



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

WRIT PETITION NO. 7148/2019

1. Namdeorao s/o Baliram Paikrao, Aged about :
70 years, Occ. Retired, R/o Ghate Layout,
Gandhi Nagar, Pusad, Dist. Yavatmal.
2. Rajaram s/o Narayanrao Vithalkar, Aged about:
64 years, Occ. Retired, R/o Plot No. 150, Vidarbha
Housing Society, Bajoriya Nagar, Yavatmal.
3. Vitthal s/o Dalpatrao Raut, Aged about : 69 years,
Occ. Retired, R/o Near Nagar Parishad Sanskrutik
Bhavan, Vidarbha Housing Society, Bajoriya
Nagar, Yavatmal.
4. Deorao s/o Mahadeorao Khandalkar, Aged about
69 years, R/o At Po. House No. 115, Siddheshwar
Nagar, Chousala Road, Lohara, Dist. Yavatmal.

PETITIONERS

.....VERSUS.....

1. Maharashtra Jeevan Pradhikaran, through its
Member Secretary, Express Towers, Nariman
Point, Mumbai – 32.
2. Superintending Engineer, Urban and Rural Scheme
Board, Akshitam, Maltekdi, Amravati.
3. Senior Accounts Officer, Maharashtra Jeevan
Pradhikaran, SIDCO Bhavan, Belapur, Navi Mumbai.
4. State of Maharashtra, Through Secretary Department
of Water Supply and Sanitation, 7th Floor, G.T. Hospital
Building, Lokmanya Tilak Marg, Mumbai.
5. State of Maharashtra, through its Secretary,
Department of Finance, Mantralaya, Mumbai-32.

RESPONDENTS

Shri P.D. Meghe, counsel for the petitioners.

Shri D.M. Kakani, counsel for the respondent nos.1 to 3.

Ms N.P. Mehta, Assistant Government Pleader for the respondent nos.4 and 5.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE ON WHICH ARGUMENTS WERE HEARD : AUGUST 31, 2023

DATE ON WHICH JUDGMENT IS PRONOUNCED : NOVEMBER 04, 2023

JUDGMENT (PER : A.S. CHANDURKAR, J.)

The petitioners are the employees who have retired after serving with Maharashtra Jeevan Pradhikaran – MJP on posts such as Mistry Grade-I, Grade-II, Tracer and other similar posts. In terms of the Government Resolution dated 08.06.1995 each petitioner received promotional pay-scale on completion of twelve years of service. According to the petitioners by virtue of Government Resolution dated 01.04.2010 the benefit of Assured Career Progression Scheme was made applicable to the employees of the State Government and Zilla Parishads. The petitioners sought grant of benefit of Second Time-Bound Promotional Pay-Scale from 01.10.2006 in accordance with the Government Resolution dated 01.04.2010. It is their case that the MJP on 21.03.2016 recommended grant of such benefit to its employees. A proposal in that regard was forwarded to the Department of Water Supply and Sanitation of the State Government. In response the said Department informed the MJP that since the State Government did not fund the salaries and allowances payable to the employees of the MJP, it would be the responsibility of the employer to take a decision in that regard. However, a proposal was forwarded by the MJP to the said Department. On 23.01.2020, the Water Supply and Sanitation Department of the State Government informed the MJP that the Finance Department had not accepted the proposal for granting benefit of the Assured Career Progression Scheme to it. Being aggrieved the petitioners have raised a challenge to the communication

dated 23.01.2020 and seek benefit of the Second Time-Bound Promotional Pay-Scale from 01.10.2006.

2. Shri P.D. Meghe, learned counsel for the petitioners submitted that by virtue of the Government Resolution dated 23.03.2017, the employees of the MJP were receiving the benefit of pay, allowances and pension from the State Government. Since the service conditions of employees of the MJP were similar to the service conditions of employees of the Water Supply and Sanitation Department of the State Government, the benefit of the Second Time-Bound Promotional Pay-Scale ought to have been made applicable to its employees. The said employees had been given benefit of the recommendations of the Sixth Pay Commission and therefore there was no rationale behind denying such benefits to the employees of the MJP. The learned counsel referred to various provisions of the Maharashtra Jeevan Pradhikaran Act, 1976 as well as the fact that by virtue of the provisions of Section 242-BB of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, the services of the employees in Class-III and Class-IV cadre were transferable and that deputation was also permissible in view of Section 253-BBB of the Act of 1961. Placing reliance on the decision in *Upendra S/o Madhavrao Kulkarni Versus The State of Maharashtra & Others* [Writ Petition No. 2330 of 2021 alongwith connected writ petitions] decided on 19.09.2022 at the Aurangabad Bench, it was submitted that the petitioners were unnecessarily discriminated against.

