



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2873 OF 2015

Vishnukumar s/o Dagdoba Mukkirwar,
Age 62 years, Occ. Retired,
R/o Flat No.16, Greeshm Apartment,
Uttaranagari, Brijwadi, Aurangabad

... PETITIONER

VERSUS

- 1) The State of Maharashtra
Through its Secretary
Energy Development Department,
Mantralaya, Mumbai
2. The Chief General Manager (H.R.),
Corporate Office, Bandra Kurla Complex,
Prakash Ganga, Bandra East, Mumbai
3. The Executive Director (H.R.),
corporate Office, Bandra Kurla Complex,
Prakash Ganga, Bandra East, Mumbai
4. The Superintendent Engineer,
EHV (O & M), Circle, Aurangabad
Old Power House Campus,
Dr. Ambedkar Road, Mill Corner,
Aurangabad

(Copy of Respondent No.1 to be served on
Govt. Pleader, High Court of Bombay,
Bench at Aurangabad

... RESPONDENTS

.....
Mr. V.R. Jain, Advocate for Petitioner
Mr. P.K. Lakhotiya, A.G.P. for Respondent No.1 – State
Mr. D.P. Palodkar, Advocate for Respondent No.4
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CORAM: ALOK ARADHE, CJ. &
RAVINDRA V. GHUGE, J.

DATE: 18th MARCH, 2025.

ORAL JUDGMENT (PER : CHIEF JUSTICE) :

1. Rule. Rule is made returnable forthwith. By consent of the learned Counsel for the parties, the Writ Petition is heard finally.

2. In this Writ Petition, the Petitioner *inter-alia* seeks a direction to Respondent No.2 Chief General Manager (H.R.), M.S.E.B. (now M.S.E.T.C.L.), to accord benefit of Higher Grade on the third occasion to the Petitioner as per the Administrative Circular No.225, dated 28/7/2010 along with interest at the rate of 18% p.a. from the date it became due till realization.

3. Facts giving rise to the filing of this petition, in nutshell, are that, the Petitioner joined the services of the erstwhile Maharashtra State Electricity Board (hereinafter referred to as the Board) as a Lower Division Clerk on 9/12/1980. The Petitioner, on 28/6/1985, was promoted as

an Upper Division Clerk. The Petitioner was accorded the benefit of Higher Grade on 28/6/1991 for the first time. Thereafter, on 28/6/2000, again the benefit of Higher Grade was given to the Petitioner on the second occasion. The Petitioner was promoted as Assistant Auditor, on 4/8/2007. The Petitioner, thereafter, was again promoted as Deputy Manager on 27/2/2009 and he superannuated on 31/8/2010.

4. The Petitioner, nearly after a period of three and half years after his superannuation, submitted an application in which he claimed the benefit of Higher Grade for the third occasion. The claim of the Petitioner was rejected by the authorities of the Board on 1/7/2011, *inter-alia* on the ground that the Petitioner has not completed 28 years of service as on 8/12/2008 and was promoted to the post of Assistant Accountant during the preceding three years before completing 28 years. The Petitioner thereafter again submitted a representation on 2/9/2013, which was rejected by the Superintending Engineer of the Board (respondent No.4) on 1/11/2013. Hence this petition.

5. The learned Counsel for the Petitioner submitted

that, even though the Petitioner was promoted to the post of Assistant Auditor on 4/8/2007, yet the Petitioner was relieved on 31/8/2007 and the Petitioner could join the post of Assistant Auditor only on 6/9/2007. It is submitted that, under the Circular No.225, dated 28/7/2007, the Petitioner is entitled to the benefit of Higher Grade on third occasion.

6. On the other hand, the learned Counsel for Respondents No.2 to 4 submitted that, the Petitioner is not entitled to the benefit of the Higher Grade, as the Petitioner was promoted within a period of three years preceding completion of 28 years of service.

7. We have considered the rival submissions made on behalf of both the sides and have perused the record.

8. Before advertng to the submissions made by learned Counsel for the parties, it is apposite to take note of the relevant extract of the Administrative Circular No.225, dated 28/7/2010. Clause 2(i)(a) of the Circular reads thus :

“2. The issue regarding deciding of modalities for grant of higher grade benefit on 3rd occasion was under consideration for some time in past. Now, the Managing Director in consultation with Director (Finance) and Executive Director (HR) has

accorded approval to the modalities as under :

(i) All the Employees who have channel of promotion/ no channel of promotion and completed 28 years of service as on 01/04/2008 or thereafter shall be held eligible for grant of Higher Grade Benefit (HGB) on 3rd occasion subject to -

(a) Employee should not have been promoted or granted second benefit of Higher Grade under the provisions of GO 74(P)/111(P) during the period preceding three years of completion of 28 years of service."

9. Thus, from the careful scrutiny of the aforesaid Circular dated 28/7/2010, it is evident that the employee shall not be entitled to the benefit of Higher Grade after he has been promoted during the period preceding three years of completion of 28 years of service. In the instant case, the Petitioner completed 28 years of service on 8/12/2008 and in a period of three years i.e. on 4/8/2007, the Petitioner was promoted. Therefore, in view of clause 2(i)(a) of the aforesaid Circular, the Petitioner is not entitled to the benefit of Higher Grade. It is pertinent to note that, the Petitioner has not challenged the validity of the aforesaid Circular and has actually claimed the benefit of Higher Grade under the aforesaid Circular itself, under which the Petitioner is not entitled.

10. For the aforementioned reasons, we do not find any merit in the petition. The same is dismissed. Rule discharged.

(RAVINDRA V. GHUGE, J.)

(CHIEF JUSTICE)

FMPathan/-