrs. Hoge-Patil, the learned Advocate for respondents 2 and 3 submits that the order in the year 2007 was erroneously passed. As per clarification letter dated 22.06.2007, it was clarified to place the petitioners/employees in the cadre of Civil Engineering Assistants and they are not entitled for arrears of the time bound promotional pay scale as per communication dated 29.9.2008. The Zilla Parishad, under its order in the year 2007 had initially granted time bound promotional pay scale to the petitioners but as per the Government resolution dated 28.07.2014, the said benefit is not accorded. The petitioners are entitled for the pay scale of Junior Engineer after completing 12 years service as Civil Engineering Assistant.

4. We have considered the submissions.

5. The chart has been submitted of the petitioners in various writ petitions. The details of the same is as under:

| W.P. No.        | Name of Petitioner  |    | Date of CRTE | Date of completion of 12 years service | Date of completion of 45 years Age. | Benefit given by respondents on | Retirement date               |
|-----------------|---------------------|----|--------------|----------------------------------------|-------------------------------------|---------------------------------|-------------------------------|
| 9948/2018       | Bhagwan Dhongade    | R. | 01/04/1980   | 01/04/1992                             | 13/05/1995                          | 01/10/1994<br>Pg. 52            | 30/06/2008<br>died 25.10.2011 |
| 12479/2018      | Bhikaji Shengule    | L. | 01/04/1980   | 01/04/1992                             | 03/06/1997                          | 01/10/1994<br>Pg. 46            | 30/06/2010                    |
| 9637/2018<br>1. | Sudam Gondhale      | J. | 01/04/1980   | 01/04/1992                             | 29/02/1996                          | 01/10/1994<br>Pg.49             | 28/02/2009                    |
| 2.              | Isak Shaikh         | S. | 01/04/1981   | 01/04/1993                             | 04/07/2000                          | 01/10/1994<br>Pg.49             | 31/03/2013                    |
| 3.              | Vasant Shlke        | B. | 01/04/1980   | 01/04/1992                             | 06/08/1994                          | 01/10/1994<br>Pg.49             | 31/08/2007                    |
| 4.              | Ramdas Kewat        | D. | 01/04/1980   | 01/04/1992                             | 02/04/1998                          | 01/10/1994<br>Pg.49             | 30/04/2012                    |
| 5.              | Gulamuddin Shaikh   | M. | 01/04/1980   | 01/04/1992                             | 10/10/1995                          | 01/10/1994<br>Pg.49             | 09/10/2008                    |
| 5240/2018       | Shripati Madhale    | S. | 01/04/1979   | 01/04/1991                             | 15/09/1996                          | 01/10/1994<br>pg.30             | 14/09/2009<br>died 17.12.2017 |
| 10667/2018      | Saeed N.S.Zia Uddin |    | 01/04/1982   | 01/04/1994                             | 12/06/1998                          | 01/10/1994<br>Pg.46             | 28/02/2014                    |
| 10440/2018      |                     |    |              |                                        |                                     |                                 |                               |
| 1               | Bhusaheb Dandge     | K. | 01/04/1980   | 01/04/1992                             | 22/06/1995                          | 01/10/1994<br>Pg.48             | 30/06/2008                    |

|    |                   |    |            |            |            |                     |            |
|----|-------------------|----|------------|------------|------------|---------------------|------------|
| 2  | Mansab Shrikhande | E. | 01/04/1980 | 01/04/1992 | 01/04/1994 | 01/10/1994<br>pg.49 | 01/01/2008 |
| 3  | Gorakh B.Sonawane |    | 01/04/1981 | 01/04/1993 | 01/01/1996 | 01/06/2000<br>pg.50 | 31/06/2009 |
| 4  | Manohar Kankal    | V. | 01/04/1979 | 01/04/1991 | 22/09/1995 | 01/10/1994<br>pg.48 | 30/09/2008 |
| 5  | Raghunath Shinkar | F. | 01/04/1979 | 01/04/1991 | 27/04/1996 | 01/10/1994<br>pg.48 | 30/09/2008 |
| 6  | Sahebrao Gavane   | N. | 01/04/1980 | 01/04/1992 | 08/04/1996 | 01/10/1994<br>pg.49 | 30/09/2008 |
| 7  | Vitthal Bhuyagale | C. | 01/04/1980 | 01/04/1992 | 12/03/1998 | 01/10/1994<br>pg.48 | 31/03/2011 |
| 8  | Namdeo Kunte      | D. | 01/04/1981 | 01/04/1993 | 06/03/1995 | 01/10/1994<br>pg.50 | 30/06/2018 |
| 9  | Vilas Jahagirdar  | C. | 01/04/1977 | 01/04/1989 | 17/04/1995 | 01/10/1994<br>pg.48 | 30/06/2008 |
| 10 | Vijay Kulkarni    | V. | 01/04/1976 | 01/04/1988 | 28/09/2007 | 01/10/1994<br>pg.48 | 30/09/2000 |
| 11 | Rajaram Naik      | M. | 01/04/1980 | 01/04/1992 | 01/06/2000 | 01/10/1994<br>pg.49 | 30/06/2013 |
| 12 | Hayatkhan Pathan  | N. | 01/04/1982 | 01/04/1994 | 12/06/1998 | 01/10/1994<br>pg.49 | 30/04/2011 |
| 13 | Popoatrao S.Gonge |    | 01/04/1981 | 01/04/1993 | 10/06/1994 | 01/10/1994<br>pg.49 | 30/06/2007 |
| 14 | Prabhakar S.Daund |    | 01/04/1982 | 01/04/1994 | 06/12/1997 | 01/10/1994<br>pg.49 | 31/10/2010 |
| 15 | Devoji Shekapure  | Y. | 01/04/1979 | 01/04/1991 | 10/12/1997 | 01/10/1994<br>pg.48 | 31/10/2010 |

