



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

WRIT PETITION NO.6848 OF 2023

Sudhakar s/o Ramkrushna Parwe Petitioner
Versus..

The Maharashtra State Electricity Transmission
Company Ltd. Mumbai, through its Chairman and
Managing Director and others.Respondents

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Mr.R.M.Sharma, Counsel for petitioner.
Mr. D.M.Kale, Counsel for respondents.

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**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
A.S. CHANDURKAR, J.**

DATE : 17th OCTOBER, 2023.

P.C.

1. On our request Mr. D. M. Kale, learned Counsel has put in appearance and waives service of notice for the respondents.

2. Heard Mr. Sharma, learned Counsel for the petitioner and Mr. Kale, learned Counsel representing the respondents.

3. By instituting this Petition under Article 226 of the Constitution of India a prayer has been made to direct the respondents to grant the petitioner higher pay scale and

other consequential benefits in view of the General Order No.135 dated 28th December, 1995. It has been argued on behalf of the petitioner that the petitioner is similarly circumstanced as the petitioners in Writ Petition No.4012 of 2011 (*Kamlakar Narayan Barmate and others vs. Chief Engineer, M.S.E.B. and others*) decided on 12th December, 2018 by this Court. It is submitted that in the said judgment dated 12th December, 2018, it has been held that the petitioners therein were entitled to the benefit of setting aside of the corrigendum and also to the relief of higher-scale with basic at Rs.1,235/- as was granted identically placed employees.

4. Drawing our attention to the communication dated 4th August, 2023 which has been annexed as Annexure VII to this writ petition, it has been argued by the learned Counsel for the petitioner that the reason indicated in the said communication denying the benefit of higher scale with basic Rs.1,235/- to the petitioner is that the petitioner was not a party to the proceedings of Writ Petition No. 4012 of 2011.

5. It has been argued, on the other hand, by Mr. Kale, learned Counsel representing the respondents that the

said judgment dated 12th December, 2018 passed by the learned Single Judge of this Court in Writ Petition No. 4012 of 2011 has been challenged before the Honourable Supreme Court by the respondents. On a query, however, it has been stated that there is no stay order operating against the said judgment dated 12th December, 2018.

6. In view of aforesaid facts, what we find is that the communication dated 4th August, 2023 whereby the claim of the petitioner has been denied does not in any way give any finding that the petitioner is not similarly circumstanced as the petitioners in Writ Petition No. 4012 of 2011.

7. In our opinion, the benefit as granted by means of judgment dated 12th December, 2018 passed by this Court can be denied to the petitioner only in case it is found that the petitioner is not identically situated as the petitioners of Writ Petition No.4012 of 2011. The communication dated 4th August, 2023 does not assign any such reason for denying the benefit of revised scale of pay to the petitioner. Though there is no prayer made in the writ petition for quashing of the communication

dated 4th August, 2023, however, this Court under Article 226 of the Constitution of India can mould the reliefs in the facts of the case.

8. Having found that the communication dated 4th August, 2023 is not sustainable, this writ petition is allowed and the communication dated 4th August, 2023 which has been annexed as Annexure-VII to the writ petition is hereby quashed. Further direction is issued to the respondent no.3 to take a decision afresh on the prayer of the petitioner for grant of revised scale of pay in terms of the judgment dated 12th December, 2018 passed by this Court in Writ Petition No.4012 of 2011 (*Kamlakar Narayan Barmate and others vs. Chief Engineer, M.S.E.B. and others*). Decision under this order shall be taken within a period of four weeks by the concerned authority on production of certified copy of this order before it.

9. With these directions, the writ petition is finally disposed of.

(A.S. CHANDURKAR, J.)

(CHIEF JUSTICE)

Andurkar...