



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

WRIT PETITION NO. 4782 OF 2022

Vilas s/o Laxmanrao Pappulwar,
Aged 53 years, Occupation-Service
at Maharashtra State Electricity
Distribution Company Limited,
Etapalli, Chandrapur Zone,
District-Chandrapur, Resident of
Etapalli, District-Chandrapur.

.. Petitioner

.. Versus ..

1] The Maharashtra State Electricity
Distribution Company Limited,
Chandrapur, through its
Superintending Engineer (O&M)
Circle, Babupeth, Chandrapur.

2] The Joint Secretary (Technical) &
Chief General Manager, the Maharashtra
State Electricity Distribution Company
Limited, Prakashgad, Bandra (E),
Mumbai.

3] The Maharashtra State Electricity
Distribution Company Limited,
through its Chief Engineer, Katol Road,
Nagpur.

.. Respondents

.....
Shri S.S. Deshpande, Advocate for Petitioner.
Shri S.V. Purohit, Advocate for Respondents.
.....

**CORAM : SMT. M.S. JAWALKAR AND
PRAVIN S. PATIL, JJ.**

**RESERVED ON : AUGUST 01, 2025.
PRONOUNCED ON : AUGUST 11, 2025**

JUDGMENT [Per : Pravin S. Patil, J.]

1. **Rule.** Rule made returnable forthwith. By consent of learned Counsel for the parties, the matter is taken up for final disposal.
2. By this petition, petitioner claims that respondents be directed to grant him all service benefits and further to decide his representation dated 30.09.2020.
3. The facts of the case, in brief, is that by order dated 19.06.2007, his services were suspended on the count that Deputy Superintendent of Police, Anti-Corruption Bureau, Chandrapur, vide letter dated 16.06.2007, informed the respondents that petitioner had been caught red-handed while accepting a bribe of Rs.2,000/-. As such, by invoking the powers under M.S.E.B. Employees Service Regulation, the services of petitioner were suspended with effect from 15.06.2007 till pending further proceeding and the final order

in the matter.

4. In the suspension order, it was made clear that during the suspension period, petitioner will be eligible for subsistence allowance at the rate of 20% of the basic pay in addition to the full dearness allowance which he was drawing prior to suspension order.

5. After the suspension of the petitioner, respondents had conducted the departmental enquiry against the petitioner for the alleged misconduct committed by him. The said departmental enquiry was concluded in the termination order dated 11.02.2008. Respondent No.1, while issuing the termination order, made clear that his suspension period will be treated as a punishment period.

6. Petitioner challenged the termination order dated 11.02.2008 before this court, vide Writ Petition No.2748/2009. This court, by the judgment and order dated 31.10.2012, allowed the writ petition and set aside the termination order. This court directed the respondents to reinstate the petitioner in service with continuity in service, however, it is directed that

petitioner would not be entitled to salary for the period during which he was out of employment.

7. From the judgment and order of this court, it is crystal clear that petitioner during the period from 19.06.2007 to 11.02.2008 will not be entitled for monetary benefits as he was out of employment during the said period. This aspect in the order of this court was clear and unambiguous. As such, in normal course, once this court has decided the matter by passing specific order, there was no necessity to make further attempt to file a separate writ petition and claim relief which was denied by this court. However, petitioner filed Writ Petition No.632/2015 seeking direction to treat the period of his suspension from service from 19.06.2007 till 11.02.2008 as a duty period with an intention to receive arrears of salary along with regular increments which were denied by this court.

8. This court by the order dated 21.01.2016 dismissed the Writ Petition No.632/2015 filed by the petitioner by observing as under :

“Having heard the respective counsel, it can be seen that in Writ Petition No.2748 of 2009 which was partly allowed on 31/10/2012 the only relief granted was of reinstatement with continuity in service was granted.

In the said writ petition various prayers were made including a prayer for grant of all consequential benefits along with back wages. Though this specific prayer was made in the earlier writ petition, the relief granted was only with regard to reinstatement with continuity in service. No relief with regard to grant of all consequential benefits was granted. Though it was submitted on behalf of the petitioner that the relief of consequential benefits had not been specifically denied, it is well settled in view of the decision of the Hon'ble Supreme Court in case of ***State Bank of India v. Ram Chandra Dubey (2001) 1 SCC 73*** that if relief is sought but the same is not specifically granted, the said relief is deemed to have been refused. Even otherwise, it is be noted that the relief which is sought in the present writ petition of treating the period of suspension as duty period could have been prayed for in the earlier writ petition. The earlier writ petition was filed on 11/06/2009 and said relief could have been prayed for at that point of time. Failure to seek said relief in the earlier writ petition, also dis-entitles the petitioner to seek the same in the subsequent writ petition.”

