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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.12174 OF 2022

1. Suryakant S/O. Vinayakrao Pathak
Age: 76 years, Occupation: Pensioner
R/O: 11, Chaitnaya nagar Soc. N-7
L-2 Cidco, Aurangabad.
2. Madhukar S/o. Gangadhar Mahajan
Age: 76 Years, Occupation: Pensioner
R/O: 10, Pagriya Colony, Near Rly. Station,
Aurangabad
3. Arvind S/o Shyamrao Deshpande
(Died on 25/8/2023) thr. L.R.
Anuradha Arvind Deshpande,
Age: 73 years, Occu: Household
R/O Martand" Bungalow
Surana Nagar Jalna Road,
Aurangabad
4. Padmakar Vishnupant Kulkarni
Age: 78 Years, Occupation: Pensioner
R/O: Plot No. 56-, N-4, CIDCO Aurangabad
5. Surendra Gokul Prasad Dubey (Died)
Through L.R
A. Alkesh Surendra Dubey
Age: 48 Years, Occupation: Business
R/O: Nr. Gurudwara, Dhawani Mohalla
Aurangabad
6. Madhavroa Bhanudas Kulkarni
Age: 83 Years, Occupation: Pensioner
R/O: 5 Ravindra Nagar, Tilak Nagar,
Aurangabad
7. Bhanudas Dattatrya Kulkarni
Age: 74 Years, Occupation: Pensioner
R/O: N-11/D/22/2 Ravi Nagar Hudco, Aurangabad

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8. Shivdas Rama Bhavsar
Age: 79 Years, Occupation: Pensioner
R/O: A/3/7 Tapadia Park N-4 CIDCO,
Aurangabad
9. Dinkar Kishanrao Padalkar (Died)
Through L.R's:

A. Madhav Dinkar Padalkar,
Age: 46 Yrs, Occ. Business

B. Milind Dinkar Padalkar
Age: 44 years, Occ: Service
C. Sow. Manisha Sanjay Patil
Age: 48 Years, Occ. House
All Above
R/O: 15, Vivek Nagar Housing Society
N-1-D Sector CIDCO Aurangabad
10. K.B. Shelke, Age: 77 Years, Occ: Pensioner
R/O: Ravindra Nagar. Society, Tilak Nagar,
Aurangabad
11. V. G. Dhayre, Age: 82 Years, Occ: Pensioner
R/O: Shasrstri Nagar, Garkheda Parisar,
Aurangabad
12. Vishwambhar Narhari Jagdale,
Age: 78 Yrs, Occ. Pensioner,
R/o. At Sawangi (harsul) Jalgaon Rd,
Aurangabad
13. Ramesh Ramdas Ramdin
Age: 79 Years, Occupation: Pensioner
R/O: Ravindra Nagar, Plat No. 28,
Aurangabad
14. Vishnu Pant Govindrao Nandedkar
Age: 78 Years, Occupation: Pensioner
R/O: Shree Ram, Pundlikawadi
Mahaweer Chowk, Nanded

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15. Yashwant Shankarrao Deshmukh
Age: 81 Years, Occupation: Pensioner
R/O: Vinayak Nagar, Bhawsarchakra Taroda Kh,
Nanded.
16. Govind Dattatraya Bhanegaonkar
Age: 74 Years, Occupation: Pensioner
R/O: 100 A kavailyashanti
Yashwant Nagar Nanded
17. Anant Bapurao Bidwai
Age: 77 Years, Occupation: Pensioner
R/O: H. No. 116/4/1 Saibaba nagar,
Hudco, Nanded
18. Hiranath Keshavrao Gurjar
Age: 77 Years, Occupation: Pensioner
R/O: C-71, kabbra Nagar Powadi,
Nanded.
19. Suryakant Balbhim Kunturwar
Age: 81 Years, Occupation: Pensioner
R/O: Sahyadri Nagar (Kaman) Tarad BK,
Nanded
20. Purushottam Govind Chowdhari
Age: 73 Years, Occupation: Pensioner
R/O: 1 Sahyadri Nagar, Taroda BK,
Nanded.
21. Nanasaheb Dhondopant Muley
Age: 75 Years, Occupation: Pensioner
R/O: Gurukrupa Ashirwad Nagar, Parbhani
22. Satyaprem Vasantrao Parsekar
Age: 65 Years, Occupation: Pensioner
R/O: Ramkrushna Nagar Parbhani
23. Sheshadri Amabadas Kulkarni
Age: 78 Years, Occupation: Pensioner
R/O: Near R.R. petrol Pamp
Shivram Nagar Parbhani

