

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

WRIT PETITION NO.1480 OF 2021

Petitioners

- : 1. Mr. Prakash s/o Vasantrao Rahate,
Aged about 55 Years, Occupation : Service,
R/o 143, Vasant Vihar, 1st Floor, Amar Jyoti Nagar,
Nara Road, Jaripatka, Nagpur – 14.
2. Sunil s/o Ramrao Gotmare,
Aged about 56 Years, Occupation : Service,
R/o Charan Complex, 1st Floor, Bhawabhoti
Rangmandir, Punatoli, Gondia.
3. Pradeep s/o Padmakar Chawade,
Aged about 58 Years, Occupation : Retired,
R/o A-201, Shivani Residency, Gawande Layout,
Near Ayappa Mandir, Suyog Nagar,
Nagpur – 440027.
4. Sunil s/o Shiram Gaikwad,
Aged about 55 Years, Occupation : Service,
R/o Charan Complex, 1st Floor, Bhawabhoti
Rangmandir, Punatoli, Gondia.
5. Prashant s/o Janardhan Mool,
Aged about 55 Years, Occupation : Service,
R/o C/o D.K. Patil Complex, Nalwadi, Wardha.
6. Pradip s/o Sudhakar Rao Barahate,
Aged about 52 Years, Occupation : Service,
R/o Krishna Tower, Flat No.302, ,Gurudwara
Road, Tukum, Chandrapur.
7. Milind s/o Mahadharao Bandiwar,
Aged about 54 Years, Occupation : Service,
R/o Raghatate Layout, Akashwani Road,
Behind District Stadium, Chandrapur.
8. Pradeep s/o Bhimrao Wankhede,
Aged about 54 Years, Occupation : Service,
R/o 103, Krishna Apartment, Income Tax Colony,
Gadge Nagar, Near Hingna Naka, Hingna Road,

Nagpur – 440016.

9. Sanjay s/o Madhaorao Meshram,
Aged about 53 Years, Occupation : Service,
R/o Bhimrao Bhagat Sister Colony,
Behind Little Flower Convent, Chandrapur.
10. Avinash s/o Vitthalrao Palthe,
Aged about 42 Years, Occupation : Service,
R/o C/o Suresh Sonkusre, House No.668,
Manoharbhai Ward, Bank Colony, Gondia
11. Prabodh s/o Prem Dandekar,
Aged about 44 Years, Occupation : Service,
R/o C/o D.K. Patil Complex, Nalwadi, Wardha.

– Versus –

Respondents

- : 1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralay, Mumbai-32.
2. State of Maharashtra,
Through its Secretary,
Finance Department, Mantralay, Mumbai-32.
3. State of Maharashtra,
Through its Secretary,
Department of Water Supply and Sanitation,
Mantralaya, Mumbai-32.
4. State of Maharashtra,
Through its Secretary,
Department of Irrigation & Resources,
Mantralay, Mumbai-32.
5. Maharashtra Jeevan Pradhikaran,
Through its Member Secretary,
Office at 4th Floor, Express Tower, Nariman Point,
Mumbai-400021
6. Chief Engineer,
Maharashtra Jeevan Pradhikaran,
Nagpur Region, Nagpur Office at Civil Lines,
Nagpur.

Mr. S.S. Dhengale, Advocate for the Petitioners.
Mr. A.S. Fulzele, Additional Government Pleader for Respondent Nos.1 to 4.
Mr. D.M. Kakani, Advocate for Respondent Nos.5 & 6.

CORAM: A.S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 21st MARCH, 2023.

ORAL JUDGMENT : (Per A.S. Chandurkar, J.)

Rule. Rule made returnable forthwith. Heard finally by the consent of learned Counsel for the parties.

02] The grievance of the petitioners is with regard to the non-grant of benefits of the Assured Career Progression Scheme ('ACPS' for short) on account of the upgradation to the post of Sectional Engineer (Group-B). The petitioners by relying upon the Government Resolutions dated 08/06/1995, 20/07/2001 and 01/04/2010 contend that on mere upgradation to the post of Sectional Engineer, they cannot be deprived of the benefits admissible under the ACPS. Further relying upon the judgments of the Division Bench in Civil Writ Petition No.8009 of 2021 (Suhas Prabhakar Rao Dharasurkar and others vs. State of Maharashtra and others) as well as Writ Petition No.2330 of 2021 (Upendra Madhav Rao Kulkarni vs. State of Maharashtra and others), decided at Aurangabad Bench of this Court, it is submitted that this Court has held that upgradation granted to the post of Sectional Engineer is required to be

ignored while considering the grant of benefits of financial upgradation under the ACPS. In the subsequent decision, the Maharashtra Jeevan Pradhikaran was the employer as in the present case. It is thus submitted that by following the aforesaid decisions, similar benefits be granted to the petitioners.

03] The learned Counsel for the respondents do not dispute the adjudication of the aforesaid matters. The learned Counsel for the Maharashtra Jeevan Pradhikaran submits that on 14/02/202 , a proposal has been sent to the State Government with regard to steps to be taken in the light of the judgment of this Court delivered at the Aurangabad Bench. Since the said proposal is pending, it is urged that the decision on the same be awaited.

04] We find that similar issue having been decided against the Maharashtra Jeevan Pradhikaran in the case of Upendra Madhavrao Kulkarni (supra), similar directions can be issued to the respondents. Accordingly, for the reasons assigned in the decision in Suhas Prabhakar Rao Dharasurkar (supra) as well as Upendra Madhavrao Kulkarni (supra), the following order is passed :

05] The writ petition is allowed by directing the respondents not to take into consideration the upgradation granted on the post of Sectional Engineer

while considering the entitlement of the petitioners for grant of financial upgradation under the ACPS. The respondents shall examine the case of each petitioner on merits and determine the eligibility of each petitioner to such entitlement. The entire exercise be carried out within a period of four months from today. Rule is made absolute in the aforesaid terms with no order as to costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

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