|    |                                             |    |            |            |            |                     |                    |
|----|---------------------------------------------|----|------------|------------|------------|---------------------|--------------------|
| 16 | Dadasaheb Gadekar                           | M. | 01/04/1985 | 01/04/1997 | 06/06/2000 | 01/10/1997<br>pg.50 | 30/10/2008         |
| 17 | Shamrao Chavan                              | R. | 01/04/1980 | 01/04/1992 | 27/01/1998 | 01/10/1994<br>pg.49 | 31/11/2011         |
| 18 | Pundlik Kharat                              | D. | 01/04/1980 | 01/04/1992 | 08/08/1996 | 01/10/1994<br>pg.49 | 31/08/2011         |
| 19 | Anil Chaudhari                              | K. | 01/04/1979 | 01/04/1991 | 07/05/1996 | 01/10/1994<br>pg.48 | 31/05/2009         |
| 20 | Mohammad Gafoor                             | A. | 01/04/1978 | 01/04/1990 | 17/08/1995 | 01/10/1994<br>pg.48 | 31/08/2008         |
| 21 | Shivram Bhosale                             | K. | 01/04/1980 | 01/04/1992 | 20/02/1995 | 01/10/1994<br>pg.49 | 28/02/2008         |
| 22 | Deleted As per Court order dated 11.04.2019 |    |            |            |            |                     |                    |
| 23 | Ramnath S.Khaire                            |    | 01/04/1980 | 01/04/1992 | 11/04/1999 | 01/10/1994<br>pg.49 | 30/10/2012         |
| 24 | Sonaji Mhaske                               | S. | 01/04/1981 | 01/04/1993 | 19/03/1996 | 01/10/1994<br>pg.48 | 31/03/2009         |
| 25 | Manohar G. Deshpande                        |    | 01/04/1977 | 01/04/1989 | 16/09/1997 | 01/10/1994<br>pg.48 | 30/10/2000         |
| 26 | Kashiram Salve                              | K. | 01/04/1980 | 01/04/1992 | 10/12/1998 | 01/10/1994<br>pg.49 | 28/02/2011         |
| 27 | Panditrao Kunde                             | M. | 01/04/1980 | 01/04/1992 | 01/06/1995 | 01/10/1994<br>pg.49 | 30/06/2008<br>Died |

6. The petitioners were initially granted benefits of time bound promotional pay scale after completion of 12 years service from the date they were brought on CRTE. The order to that effect, it appears, has been

passed in the year 2007 or otherwise.

7. The petitioners certainly would not be entitled for the time bound promotional pay scale as a matter of course upon completion of 12 years service. They will be entitled for time bound promotional pay scale if they are qualified and eligible for the promotional post. The petitioners had not passed the qualifying examination. However, the petitioners are exempted from passing qualifying examination upon completion of 45 years of age. As such, the petitioners would be entitled for the time bound promotional pay scale after completion of 12 years service after having been brought on CRTE or after completion of 45 years of age whichever is later.

8. In view of the above, the order passed by the authority in the year 2007, will have to be modified as the petitioners would be entitled for the benefit of time bound promotional pay scale as on the date the petitioners completed 45 years of age or 12 years service after having been brought on CRTE, whichever is latter. The date on which the petitioners complete 45 years age is later than 12 years from the date they

are brought on CRTE in all of the matters.

9. In light of the above, it is held that the petitioners are entitled for time bound promotional pay scale benefits upon completion of 45 years of age. The said benefit shall be accorded to the petitioners by the respondents.

10. Many of the petitioners retired before completion of 12 years service, after attaining the age of 45 years. As such no question arises of they be considered for grant of second ACPS benefits.

11. In case the petitioners are in service after completion of 12 years of service, after they attained 45 years of age, then their case for second ACPS benefits be considered by the authority on their own merits.

12. Writ petitions are accordingly disposed of. No costs.

**(A. M.DHAVALA, J.)**

**(S.V.GANGAPURWALA, J.)**

JPC