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24. Vasant Namdeo Joshi,
Age: 80 Years, Occupation: Pensioner
R/O: Suyog Colony, Wangi Road,
Parbhani.
25. Madhukar Narayanrao Bandewar
Age: 77 Years, Occupation: Pensioner
R/O: Ramkrushna Nagar, Parbhani
26. Vishwas Dadaprasad Choudhari
Age: 66 Years, Occupation: Pensioner
R/O: Pardeshi Galli, Bhokardan Dist. Jalna
27. Sudhakar Ramkrishna Kulkarni
Age: 81 Years, Occupation: Pensioner
R/O: 20 Shivneri Nagar, Near Manik Hospital,
Garkheda Aurangabad
28. Suresh Ganpatrao Lalsare
Age: 68 Years, Occupation: Pensioner
R/O: N-2, B. N-2-1/83, Jaibhavani Nagar,
Behind Petrol Pump, Thakre Nagar,
Aurangabad
29. Sharad Puroshattamrao Naik
Age: 66 Years, Occupation: Pensioner
R/O: Sitanjali Apartment Chatrapati Nagar,
Garkheda, Aurangabad.
30. Prabhakar Govindrao Kulkarni (Died)
Through L.R's:
 - A. Pramod Prabhakarao Kulkarni
Age: 52 Years, Occupation: Business
 - B. Krishna Prabhakarao Kulkarni
Age: 47 Years, Occ. Service
All Above
R/o. Shivneri Nagar Plot No. 21 Garkheda
Aurangabad

....PETITIONERS

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VERSUS

- 1) The State of Maharashtra
 - 2) Principle Secretary
General Administration Dept
Govt. of Maharashtra,
Mantralaya, Mumbai 32
 - 3) Principle Secretary,
Finance Dept. Govt. of Maharashtra,
Mantralaya Mumbai - 32
 - 4) Principle Secretary
Water Resource Dept. (CADA)
Govt. Of Maharashtra,
Mantralaya Mumbai - 32
 - 5) Principle Secretary
Public Works Dept. Govt. Of Maharashtra,
Mantralaya Mumbai – 32
-RESPONDENTS
-

Mr D. R. Irale Patil, Advocate for petitioners
Mr M. K. Goyanka, Addl.G.P. for respondent Nos.1 to 5

**CORAM : MANGESH S. PATIL
AND**

PRAFULLA S. KHUBALKAR, JJ.

Reserved on : 26th November, 2024

Pronounced on : 28th January, 2025

JUDGMENT (Per : Prafulla S. Khubalkar, J.)

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. The petitioners have challenged the judgment and order dated 17/02/2022 in Transfer Application No.9/2021 and also the order dated 10/08/2022 in Review Application No.2/2022, passed by Maharashtra Administrative Tribunal and have also claimed that the benefits of Time Bound Promotion vide Government Resolution dated 08/06/1995 with consequential benefits be conferred upon them.

3. The brief facts as narrated in the petition leading to the filing of instant petition are as under :-

(a) The petitioners, who were diploma holders, were appointed as 'Junior Engineer' during the period 1962 to 1974 in the Irrigation and Public Works Department of the Government of Maharashtra. The petitioners have retired during the period 1995-2005 and are pensioners.

(b) In the year 1978, the Government made a revision of their pay-scales and the benefits were conferred upon the petitioners w.e.f. 01/04/1976. Pursuant thereto, the pay-scale for Junior Engineers was increased to Rs. 395-900 and higher starting pay of Rs.425/- for three years was granted.

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It is stated that earlier in the year 1970, the Government had introduced Recruitment Rules only for the cadre of Maharashtra Service Engineers – Class-I and Class-II, and there were no recruitment rules for the post of Junior Engineers which fell under category “C”.