3. The aforesaid submissions were opposed by Ms N.P. Mehta, learned Assistant Government Pleader for the respondent nos.4 and 5. It was submitted that merely because some service conditions of employees of the State Government were similar to the service conditions of employees of the MJP, the same would not be a reason to grant the benefit of the Second Time-Bound Promotional Pay-Scale to the said employees. Such benefit was not automatic and it depended upon the financial condition of the employer. Under the Government Resolution dated 01.04.2010 the benefits thereunder were sought to be made admissible to the employees of the MJP from 23.03.2017. This was in view of such proposal dated 01.10.2018 moved by the MJP. Since all the petitioners had retired prior to 23.03.2017 even if the proposal moved by the MJP was to be granted, the petitioners would not have got any benefit whatsoever. The learned Assistant Government Pleader referred to the order passed in *Rajaram Narayanrao Vithalkar & Others Versus State of Maharashtra & Others* [Writ Petition No. 1022 of 2017], dated 19.09.2018 to submit that similar relief had been refused by this Court earlier. Reliance was also placed on the decision in *The State of Maharashtra & Another Versus Bhagwan & Others* [2022 LiveLaw (SC) 28], *T.M. Sampath & Others Versus Secretary, Ministry of Water Resources & Others* [(2015) 5 SCC 333] and *State of Kerala & Another Versus Naveena Prabhu & Others* [(2009) 3 SCC 649]. It was thus submitted that the petitioners were not entitled to the relief sought by them.

4. Shri D.M. Kakani, learned counsel for the respondent nos.1 to 3 submitted that a proposal seeking release of such benefits had been moved by the MJP. However, the said proposal was turned down by the Finance Department of the State Government on 23.01.2020. There was no parity between the employees of the State Government and the MJP. Merely because the employees of the State Government had been extended such benefits, the employees of the MJP would not be entitled to the same automatically. Reference was also made to the financial position of the MJP to urge that the substantial amounts were to be received from various local bodies. Unless there was any financial support from the State Government, it would not be possible to extend such financial benefit to its employees. It was thus submitted that no relief whatsoever could be granted to the petitioners.

5. Having heard the learned counsel for the parties and having perused the relevant documents on record, we do not find that the petitioners are entitled for the relief prayed for by them. It is to be noted that the benefit of the Government Resolution dated 01.04.2010 in the matter of grant of Second Time-Bound Promotional Pay-Scale that has been made applicable to employees of the State Government and Zilla Parishads cannot be automatically made applicable to the employees of the MJP. The similarity in the service conditions or the fact that the services of Class-III and Class-IV employees of the MJP are transferable to the Department of

Water Supply and Sanitation of the State Government by itself cannot be the basis for grant of such benefits. In this regard, reference can be made to the recent decision in *Bhagwan & Others* (supra) wherein the Hon'ble Supreme Court considered the issue as to whether employees of the Water and Land Management Institute were entitled to pensionary benefits at par with the State Government employees. It was noticed that the said Institute was an independent autonomous body and distinct from the Water Resources Department of the State Government. While providing for the pensionary benefits, the Governing Council of the Institute had not adopted the Maharashtra Civil Services (Pension) Rules, 1982 and a request made in that regard by the employees of the Institute had not been accepted by the State Government. It was observed that the decision to grant certain benefits to employees or not is a matter to be left to the expert body or the concerned undertaking and such decision that could have a cascading effect alongwith adverse financial consequences should not be taken easily. It is also necessary to note that a somewhat similar prayer was considered by this Court in *Rajaram Narayanrao Vithalkar & Others* (supra). In the said writ petition filed by employees of the MJP which included the petitioner no.2 herein, parity was sought in the matter of pay structures or the date from which such benefit could be made applicable. By observing that these matters depend upon the financial position of the employer, relief was not granted. In the present case, it is seen from the impugned communication dated 23.01.2020 that the Finance Department had not

accepted the proposal that was moved by the MJP in the matter of grant of benefit under the Assured Career Progression Scheme. In the same context the fact that the petitioners received the first benefit under the Assured Career Progression Scheme pursuant to the Government Resolution dated 08.06.1995 would also not be relevant. It is also seen from the affidavit-in-reply filed on behalf of the MJP that its financial position is not such that it is in a position to bear the financial burden flowing from the grant of the benefit as sought by the petitioners.

6. For aforesaid reasons, we do not find any ground made out to interfere in writ jurisdiction. The writ petition is thus dismissed. Rule stands discharged with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)