It is pertinent to note that though this court twice made clear that petitioner is not be entitled for the monetary benefits from period 19.06.2007 to 11.02.2008.

9. After that petitioner has made representation before the respondents and stated that as this court has granted reinstatement, his services are required to be counted from the date of his initial appointment. Accordingly claimed promotion and increments of last six years.

10. In the background of abovesaid factual position, petitioner by filing present petition prayed that direction be

issued to respondents to grant him all service benefits and direction to decide pending representation. It is not specifically prayed as to which service benefits are denied to him by respondents and accordingly not made specific prayer in the petition.

11. The respondents strongly opposed the petition by filing their written submission. It is pointed out by the respondents that the representation of the petitioner dated 30.09.2020 is already decided on 18.12.2020. It is stated that respondents had denied the promotion by recording the reason that during the suspension period, he was treated to be out of employment and, therefore, considering the fact that this court has held that the petitioner is not entitled for monetary benefits, petitioner's claim was not be considered for the promotion. Hence, the prayers made by the petitioner are denied.

12. In the meantime, the petitioner has amended the petition and accordingly placed on record the decision of respondent no.1 on his representation dated 18.12.2020 and by placing reliance on other documents claimed the service benefits in the matter. But there is no amendment to the prayer

clause in the petition. Subsequent to filing of documents, petitioner filed rejoinder to the petition stating that as per regulations framed by respondents, he is entitled to salary by assuming he was promoted. And further entitled for pay fixation considering his length of service. He further states that in pursuance of Advertisement No.7/2019, he was appointed as Deputy Executive Engineer on 03.10.2019 and working on that post. However, it is not clarified by making prayer in the petition the nature of relief, he is seeking in the form of service benefits.

13. In view of rejoinder of the petitioner, the respondents filed their additional affidavit dated 09.04.2025. It is pointed out by the respondents that after filing of the earlier two writ petitions, petitioner has filed further Writ Petition No.2040/2024 praying thereby directions against the respondents to decide the pending appeals filed by him after giving him opportunity of hearing. The said writ petition was came to be disposed of on the statement of petitioner and without issuing notices to any of the respondents. Accordingly, after receipt of the order of this court, they have verified the

record and found that petitioner while working on the post of Deputy Executive Engineer at Sindhakhed Raja was served with a chargesheet dated 10.06.2020 and based on the said chargesheet, departmental enquiry was held wherein petitioner was found guilty and was imposed with punishment of stoppage of one annual increment with cumulative effect, vide order dated 22.10.2020. Against the said order, petitioner had preferred First Appeal.

14. It is further pointed out by the respondents that the petitioner has attended the age of superannuation on 30.06.2023 and the Writ Petition No.2040/2024 was filed after his retirement. However, considering the order of this court, the hearing was taken up after giving opportunity to the petitioner. Accordingly, said appeal was dismissed by the first Appellate Authority, vide order dated 18.07.2024. The petitioner, against the said order, preferred Second Appeal which was filed on 05.08.2024 i.e. after the retirement of the petitioner. Though as per the regulations of MSEDCL Employee's Service Regulation, 2005, same is not tenable, considering the orders of this court, the Appellate Authority has

decided the Second Appeal and same was also dismissed by order dated 23.12.2024.

15. It is further pointed out by the respondents that in addition of chargesheet 10.06.2020, there were other chargesheets were served on the petitioner dated 09.07.2020, 23.09.2021, 07.10.2021 and 25.02.2022. In all those matters, enquiry has been conducted and separate punishment was imposed against the petitioner. As such, the departmental appeals preferred by the petitioner and same were also decided after giving hearing opportunity to the petitioner and in the said appeals certain punishment has been imposed against the petitioner. It is stated by the respondents that all this factual aspect was necessary to be brought on record by the petitioner before claiming the relief of service benefits in the matter, but same was not brought on record intentionally by him.

16. In the background of above said factual position, we have heard the learned counsel appearing for the respective parties and perused the entire record made available before us.

17. In the present petition, during the course of argument,

respondents have pointed out that petitioner had suppressed from this court the fact that he has preferred review application against the order dated 21.01.2016 passed in Writ Petition No.632/2015. It is pointed out that the review application was dismissed by this court on 19.01.2018. Accordingly, the respondents have supplied the copy of the said order across the bar and same is taken on record and marked as 'X' for identification.