(c) In the year 1984, the Government framed policy vide Government Resolution dated 16/04/1984 and thereby conferred the status of gazetted officers upon degree holders and other Junior Engineers. By this Government Resolution, two different cadres were created, namely, ‘Assistant Engineer Grade-II’ for degree holders and ‘Sectional Engineer’ for diploma holders and unqualified Junior Engineers. Both these cadres were given the same pay-scales i.e. Rs.600-30-750-40-950.

(d) In the year 1988, the Government restructured the pay-scales of all the cadres of different departments. So far as the Sectional Engineers working under the Public Works Department and Irrigation Department of the Government of Maharashtra, the revised corresponding pay-scale of Rs.2000-3200 was given with effect from 01/01/1986. It is stated that the petitioners being Sectional Engineers

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at that time were working in the pay-scale of Rs.600-950 and pursuant to the revision of pay-scales in the year 1988, they were given the benefits of pay-scale of Rs.2000-3200 from 01/01/1986.

(e) In the year 1993, the Government issued a Government Resolution dated 29/07/1993, which made amalgamation of posts/ pay-scales and accordingly, the petitioners were categorized in Group 'B'.

(f) In the year 1995, the Government Resolution dated 08/06/1995 was issued, which introduced the time bound promotion scheme granting promotional pay-scales to the employees who were not promoted for a period of 12 years, subject to the fulfillment of terms and conditions as stated in the Government Resolution. This was subsequently clarified by Government Resolutions dated 01.11.1995 and 20.03.1997.

(g) The petitioners' case is that, in the year 1995, they were working on pay-scale of Rs.2000-3200 and they were not promoted since 1981 for more than 12 years, and therefore, they were entitled to the benefit of the Government Resolution dated 08/06/1995.

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(h) The petitioners also made reference to an order dated 11.01.2017 passed by this Court in Writ Petition No.346/2009 which was a petition by the Sectional Engineers working under various Zilla Parishads who were granted benefit of the Government Resolution dated 08/06/1995, which was subsequently withdrawn and challenge was raised thereto. It is stated that in view of conferment of benefit upon those persons, similar benefit be granted to the petitioners.

(i) It is stated that on 01/04/2010, the Government introduced Modified Service Assured Career Scheme (MACP) for employees who would complete 12 years without promotion on the same posts.

(j) After referring to the series of Government Resolutions, the petitioners have stated that, by Circular dated 13/06/2016, the second benefit under the MACP scheme which was conferred upon some Sectional Engineers, were withdrawn and the action was challenged before the Maharashtra Administrative Tribunal, Mumbai. On failure before the Tribunal, the challenge was carried to this court at the Principal seat, Mumbai vide Writ Petition No.2605/2017. This petition was decided by judgment and order dated 06.02.2019 by which the benefit was ordered to be restored upon the petitioners therein.

(k) The Petitioners have relied upon the judgment dated 06/02/2019 delivered in Writ Petition No.2605/2017 to contend that, in view of the conclusions in the judgment, benefits of similar nature, based on the Government Resolution dated 08/06/1995, be conferred upon them.

(l) The petitioners have stated that, for claiming the benefit of the Government Resolution dated 08/06/1995, they submitted the representations on 22/02/2019 on-wards, which were rejected by the respondents by the orders dated 08/11/2019, 14/11/2019 and 10/06/2021.

(m) Feeling aggrieved by rejection of their representations, the petitioners filed Writ Petition No.2006/2020 before the Principal seat of this court, which came to be transferred to this bench on 28/01/2020. By an order dated 18/11/2021, this Court had transferred the petition to the Maharashtra Administrative Tribunal at Chhatrapati Sambhajanagar, which was registered as Transfer Application No.09/2021.

(n) The Transfer Application was contested before the Tribunal and by judgment and order dated 17/02/2022, it was

dismissed. Thereafter, the petitioners filed Review Application No.02/2022 before the Tribunal which was also dismissed by an order dated 10/08/2022.

(o) Feeling aggrieved by the judgment and order in the Transfer Application No.09/2021 and Review Application No.02/2022, the petitioners have filed the instant petition.

