

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3085 OF 2019

Rangrao s/o Shripatrao Mahajan,
Aged about 60 years,
Occupation-Retired,
R/o. House No.22, Ujjwal Nagar,
Wadgaon Road, Yavatmal.

.. Petitioner

.. Versus ..

1] Zilla Parishad, Yavatmal,
through its Chief Executive Officer.

2] Divisional Commissioner,
Amravati Division, Amravati.

3] State of Maharashtra, through
Secretary, Department of Rural
Development and Water Conservation,
Mantralaya, Mumbai-32.

.. Respondents

Shri Prakash D. Meghe, Advocate for the petitioner,
Shri Ranjeet Bhuibhar, Advocate for respondent no.1,
Shri N.S. Rao, A.G.P. for respondent nos.2 and 3-State.

**CORAM : SUNIL B. SHUKRE AND
SMT. M.S. JAWALKAR, JJ.**

RESERVED ON : 21.04.2022

PRONOUNCED ON : 29.04.2022

JUDGMENT : (Per : Smt. M.S. Jawalkar, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. By this petition, the petitioner is seeking implementation of the Government Resolutions dated 08-06-1995 and dated 01-04-2010. It is his contention that he is entitled for the second promotional pay-scale after service of 24 years.

4. The facts leading to file this present petition can be summarized as under :-

The petitioner was initially appointed in the year 1979 with respondent no.1 on a consolidated salary. The respondent no.1 appointed the petitioner as 'Attendant', vide its order dated 05.04.1983 at Primary Health Centre, Waradh, Tahsil-Ralegaon, District-Yavatmal. The General Administration Department (GAD) of Government of Maharashtra issued Government Resolution dated 08.06.1995, which prescribes promotional pay-scale to Group-C and Group-D employees, after completion of 12 years of service. It is the contention of the petitioner that at the relevant time, while granting promotional pay-

scale, pay of the petitioner was not properly fixed. The petitioner passed his S.S.C. Examination in March-1989. However, his pay-scale was not fixed accordingly.

5. In November, 2006, the petitioner was promoted as Junior Assistant. On 01-04-2010, another Govt. Resolution was issued by General Administration Department (GAD) declaring that the Class-III and Class-IV employees, who have completed 24 years of service, are entitled for second promotional pay-scale. It is his contention that he was eligible for grant of promotional pay-scale of Senior Clerk, as he has completed 24 years of service. The petitioner stood retired from the service with effect from 28.02.2017 on superannuation. In spite of various representations, his claim turned down. The learned counsel for the petitioner relied on judgment in **Writ Petition No.1434/2009 (Shriniwas Parshuramji Meshram .vs. Zilla Parishad, Chandrapur and others)**.

6. The respondent no.1-Zilla Parishad opposed the petition. Learned counsel Shri Bhuibhar for the respondent no.1-Zilla Parishad submitted that the petitioner was appointed as 'Attendant' on 05.04.1983. At the relevant time, he was not holding qualification of S.S.C. Examination nor having requisite English and Marathi typing

certificates. He cleared his S.S.C. Examination in March-1990 and certificates in respect of typing test in May-1996. The petitioner was given the pay-scale of the post of 'Naik' after completion of 12 years i.e. on 15.04.1995. On the said date i.e. 15.04.1995, the petitioner was not holding requisite typing passed certificates, which was essential eligibility criteria for the post of Junior Assistant. As such, the pay-scale of Junior Assistant was not approved in case of the petitioner. He was promoted to the post of Junior Assistant on 06.11.2006. The petitioner stood retired on 28.02.2017, as he has not completed 12 years of service on the post of Junior Assistant, till his retirement, the provisions in Govt. Resolution dated 01.04.2010 were not applied in the case of the petitioner. In view of this, the respondent-Zilla Parishad prayed for dismissal of the petition.

7. Heard the learned counsel for both the parties at length and perused the documents on record.

8. It is not disputed that when the petitioner was appointed as Attendant on 05.04.1983, he was not holding qualification of S.S.C. Examination and English and Marathi Typing Certificates, which are essential one. He cleared his S.S.C. Examination in March-1990. There is Govt. Resolution dated 08.06.1995, by which on completion of 12

years of service, the employee is entitled for the higher promotional pay-scale. The Zilla Parishad has explained that the petitioner as was not having requisite qualification for the post of Junior Assistant, he was given with the pay-scale of the post of 'Naik', which is superior post. The petitioner acquired the requisite qualification of typing in 1996. The petitioner was placed in seniority in accordance to his acquiring S.S.C. qualification. He was promoted on the post of Junior Assistant as per his seniority, qualification and eligibility on 06.11.2006. The petitioner stood retire on 28.02.2017. Thus, he has not completed his 12 years of service after his promotion as Junior Assistant i.e. 06.11.2006.

9. So far as reliance placed by the petitioner on judgment of **Shriniwas Parshuramji Meshram** (supra), the facts are distinguishable as petitioner therein was employed in the year 1963 and similarly situated employees were granted benefit by relaxation in qualification. In this premise, this Court finds that the petitioner is denied the benefit without application of mind and without objectively assessing his case. The petitioner in the said matter has already crossed the age of 45 years on the relevant date. In the present matter, at the initial appointment, the petitioner was not holding requisite qualification.

10. So far as contention in respect of one Shri Belpatre to whom benefit of Govt. Resolution was extended is distinguishable, as he was holding S.S.C. qualification on the date of his appointment i.e. 17.06.1993 and also passed a relevant typing test on 25.08.1995. Moreover, he is not party to this petition. Thus, the petitioner, in our considered opinion and in view of Govt. Resolution dated 01.04.2010, is not entitled for fixation of pay-scale for the post of Senior Clerk and other consequential reliefs and petition is devoid of any merit. Accordingly, we proceed to pass the following order :

O R D E R

The writ petition is dismissed. No costs.

(SMT. M.S. JAWALKAR, J.) (SUNIL B. SHUKRE, J.)

Gulande