18. It is also pertinent to note that during the pendency of the present petition, when the matter was taken up for final disposal, petitioner sought adjournment by stating that he will seek clarification to the order of this court dated 21.01.2016, without disclosing the fact that review application has been already rejected in the matter. Accordingly, we have adjourned the matter twice. It is brought to our notice by the parties that instead of moving application for clarification, petitioner has moved the Note for speaking to minutes before the Coordinate Bench of this court. The Coordinate Bench, by order dated 22.07.2025, refused to entertain the submission of the petitioner. Therefore, petitioner seeks permission to withdraw

the Note with liberty to move an appropriate application. The said order of Coordinate Bench on Note for speaking to minutes dated 22.07.2025 is taken on record and marked as 'Y' for identification.

19. In the present petition, considering the subsequent events, the only prayer remains to be considered to direct the respondents to give all service benefits of the petitioner. According to us, the prayer made by the petitioner is vague. It is not clear as to which service benefit he is claiming in the petition. From the oral submission, it is only transpired that petitioner has attempted to made submission that by keeping aside the observations made by this court in Writ Petition No.2748/2009, decided on 31.10.2012 and order passed in Writ Petition No.632/2015, decided on 21.01.2016, he is entitled for consequential benefits of service. But from the record and the order dated 21.01.2016, which is reproduced above, it is clear that this court has made clear that the prayer for grant of consequential benefits along with back-wages made by him in Writ Petition No.2748/2009 was already rejected by this court and, therefore, the relief which was claimed can't be

granted. Hence, once this court unequivocally clarify the legal position, we are of considered opinion to not consider the same grievance again in the present petition.

20. According to us, entertaining the present petition is nothing but amount to review of the orders passed by this court in earlier round of litigation. The petitioner is also aware of this factual position and, therefore, he has made various attempts to get clarification of the order dated 21.01.2016 passed in Writ Petition No.632/2015, firstly by filing review application and then by moving Note of speaking to minutes. However, he being unsuccessful in his attempts, filed this petition. As such, the order dated 21.01.2016, which is in operation, same is required to be honoured as a part of judicial discipline.

21. It is further pertinent to note that respondents by their affidavit placed on record, it is clear that the service career of the petitioner is stigmatic and various punishments has been imposed time and again against him till the date of his retirement. It is also established on record that every time petitioner was given full opportunity of hearing, but petitioner failed to establish his claim. Therefore, the person who is not

having clean service career cannot be held to be entitled for the benefits such as promotion. It is well settled position of law that the promotion is granted on the basis of seniority-cum-merit. However, we find that the merits are lacking in the case of the petitioner and, therefore, respondents were right in not granting promotion to the petitioner.

22. It is further pointed out that as per the law laid down by the Hon'ble Supreme Court of India in the case of ***A.P. State Road Transport Corporation and others .vs. Abdul Kareem, reported in (2005) 6 SCC 36***, it is held that the consequential benefits of service cannot be granted to the employee unless the same is specifically recorded in the order of the court. The para 11 of judgment is relevant in the matter, same is reproduced as under :

11. Reverting to the facts of the case at hand, as already noticed, the Labour Court specifically directed that the reinstatement would be without back wages. There is no specific direction that the employee would be entitled to all the consequential benefits. Therefore, in the absence of specific direction in that regard, merely because an employee has been directed to be reinstated without back wages, he cannot claim a benefit of increments notionally earned during the period when he was not on duty or during the period when he was out of service. It would be incongruous to suggest that an employee, having been held guilty and remained absent from duty for a long time, continues to earn increments though there is no

payment of wages for the period of absence.

23. In view of aforesaid reasons, we are of the considered opinion that no case is made out by the petitioner to invoke extra-ordinary jurisdiction of this court, rather we find that petitioner did not approach with clean hands and suppressed the material facts from this court. Hence, the person who did not approach with a clean hands is not entitled for any equity and, therefore, we are of the opinion that the petition deserves to be dismissed with costs. Hence, we proceed to pass the following order :

O R D E R

(i) Writ Petition is **dismissed** with costs.

(ii) Petitioner is directed to pay the cost of Rs.20,000/- (Rupees Twenty Thousand only) to the Nagpur High Court Bar Association (Class-IV) Employees, within a period of four weeks from the date of receipt of this order and receipt thereof be submitted to the office.

24. Rule is discharged.

(Pravin S. Patil, J.)

(Smt. M.S. Jawalkar, J.)