

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5258/2008

Murlidhar Indal Neware and Ors. .vs. Deputy Upper Secretary, State of
Maharashtra, Mantralaya, Mumbai and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. P. Chaware, Advocate for petitioners.
Mr. N. R. Patil, A.G.P. for respondent nos. 1 and 3.
Mr. J. S. Mokadam, Advocate for respondent no.2.

CORAM : A. S. CHANDURKAR & ANIL L. PANSARE, JJ.

DATE : DECEMBER 8, 2022.

The petitioners were serving as Hand Pump Mechanics with Zilla Parishad, Gadchiroli. They raised the grievance that on completion of age of 45 years, they were not required to appear and pass the trade test for promotion as Junior Engineer. For said purpose, the petitioners relied upon Government Resolution dated 28.11.1979 as well as subsequent resolution dated 20.11.1989.

2. After the writ petition was admitted, this Court by order dated 11.03.2022 directed the State Government to file its affidavit in the light of the fact that there were two contrary instructions rendered by the Ministry of Rural Development. Accordingly, the said affidavit has now been filed by respondent nos.1 and 3. In the said affidavit, it has been stated as under”

“8. (i) ..Thus, the petitioners got all the benefits in monetary terms as they are claiming by way of

exemption, which exemption is not available to them and those benefits are given to them under Assured Career Progression Scheme (ACPS).

9. *Thus, the petitioners vide Government Resolution dated 08.06.1995 and 20.07.2001 actually received monetary benefits after 1st ACPS which are equivalent to pay scale of Junior Engineers and that of Sectional Engineer after receiving 2nd ACPS benefits that were given to the petitioners at relevant time.*

10. *These pay scales resulted in fixing of their pension and there would be no recovery or reduction in their pension.”*

3. From the aforesaid, it is clear that even according to the respondents, the petitioners in view of the Government Resolution dated 08.06.1995 and 20.07.2001, have received monetary benefits after the first Assured Career Progression Scheme was implemented. This pay scale is equivalent to the pay scale of Junior Engineer and thereafter Sectional Engineer. It has also been stated that these pay scales have been applied for determining the pension payable to the petitioners. No recovery or reduction in the amount of pension would be made.

4. In view of the aforesaid statements made in the affidavit filed by respondent nos.1 and 3, the purpose of filing this writ petition stands served.

5. Accepting the said statements, the writ petition is disposed of. It is made clear that the benefit received by the

petitioners shall not be liable to be recovered. All the points raised in this petition are kept open for being considered in an appropriate case.

Rule discharged. No order as to costs.

(Anil L. Pansare, J.)

(A. S. Chandurkar, J.)

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