

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

105 WRIT PETITION NO.14153 OF 2018

**SHAIKH MUNIRODDIN SHAIKH KHAJAMIYAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Petitioner : Mr. Shaikh Shermahmed K
AGP for Respondent: Mr. S.B. Pulkundwar
Advocate for Respondent No. 2 : Mr. Kadethankar Ajit B.

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**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 29/07/2019

PER COURT :

1. The learned counsel for the petitioner submits that petitioner had rendered his services for 27 years and retired. The petitioner on 01.11.2003 had completed 12 years of service as such was entitled for ACPS benefit. Number of times the petitioner requested the administration of the District and Sessions Court, Aurangabad but to no avail. The petitioner has granted ACPS benefit with effect from 14.04.2009. Along with other employees the same ought to have been from 01.11.2003. One another employee Smt. Murkhendikar was also working as a junior clerk is granted benefit

from October 2003. The petitioner was similarly situated. The petitioner was promoted as a senior clerk only in the year 2016. The petitioner was entitled for the benefit of 24 years of service in the year 2015. This aspect has also not been considered.

2. Mr. Kadethankar, the learned advocate submits that at the relevant time, the Advisory Committee considered the case of the petitioner and found that the ACR's of the petitioner were not favorable. In view of the same the petitioner was not given the benefit. Subsequently, the petitioner is given the benefit from 2009 of ACPS and in 2016 is promoted as a senior clerk.

3. We have considered the submissions. The petitioner would be entitled for the ACPS benefit after 12 years of the completion of service provided the petitioner confirms to the norms laid down. The bench mark for consideration to grant benefit under the scheme is that ACR's the same shall be average. The bench mark is as under :

“ (i) The benchmark for consideration for grant of benefit under the scheme shall be average. In the C.R.s for five years, there should be at least be three ratings of 'good' and satisfying other requirements.

(ii) The test for grant of the benefit under the scheme shall be whether a candidate is eligible for promotion and not whether he or she would be promoted.

(iii) Ineligibility and refusal for promotion disentitled for the benefit under the scheme.

(iv) The benefit granted to the employees under the Scheme shall be withdrawn if they refuse regular promotion in future. However the monitory benefit already received by them in the past shall both be recovered.

4. It has been stated on the affidavit that on 04.08.2005 the District Advisory Committee considered the case of the petitioner and found that the petitioner did not qualify the eligibility criteria. In view of his annual confidential report and the said benefit is subsequently granted with effect from 14.04.2009 as per the decision of the District Advisory Committee in the meeting dated 22.04.2010. The Committee also considered the representations of the petitioner and came to the conclusion that the petitioner is rightly granted ACPS benefit from 2009.

5. In the light of the above, the contentions of the petitioner cannot be accepted.

6. Writ petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S. V. GANGAPURWALA, J.)

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