4. The petitioners have assailed the judgment of the Tribunal by raising basic contention that, although they were conferred with the benefits in the year 1984, the same were only symbolic in nature and in view of Government Resolution dated 08.06.1995 they are entitled to grant of actual financial benefits. The petitioners have heavily relied upon the observations of this Court in the judgment delivered at the Principal seat in Writ Petition No.2605/2017, in which it was held that the upgradation granted to the Sectional Engineers under the Government Resolution dated 16/04/1984 did not constitute grant of non-functional pay-scales and cannot be treated as conferring first benefit under the Government Resolution dated 01/04/2010. On the basis of the observations of this Court with respect to grant of benefit pursuant to Government Resolution dated 01/04/2010, the petitioners have averred that, they are entitled to grant of similar benefits based on

the Government Resolution dated 08/06/1995. The petitioners have heavily relied upon the position of law laid down in various judgments, holding that, when one set of employees is given relief by the Courts, the other identically situated persons need to be treated similarly by extending similar benefits. To highlight the legal position, the petitioners have relied upon the judgment of the Supreme Court in ***State of UP vs. Arvind Kumar Shrivastava reported at [(2015) 1 SCC 347]***. The petitioners have also relied upon the orders passed in the matters of Sectional Engineers of other Zilla Parishads and other departments to claim that they are also entitled to similar benefits.

5. The respondents have opposed the petition on the ground of delay and laches, amongst other grounds of merits. The respondents have put forward their stand that the petitioners' claim for granting benefit of the Government Resolution dated 08/06/1995 raised vide representations submitted in the year 2019 on-wards, cannot be entertained on any count. The respondents have submitted that the Government Resolution dated 08/06/1995 conferred benefits upon the employees of Group 'C' and Group 'D' and the petitioners, being employees of Group "B", were not entitled to any benefit. As regards the judgment in Writ Petition No.2605/2017, it is submitted that it does not lay down any proposition of law, based on which,

the petitioners, being Sectional Engineers could claim benefit of time bound promotion scheme framed under the Government Resolution dated 08/06/1995. It is also submitted that the petitioners have got the benefit based on Government Resolution dated 16.04.1984 and have also got revised pay scale in the year 1988.

6. In support of their arguments, the petitioners have filed on record the written notes of arguments reiterating their contentions in the writ petition. The respondents have also filed their written notes of arguments justifying the impugned judgment of the Tribunal.

7. We have considered the rival contentions and perused the papers. We have heard advocate Shri Irale Patil, learned counsel for the petitioners and advocate Shri M.K. Goyanka, learned Additional Government Pleader for the respondents/ State.

8. The basic grievance of the petitioners is with respect to their entitlement to the benefit under the Government Resolution dated 08/06/1995. It has to be noted that the petitioners have raised their claim by their representations which were submitted in the year 2019 on-wards as stated in the petition. The contentions of the petitioners are also based on the judgment of this Court in Writ Petition

No.2605/2017, which pertained to the decision of withdrawal of benefits and consequent recovery of money. It is, thus apparent that, only after the judgment in Writ Petition No.2605/2017, the petitioners have raised their claim by contending that they are a similar set of employees, and therefore, the benefit under Government Resolution dated 08.06.1995 must be conferred upon them. It has to be noted that the petitioners have relied upon orders passed in the matters of engineers of various zilla parishads and other departments on similar lines only to seek benefit of similar nature granted in their respective cases. It has to be noted that none of the judgments or orders referred to in the petition directly deal with the issue about grant of benefit under the Government Resolution dated 08/06/1995. Even the judgment in Writ Petition No.8009/2021 as referred to in prayer clause B2 does not deal with this issue. The petitioners had relied upon the order in Writ Petition No.346/2009 passed by this Court, however, the same had dealt with the issue about withdrawal of benefits which were already conferred. Therefore, although the petitioners have relied upon the position of law that, when one set of employees have been granted some relief, the other set of employees should also be benefited, there is no judgment or order, placed on record demonstrating grant of same benefits to any other set of employees.

9. In support of his submissions, advocate Irale Patil, learned counsel for the petitioners relied upon various Government Resolutions as referred to in Writ Petition and has submitted that, although status of gazetted officers was conferred upon the petitioners, they were not conferred with actual benefits, and therefore, their upgradation was only symbolic. He relied upon the observations of this Court in the judgment delivered in Writ Petition No.2605/2017, which had held that the upgradation of the Sectional Engineers under the Government Resolution dated 16/04/1984 did not constitute grant of non-functional pay-scales. In support of his submission, he also relied upon judgment dated 02/08/2022, passed by this Court in Civil Writ Petition No.8009/2021 with connected matters, based on the judgment in Writ Petition No.2605/2017. In short, the submissions of learned advocate Irale Patil for the petitioners revolves around the observations in the matter of Sectional Engineers in Writ Petition No.2605/2017 and the petitioners are raising their claim on similar lines for claiming benefit under the Government Resolution dated 08/06/1995.

