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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2577 OF 2024

The State of Maharashtra Thr. Its Principal Secretary
Rural Development Department .. Petitioner
Vs.
Shivaji S. Suryawanshi and Others .. Respondents

...
Mrs. Reena A. Salunkhe, AGP for petitioner-State.
Mr. Om M. Lonkar for Respondent Nos.1 & 3.

...
**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE : 5th MARCH 2024.

PC. :

1. Heard. The challenge raised in this writ petition is to the judgment of the Maharashtra Administrative Tribunal dated 26/04/2023 by which the Original Application preferred by the respondents seeking benefit of the Assured Career Progression Scheme-ACP Scheme has been allowed and the communication dated 06/06/2018 denying such benefit has been set aside.

2. Each petitioner after having joined services in the year 1983-1987 came to be promoted on ad-hoc basis on 22/08/1995. Subsequently, orders of regular promotion scheme to be issued on 01/01/2000-01/01/2001. The respondents claim benefit under the ACP Scheme from 2007 by contending that they had worked on the promotional post, though on ad-hoc basis, from 1995 and on completion of 12 years service

they were entitled for benefit under the ACP scheme. The representations preferred by them were rejected on 06/06/2018 on the ground that Government Resolution dated 07/10/2016 was made applicable only to Group-C employees while the respondents were Group-A employees. The learned Member of the Tribunal while deciding the Original Application found that the respondents could not be denied the benefit of the ad-hoc service rendered by them in view of the judgment of this Court in Writ Petition No.9051 of 2013 (*The State of Maharashtra Vs. Smt. Meena A. Kuwalekar*) alongwith connected writ petitions decided on 28/04/2016. It was further found that the benefit under the ACP Scheme was made applicable to government servants in the pay scale of Rs.8,000-13,500/- that was corresponding to the pay scale of Rs. 15,600-39,100/-. On this basis and by referring to the Government Resolutions dated 20/07/2007 and 01/04/2010 the Original Application was allowed.

3. We have heard the learned Assistant Government Pleader for the petitioner and the learned counsel for the respondents. We find that insofar as the services rendered by the respondents from 22/08/1995 by virtue of ad-hoc promotion were liable to be taken into consideration for entitlement under the ACP Scheme. The Tribunal was justified in relying upon the decision in the case of *Meena A. Kuwalekar* (supra) wherein it was held that benefit of ad-hoc service would be available in such contingency. It is also found that by virtue of the Government Resolutions

dated 20/07/2001 and 01/04/2010 the benefit under the ACP Scheme was made applicable up to the pay scale of Rs.15,600-39,100/- which was the pay-scale of the respondents. Since the respondents were found entitled to the said pay-scale under the said Government Resolutions, the Tribunal has held that they could not be denied the benefit under the ACP Scheme in view of the Government Resolution dated 07/10/2016. We find that this has been the consistent view taken by the Tribunal in various proceedings before it including Original Application No.1090 of 2017 (*Shri Milind Mahadeo Sawant & Ors. Vs. The Joint Director, Technical Education & Ors.*) decided on 19/11/2018.

4. Though the learned Assistant Government Pleader sought to rely upon the judgment of the Supreme Court in *the State of Maharashtra and another Vs. Madhukar Antu Patil and another* - Civil Appeal No.1985 of 2022 decided on 21/03/2022, we find that the ratio of the said decision cannot be applied to the case in hand in view of the facts involved.

5. For aforesaid reasons, we do not find that the order passed by the Tribunal suffers from any jurisdictional error for this Court to interfere in exercise of writ jurisdiction. The writ petition therefore stands dismissed with no order as to costs.

[JITENDRA JAIN, J]

[A.S. CHANDURKAR, J.]