

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

WRIT PETITION NO.651 OF 2017

**PRAKASH NARSINGRAO SURADKAR
VERSUS**

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. S. B. Deshmukh
AGP for Respondents/State: Mr. S. B. Pulkundwar
Advocate for Respondent No.2: Mr. U. B. Bondar

...

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 08.06.2023

PER COURT :

. Heard both the sides finally.

2. The petitioner has been denied benefit of Assured Career Progression Scheme/Modified Assured Career Progression Scheme only on the ground that the upgradation to the post of Sectional Engineer could be set off against the financial upgradation.

3. By referring to the decision of this Court in Writ Petition No.2605/2017, in case of the Association of the Sub-ordinate Service of Engineers Maharashtra State & Ors. Vs. The State of Maharashtra & Ors., it was expressly held that non- functional upgradation to the post of Sectional Engineer cannot be counted as set off for financial up-gradation admissible under ACP/MACP Scheme. This Court, in Writ Petition

No.8009/2021 by the order dated 02/08/2022 had issued a similar direction as also the petitioners were held entitled to admissible financially up-gradation as per the ACP/MACP.

4. The learned Advocates are unanimous that the petitioner's request can be re-considered in the light of the aforementioned decisions of this Court.

5. The writ petition is allowed partly. The impugned order is quashed and set aside. The petitioner is permitted to make a fresh representation to respondent no.2 who shall consider and decide it on its own merits and in the light of the aforementioned decisions as expeditiously as possible.

6. In case, the representation is allowed, obviously the respondent no.2 shall be obliged to release all the financial benefits to which the petitioner is entitled to as expeditiously as possible and in any case within six months from the date of the decision.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

Sameer