

Writ Petition No.1591 of 2020

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions Registrar's orders.	Court's or Judge's order
--	--------------------------

CORAM : NITIN W. SAMBRE AND VRUSHALI V. JOSHI, JJ.
DATE : OCTOBER 22, 2024

1. Shri D.M. Kale, learned counsel, appears and waives service of notice for the respondent.

2. Heard Shri H.D. Dangre, learned counsel for the petitioners and Shri D.M. Kale, learned counsel for the respondent.

3. By instituting this petition under Article 226 of the Constitution of India, a prayer has been made to direct the respondent to grant the petitioners higher pay-scale and other consequential benefits in view of the General Order No.135 dated December 28, 1995. It has been argued on behalf of the petitioners that the petitioners are similarly circumstanced as per the petitioners in **Writ Petition No.4012 of 2011 (Kamlakar Narayan Barmate and others Versus Chief Engineer, M.S.E.B. and others)** decided on December 12, 2018 by this Court. It is submitted that in the said judgment dated December 12, 2018, it has been held that the petitioners therein were entitled to the benefit of setting aside of the corrigendum and also to the relief of higher scale with basic pay at Rs.1,235/- as was granted to the identically placed employees.

4. Drawing our attention to the communication dated December 31, 1997, which has been annexed as Annexure VI to this writ petition, it has been argued by the learned counsel for the petitioners that the reason indicated in the said communication denying the benefit of higher scale with basic pay at Rs.1,235/- to the petitioners is that the petitioners were not parties to the proceedings of Writ Petition No.4012 of 2011.

5. It has been argued, on the other hand, by the learned counsel for the respondent that the said judgment dated December 12, 2018 passed by the learned Single Judge of this Court in Writ Petition No.4012 of 2011 has been challenged before the Hon'ble Supreme Court by the respondents. On a query, however, it has been stated that there is no stay order operating against the said judgment dated December 12, 2018.

6. In view of aforesaid facts, what we find is that the communication dated December 31, 1997 whereby the claim of the petitioners has been denied does not in any way give any finding that the petitioners are not similarly circumstanced as the petitioners in Writ Petition No.4012 of 2011.

7. In our opinion, the benefit as granted by means of judgment dated December 12, 2018 passed by this Court can be denied to the petitioners only in case it is found that the petitioners are not identically situated as the petitioners in Writ Petition No.4012 of 2011. The communication dated December 31, 1997 does not assign any such reason for denying the benefit of revised scale of pay to the petitioners. Though there is no prayer made in the writ petition for quashing of the communication dated December 31, 1997, however, this Court under

Article 226 of the Constitution of India can mould the reliefs in the facts of the case.

8. Having found that the communication dated December 31, 1997 is not sustainable, this writ petition is allowed and the communication dated December 31, 1997, which has been annexed as Annexure-VI to the writ petition, is hereby quashed. Further direction is issued to the respondent to take a decision afresh on the prayer of the petitioners for grant of revised scale of pay in terms of the judgment dated December 12, 2018 passed by this Court in **Writ Petition No.4012 of 2011 (Kamlakar Narayan Barmate and others Versus Chief Engineer, M.S.E.B. and others)**. Decision under this order shall be taken within a period of four weeks by the concerned authority on production of certified copy of this order before it.

9. With these directions, the writ petition is disposed of. No costs.

(VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)