



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2873 OF 2024

Baburao Kisan Sonune,
Age @ 74 years, Occ. Retired,
R/o Post Sakali (Bk), Tq. & Dist.
Buldhana

...Petitioner

// VERSUS //

1. The State of Maharashtra through its Secretary for Rural Development Department, Mantralaya, Mumbai.
2. The Zilla Parishad, Buldhana, through its Chief Executive Officer, Buldhana, Dist. Buldhana

... Respondents

Shri S.M.Vaishnav, Advocate for the petitioner.
Shri G.S.Umale, AGP for the respondent/State.
Ms. Vaishali, Advocate for the respondent no. 2.

CORAM : SMT. M.S.JAWALKAR &
PRAVIN S. PATIL, JJ.

Reserved on : 25th JULY, 2025.
Pronounced on : 30th JULY, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

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

2. By this petition, the petitioner is challenging the decision of Departmental Promotion Committee (DPC) dated 1st June, 2022, by which it is decided not to grant second benefit of time bound

promotional scheme to the petitioner. As such, the petitioner is seeking direction to the respondents to grant benefit of the same with effect from 1st October, 2006, by upgrading regular salary as well as regular monthly pension with arrears of difference of regular pension and other terminal benefits.

3. In brief, the case of the petitioner is that, he being qualified for the post of Junior Assistant, by following due procedure of law came to be appointed as a Junior Assistant in Zilla Parishad, Buldhana on 11th April, 1972.

4. That first time bound promotion pay scale benefit was granted to the petitioner when he was holding the post of Senior Clerk w.e.f 1st October, 1994. It is further seen that on 24th October, 2003, petitioner was promoted against the post of Senior Assistant and superannuated on 30th June, 2008.

5. After the superannuation of the petitioner, the State of Maharashtra had issued the Government Resolution dated 1st April, 2010 thereby granted the scheme of time bound promotional pay scale. Accordingly, it is decided to grant second benefit of time bound

promotional pay scale on completion of 24 years of service and scheme is made applicable with effect from 1st October, 2006.

6. In pursuance of the policy framed by the State Government, petitioner made representation dated 11th October, 2021 to the respondent no.2 for grant of benefit of second time bound promotional pay scale.

7. It is stated by the petitioner that in the month of January, 2024, he came to know about the decision of Departmental Promotion Committee (DPC) and therefore applied for copy of the minutes of meeting under Right to Information Act. After receipt of the said minutes of the meeting, it became clear to petitioner that second benefit of time bound promotional pay scale was not granted to the petitioner and kept pending for the reason that confidential reports of the petitioner are of average ranking.

8. As such, the petitioner is challenging the minutes of Departmental Promotion Committee (DPC) dated 1st June, 2022.

9. Learned counsel appearing for the respondent - Zilla Parishad raises preliminary objection by stating that petitioner has a statutory remedy to prefer the appeal before the Divisional Commissioner under the Maharashtra Zilla Parishad (Disciplinary Appeal) Rules, 1964. Hence, present petition is not tenable and petitioner be directed to file statutory appeal as per the said Rules.

10. On merits, it is the submission of the respondents that the decision of Departmental Promotion Committee (DPC) cannot be faulted because on the basis of record made available before them, the decision is taken and rightly withheld the benefits of petitioner in view of his average ranking in the department on the basis of confidential reports.

11. We have heard both the counsel at length and considered the documents available on record.

12. It is seen from the record that petitioner has categorically stated in his petition that during his service tenure, he was not in receipt of any adverse confidential reports nor an opportunity was given to the petitioner to improve the same. Respondent no.2 fairly admitted that there is no communication of adverse confidential reports to the

petitioner during his service tenure. Learned counsel for the petitioner in the background of this factual position has relied upon the judgment delivered by this Court in Writ Petition No. 6631 of 2019 (*Achyut Rao S/o Bhaurao Raut Vs. State of Maharashtra and others*), wherein this Court has recorded the specific findings in paragraphs 8 and 9 of the judgment, the same is reproduced as under:

“08] We have perused the guidelines issued by the Government for writing confidential reports relied by the petitioner. Guideline no.40 stipulates that all adverse remarks in the confidential reports shall be communicated through registered post with acknowledgment and in case of hand delivery, the acknowledgement is to be taken from the concerned employee and those acknowledgments should be preserved. Guideline no.52 contemplates that if adverse remarks are not communicated, same cannot be used against the employee. Despite giving chance to respondent No.2, nothing has been produced on record to show that the adverse remarks mentioned in the confidential reports of the year 1990 to 1995 were communicated to the petitioner. In such circumstances, it has to be presumed that those adverse remarks were never communicated to the petitioner. On this set of facts, in view of the requirement of the aforesaid Government Resolution dated 08/06/1995, it is clear that those adverse remarks could not have been taken into account to deny to the petitioner the benefit of said scheme with effect from 01/10/1994. Thus, it is apparent that the petitioner is entitled to the benefit of said scheme from 01/10/1994 and not from 01/10/2001.

09] In the case of Dr. Sukhdeo Chapale (supra) relied by the petitioner, similarly situated person was granted such benefit from 01/10/1994. Also, in the case of Dr. Sabita Biswas (supra), in paragraph 4 of the judgment, this Court has held that in view of the requirement of Government Resolution dated 01/02/1996, it is clear that those

adverse remarks could not have been taken into account to deny benefit of time bound promotion to the petitioner. Thus, we hold that the action of the respondent No.2 not extending the benefit of said scheme to the petitioner from 01/10/1994 is erroneous and arbitrary, therefore, does not stand. As far as aspect of the delay in approaching the court is concerned, the impugned communication is of 26/09/2018 and the petition has been filed on 08/07/2019 i.e. within the reasonable time. In view thereof, the petitioner is entitled to the reliefs as sought for except the cost....”

13. In the light of above said factual as well as legal position, we are of the considered opinion that findings recorded by the Departmental Promotion Committee (DPC) in its meeting dated 1st June, 2022 to withhold the second benefit of time bound promotion pay scale to the petitioner is illegal and accordingly, we proceed to pass the following order.

- i. Writ petition is allowed.
- ii. Respondents are directed to grant benefit of second time bound promotional pay scale to the petitioner with effect from 1st October, 2006.
- iii. It is made clear that, petitioner being superannuated on 31st March, 2010, the benefit of second part of Assured Progressive Scheme

will be applicable only for the purpose of retirement benefits, petitioner will not be entitled for any arrears of backwages during this period.

No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M.S.JAWALKAR, J.]