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

WRIT PETITION NO. 1999 OF 2023
(Mahabeej Karmachari Sanghatana, Akola ..vs.. State of Maharashtra, through its Secretary, Mumbai and others)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. P.R. Agrawal, Counsel for the petitioner,
Mr. M.J. Khan, A.G.P. for the respondent Nos. 1 and 2,
Mr. J.B. Kasat, Counsel for the respondent Nos. 3 to 5.

CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.
DATE : 10-12-2024

The petitioner claims entitlement to the benefit of the Modified Assured Career Progression Scheme (MACP) with effect from 01-4-2010, instead of 01-4-2017, from which date the approval is granted by the State by the Government Resolution dated 01-6-2022 for its members. The petitioner is the union of the employees of the Maharashtra State Seeds Corporation whose members are working in different posts with the respondent Nos. 3 to 5 at various places. The Revised Inservice Assured Progressive Promotion Scheme for the employees of the Maharashtra State Seeds Corporation Ltd. (MSSCL), was approved by the Board of Directors in its meeting held on 04-2-2011 by Resolution No. 1183/2011 (Page No.143) by which it was resolved to implement the aforesaid scheme, however, the employees were granted the benefit of the scheme with effect from the date of the approval of the Government and on condition that no arrears payment be made.

2. The employees, however, made a demand for implementation of the aforesaid scheme from 01-4-2010.

3. By a communication dated 20-7-2013 (Page No.86), it was indicated that if the demand of the employees for implementation of the aforesaid scheme with effect from 01-4-2010 was accepted, financial burden of around Rs.2 Crores was expected for which approval of the Board was to be obtained. This was recommended by a noting which is appended below the communication dated 20-7-2013 and the matter was directed to be placed before the Board for approval and acceptance. By virtue of the communication dated 23-7-2013 (Page No.85), the General Manager intimated that the Managing Director had approved the proposal for making provision of Rs.2 Crores for payment of arrears for implementation of the scheme of second Time Bound Promotion after 24 years to MSSCL employees with

retrospective effect as applicable to Government employees. He, however, indicated that since the approval of the Board for actual payment of the arrears would be required, the matter be placed before the Board (Page No.85).

4. By a communication dated 22-6-2016, the State enquired the financial implications for implementing the scheme with effect from 01-4-2010 (Page No.117), to which reply was sent on 07-9-2016 (Page No.118) indicating the quantum of financial implication.

5. The State in its department of Agriculture under which the respondent No.3 to 5 fall, on 08-9-2021 granted its approval to the implementation of the aforesaid scheme with effect from 01-4-2010 and sent the matter to the Finance Department (Page No.170).

6. The State thereafter by Government Resolution dated 01-6-2022 (Page No.152) approved the applicability of the second Time Bound Promotion, however, while granting approval to the implementation for the scheme with effect from 01-4-2010, it restricted the financial benefits with effect from 01-4-2017 onwards (Page No.153)

7. Mr. Khan, learned Assistant Government Pleader does not dispute the applicability of the Second Time Bound Promotion (now MACP) to the employees of the respondent Nos.3 to 5 with effect from 01-4-2010, he, however, submits, that the financial benefits would be available to them only after 01-4-2017. He also submits, that the State has no objection for grant of the financial benefits to the employees, of the aforesaid scheme with effect from 01-4-2010 if the financial burden thereof, is borne by the respondent Nos.3 to 5.

8. In this regard, the communication dated 06-8-2014 (Page No.103) by the Managing Director of the respondent No.4 addressed to the State indicates that in case the scheme is made applicable to the employees with effect from 01-4-2010, there would be no financial demand made by the Corporation to the State which would indicate, that the financial burden would be shouldered by the respondent Nos.3 to 5.

9. What is also material to note is that the Time Bound Promotion Scheme, for the employees of the respondent Nos.3 to 5 for the first time, came to be introduced on

08-6-1995 to address stagnation on account of paucity of the avenues of promotion, which was implemented by the respondent Nos. 3 to 5 in the year 1996. It was revised on 20-7-2001 without approval of the Government as the respondent Nos. 3 to 5 are the autonomous Corporations and was made applicable on 27-6-2003. The said scheme was modified on 01-4-2010 as MACP on account of which it is contended that the implementation of the ACP scheme was stopped with effect from 2013. The benefits of the MACP have been been granted to the members of the petitioner, with effect from 01-4-2017, which would indicate, that for the duration 2013 till 2017 the petitioner have not been paid any benefit on account of MACP also, at all.

10. Once the respondent Nos.3 to 5, who are autonomous Corporations, agree to implement the grant of MACP and are capable of shouldering the financial burden as is indicated from the communication dated 06-8-2014, we do not see any reason why the approval of the State is necessary for implementing the MACP with effect from 01-4-2010. As recorded above, the State has no objection, for implementation of the scheme with effect from 01-4-2010.

The only condition, is for grant of financial benefit from 01-4-2017 onwards. This clearly leaves the employees, high and dry for the duration 2013 to 01-4-2017 for which period they have not received any benefit at all though they were held entitled to the benefits of the scheme has been implemented w.e.f. 01-4-2010. Since the respondent Nos. 3 to 5 are willing to accept the financial liability as is indicated from the communication dated 06-8-2014, we do not see any reason why Clause 2 of the Government Resolution dated 01-6-2022 (Page No.153) should come in the way of the respondent Nos.3 to 5, in considering the claim of the petitioner and its members for grant of financial benefits to its employees on account of the implementation of the scheme from 01-4-2010 itself.

11. Mr. Kasat, learned Counsel for the respondent Nos.3 to 5, does not dispute the position as indicated in the communication dated 06-8-2014 that the respondent Nos.3 to 5 are capable of shouldering the financial burden which may arise due to implementation of the scheme with effect from 01-4-2010, which according to him, would be the position even today.

12. In that view of the matter, there is no reason whatsoever why the employees of respondent Nos.3 to 5 should be deprived of the financial benefits which they would be entitled otherwise, on account of the implementation of the scheme with effect from 01-4-2010. We, therefore, allow the petition by directing the respondent Nos.3 to 5 to grant the benefits of the MACP to the members of the petitioner with effect from 01-4-2010, subject to its Board passing a resolution approving to shoulder the financial burden for the same. In the circumstances, there shall be no order as to costs.

(ABHAY J. MANTRI, J.) **(AVINASH G. GHAROTE, J.)**

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