



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

WRIT PETITION NO. 4455 OF 2023

(Suresh S/o Rupchand Diwan vs. The State of Maharashtra and others)

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's order

Mr. R.D.Karode, Advocate for petitioner.
Mr. H.R.Dhumale, AGP for respondent Nos.1 to 5.
Mr. U.J.Deshpande, Advocate for respondent No.6
Mr. A.S.Dhore, Advocate for respondent No.7 and 8.

CORAM : AVINASH G. GHAROTE & ABHAY J. MANTRI, JJ.

DATE : DECEMBER 12, 2024

1) Since the petitioner has superannuated during the pendency of the petition and the challenge in the petition, is regarding the refusal to grant approval to the promotion of the petitioner, made by one faction of the management since there is dispute therein and so also challenge to the approval granted to the respondent No.8, who was granted promotion by the other faction nothing survives in the petition, in view of the legal position enunciated by the Apex Court in the case of Government of West Bengal and others vs. Dr. Amal Satpathi and others Civil Appeal (Diary 43488 of 2023 decided 27/11/2024 as under :-

“21. While we recognize respondent No.1’s right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation. Considering that respondent No.1 superannuated before his promotion was

effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity.”

2) Petition is therefore, dismissed. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

KOLHE