

**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 : 26th 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 22nd 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 Petitioner	of	Date of CRTE	Date of comple- tion of 12 years service	Date of comple -tion of 45 years Age.	Benefi t given by respon -dents on	Retire -ment date
9948/ 2018	Bhagwan Dhongade	R.	01/04/ 1980	01/04/ 1992	13/05/ 1995	01/10/ 1994 Pg. 52	30/06/ 2008 died 25.10. 2011
12479/ 2018	Bhikaji Shengule	L.	01/04/ 1980	01/04/ 1992	03/06/ 1997	01/10/ 1994 Pg. 46	30/06/ 2010
9637/ 2018 1.	Sudam Gondhale	J.	01/04/ 1980	01/04/ 1992	29/02/ 1996	01/10/ 1994 Pg.49	28/02/ 2009
2.	Isak Shaikh	S.	01/04/ 1981	01/04/ 1993	04/07/ 2000	01/10/ 1994 Pg.49	31/03/ 2013
3.	Vasant Shlke	B.	01/04/ 1980	01/04/ 1992	06/08/ 1994	01/10/ 1994 Pg.49	31/08/ 2007
4.	Ramdas Kewat	D.	01/04/ 1980	01/04/19 92	02/04/ 1998	01/10/ 1994 Pg.49	30/04/ 2012
5.	Gulamuddin Shaikh	M.	01/04/ 1980	01/04/ 1992	10/10/ 1995	01/10/ 1994 Pg.49	09/10/ 2008
5240/ 2018	Shripati Madhale	S.	01/04/ 1979	01/04/19 91	15/09/ 1996	01/10/ 1994 pg.30	14/09/ 2009 died 17.12. 2017
10667/ 2018	Saeed N.S.Zia Uddin		01/04/ 1982	01/04/ 1994	12/06/ 1998	01/10/ 1994 Pg.46	28/02/ 2014
10440/ 2018							
1	Bhusaheb Dandge	K.	01/04/ 1980	01/04/ 1992	22/06/ 1995	01/10/ 1994 Pg.48	30/06/ 2008

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

16	Dadasaheb Gadekar	M.	01/04/1985	01/04/1997	06/06/2000	01/10/1997 pg.50	30/10/2008
17	Shamrao Chavan	R.	01/04/1980	01/04/1992	27/01/1998	01/10/1994 pg.49	31/11/2011
18	Pundlik Kharat	D.	01/04/1980	01/04/1992	08/08/1996	01/10/1994 pg.49	31/08/2011
19	Anil Chaudhari	K.	01/04/1979	01/04/1991	07/05/1996	01/10/1994 pg.48	31/05/2009
20	Mohammad Gafoor	A.	01/04/1978	01/04/1990	17/08/1995	01/10/1994 pg.48	31/08/2008
21	Shivram Bhosale	K.	01/04/1980	01/04/1992	20/02/1995	01/10/1994 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 pg.49	30/10/2012
24	Sonaji Mhaske	S.	01/04/1981	01/04/1993	19/03/1996	01/10/1994 pg.48	31/03/2009
25	Manohar G. Deshpande		01/04/1977	01/04/1989	16/09/1997	01/10/1994 pg.48	30/10/2000
26	Kashiram Salve	K.	01/04/1980	01/04/1992	10/12/1998	01/10/1994 pg.49	28/02/2011
27	Panditrao Kunde	M.	01/04/1980	01/04/1992	01/06/1995	01/10/1994 pg.49	30/06/2008 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.DHAVALÉ, J.)

(S.V.GANGAPURWALA, J.)

JPC