



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

Writ Petition No.6569 of 2017

1. **Maganlal Maroti Bagalekar,**
Aged 61 years, Occ.: Retired,
R/o Shivaji Nagar,
Patur, District Akola.

2. **Ramesh S/o Madanlal Sarne,**
Aged about 63 years,
Occ.: Retired,
R/o Abhinav, near Gajanan Maharaj Mandir,
New Tapadia Nagar, Akola.

3. **Padmanabh Krushnarao Pathak,**
through his Legal Representatives :
 - 3(a) **Smt. Priti W/o Padmanabh Pathak,**
Aged 59 years,
Occ.: Housewife.
 - 3(b) **Pankaj S/o Padmanabh Pathak,**
Aged 37 years,
Occ.: Service.
 - 3(c) **Parag S/o Padmanabh Pathak,**
Aged 32 years,
Occ.: Service.

All R/o Near J.G. Central Academy,
Sant Tukaram Chowk, Gorakshan Road,
Akola.

... Petitioners

Versus

1. **The Zilla Parishad, Akola,**
through its Chief Executive Officer.

2. **The Divisional Commissioner,**
Amravati Division, Amravati.

3. **The State of Maharashtra,**
through its Secretary,
Rural Development and Water Conservation,
Mantralaya, Mumbai 400 032.

... **Respondents**

Shri P.D. Meghe, Counsel for Petitioners.

Shri A.S. Malokar, Counsel for Respondent No.1.

Ms N.P. Mehta, Assistant Government Pleader for
Respondent Nos.2 and 3.

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

DATE : 25th AUGUST, 2023

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

1. The petitioners claim grant of pay-scale of Junior Engineer being employed with Zilla Parishad, Akola from the date they have completed 12 years' service as Tracer or from the date they have completed the age of 45 years. Each petitioner was appointed as Tracer and after completion of the age of 45 years, they have been exempted from appearing in the departmental examination. Consequently, the petitioners were granted pay-scale of Rs.5000-9000. However, when the petitioners retired, the pay-scale was reduced to Rs.4000-6000 resulting in monetary loss as well as recovery from their retiral benefits. It is in this background that the

petitioners have approached this Court by filing the present writ petition.

2. Shri P.D. Meghe, learned counsel for the petitioners, relied upon the decision in Writ Petition No.6584 of 2017 (*Vinayak S/o Krishnarao Sardeshmukh and another Versus Zilla Parishad, Akola and others*) dated 20-4-2023. It has been held therein that said petitioners who were also posted as Mistri, Grade-II were entitled to higher pay-scale from the date they attained the age of 45 years and exemption was granted from appearing in the concerned examination. The said decision has been rendered after referring to various earlier decisions in that regard. It is thus submitted that in view of aforesaid decision, the petitioners are also entitled for such relief.

3. Shri A.S. Malokar, learned counsel for the respondent No.1-Zilla Parishad, Akola, could not indicate any distinctive features in the case of the present petitioners and the petitioners in *Vinayak S/o Krishnarao Sardeshmukh and another* (supra).

4. We find that the petitioners are similarly placed as the petitioners in *Vinayak S/o Krishnarao Sardeshmukh and another* (supra) and hence they are also entitled to similar relief. It is undisputed that initially the petitioners were granted pay-scale of Rs.5000-9000 after exemption was granted on 27-2-2008 from passing the Junior Engineer Professional Examination. The said pay-scale was subsequently reduced when the petitioners retired. As a

result, recovery has also been effected from their retiral dues.

We therefore find the petitioners entitled for similar relief.

5. Hence for aforesaid reasons, the following order is passed :

(i) The order dated 20-10-2015 passed by the Executive Engineer, Building Department, Zilla Parishad, Akola is set aside insofar as the present petitioners are concerned.

(ii) The Zilla Parishad shall refund the amounts recovered from the petitioners as indicated in Annexure-I to the writ petition within a period of three months of receiving the copy of the judgment.

(iii) The Zilla Parishad shall grant benefit of pay-scale of Junior Engineer to the petitioners from the date they have completed the age of 45 years within a period of three months of receiving the copy of the judgment.

6. Rule is made absolute in aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)