10. It has to be noted that Writ Petition No.2605/2017 was filed by the engineers being aggrieved by Circular dated 13/06/2016,

by which the benefits which were conferred upon them were withdrawn and excess payment was directed to be recovered against them. While examining legality of the Circular, the issue with respect to legality of withdrawal of benefits and recovery was decided by this Court, and there is no positive direction about grant of any additional benefit. Therefore, the issue with respect to entitlement of the petitioners to the benefit under Government Resolution dated 08/06/1995 needs to be independently considered. The petitioners have created an impression that, in view of grant of benefit vide judgment in Writ Petition No.2605/2017 and similar such matters, they are simply entitled to the same benefit under Government Resolution dated 08.06.1995. However, on careful reading of the judgment in Writ Petition No.2605/2017, it becomes clear that the issue about entitlement based on Government Resolution dated 08/06/1995 was not decided.

11. As regards Government Resolution dated 08.06.1995 by which Time Bound Promotion Scheme was introduced, it is crucial to note that in the year 2001, the Government introduced Assured Career Progression Scheme (ACPS) vide Government Resolution dated 20.07.2001, to address the issue of stagnation. By this Government Resolution, the erstwhile Time Bound Promotion Scheme introduced

by Government Resolution dated 08.06.1995 was repealed. It is pertinent to note that the petitioners have filed on record the copy of Government Resolution dated 20.07.2001 at Exhibit L to the petition. Even the judgment in Writ Petition No.2605/2017 has referred to this development about repeal of Government Resolution dated 08.06.1995. Under such circumstances, the claims raised by the petitioners on the basis of Government Resolution dated 08.06.1995 appear to be unfounded.

12. Despite this being the position, if the contentions canvassed by the petitioners are considered, it has to be noted that a perusal of the Government Resolution dated 08/06/1995 clearly shows that the same is applicable to the employees of Group 'C' and group 'D', who have not been promoted for a period of 12 years and to remove stagnation, the policy to grant them time bound pay-scales was introduced by the Government. The petitioners were not falling in Group 'C' and Group 'D'. They have been conferred with the benefit vide Government Resolution dated 16/04/1984. The petitioners are all retired employees and they have not raised any grievance since the year 1995 till they were in service. The Government Resolution dated 08/06/1995 and the subsequent clarifications vide Government

Resolutions dated 01/11/1995 and 20/03/1997 do not provide for conferment of benefits on employees of Group 'B'. The petitioners have raised the grievance in the year 2019 on-wards without demonstrating any reasons for delay and laches.

13. The petitioners have failed to demonstrate applicability of the Government Resolution dated 08/06/1995 and their entitlement to grant of benefits under it. Reliance placed upon the observations in Writ Petition No.2605/2017 and judgment in Writ Petition No.8009/2021 is misplaced since neither of these cases deal with the issue about grant of benefit under the Government Resolution dated 08/06/1995.

14. Reliance placed by the petitioners upon the position of law, as laid down in the judgment of **State of U. P. & Others Vs. Arvind Kumar Shrivastav, [2015 (1) SCC 347]**, laying down the law that 'normal rule is that, when one set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefits', is also misplaced since the petitioners have failed to demonstrate grant of same relief to any such set of employees as claimed by them in this writ petition. Although there is no quarrel

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with the position of law as laid down in this judgment, however, the same is not of any assistance to the petitioners.

15. In the light of consideration of all the above mentioned factual and legal aspects, we are of the considered view that the petitioners have failed to establish their entitlement under Government Resolution dated 08/06/1995.

16. On careful consideration of the contentions raised by the parties with respect to challenge to the impugned judgment of the Tribunal, we are of the considered view that there is no perversity or arbitrariness in the impugned judgment of the Tribunal, and therefore, interference in the impugned judgment is unwarranted.

17. In view of the above mentioned factual and legal aspects, the instant petition deserves to be dismissed and the same is dismissed with no order as to costs.

18. Rule is discharged with the above terms.

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)

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