



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

WRIT PETITION NO. 14 OF 2025

State of Maharashtra through Secretary PWD Mantralaya Mumbai and others

Vs

Shri Prakash Madhukarrao Deshmukh and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms Sangita Jachak, Addl. G.P. for petitioners/State.
Mr. N.R.Saboo, counsel for respondent Nos. 1 to 4.

CORAM : ANIL S. KILOR and RAJNISH R. VYAS, JJ.
DATE : 15/12/2025.

1. Heard learned counsel for the respective parties.
2. Petitioners are the original respondents in Original Application No. 567 of 2023, whereas the respondents are the original applicants before the Maharashtra Administrative Tribunal. The parties would be referred as they were referred before the Tribunal.
3. The applicants were initially appointed as Junior Engineers and while in service, were granted upgradation w.e.f. 01/04/1989 to the post of Sectional Engineer, which was non-functional. It is the case of the applicants before the Tribunal that non-applicants, instead of granting applicants first benefit of time-bound promotion of pay-scale after twelve years from the date of appointment, treated the date of granting the status of Sectional Engineer as the first promotion earned by them. On this premise, financial upgradation under the Assured Career Progression (ACP)

Scheme was granted by counting twelve years from the date of granting the status of Sectional Engineer.

4. According to the applicants, the same was not in consonance with the law laid down by this Court in various judgments. The applicants, therefore, made the following prayers before the Tribunal :-

- i) To issue direction to respondents to grant financial upgradation under ACP Scheme to the applicants by counting 12 years from the date of initial appointment on the part of Junior Engineer and ignoring date of granting status of Sectional Engineer with further direction to release second benefit of MACPS by issuing revised order.*
- ii) To consider case claim of applicants for upgradation on completion of 10, 20, 30 years of service as per G.R. Dated 02.03.2019.*

5. The Tribunal, vide its judgment dated 17.10.2023, allowed the application by observing that the respondents shall consider the cases of the applicants in accordance with the judgments referred to in its order. On that basis, it held that the upgradation under Government Resolution dated 16.04.1984 does not constitute grant of non-functional pay-scale and cannot be treated as the first benefit within the meaning of Clause 2(b)(iii) of the Government Resolution dated 01.04.2010.

6. It is this order which is challenged by the present petitioners, who are original respondents before the Tribunal, on the ground that the Tribunal failed to appreciate the Government Resolution dated 08/06/1995. It is contended that the non-applicants had accepted the benefit after completion of twelve years of service as

per the Rules without any complaint. According to the learned counsel for the respondents (present petitioners), the Tribunal ought not to have allowed the original application while ignoring the policy regarding the TBP Scheme and the ACP Scheme.

7. We have gone through the record of the case. The parameters for testing the judgment of the Tribunal are well settled. The aggrieved party is required to show either that the findings are perverse or that there is a jurisdictional error. The Tribunal, while deciding the issue, has recorded the following finding:-

5. *It was submitted by Shri Saboo, ld. counsel for the applicants that the issue is no longer res-integra. In judgment dated 02.08.2022 (Civil Writ Petition No 8009 of 2021, **Shri Suhas s/o Prabhakar Rao Dhasurkar & 13 Ors. Vs State of Maharashtra & Another**) the Hon'ble Bombay High Court framed the issue as follows:-*

3. The common issue involved in the present petitions is whether the upgradation granted on the post of Sectional Engineer can be treated as a set-off against the financial upgradation to be granted under the provisions of Assured Career Progression Scheme / Modified Assured Career Progression Scheme. (Hereafter referred to as 'ACP & MACP').

It was held:-

The issue involved in the present petitions is no more re-integra, and is squarely covered by the judgment of this Court dated 6 February 2019 passed in **Writ Petition No. 2605 of 2017, in the case of the Association of Subordinate Service of Engineers Maharashtra State and Ors. Vs. The State of Maharashtra and Ors.** In the said judgment this Court has held that

“Non functional upgradation to the post of Sectional Engineer cannot be counted as set-off for

financial upgradation admissible under ACP / MACP Scheme.”

Identical view was taken in judgment dated 20.04.2023 by the Bombay High Court (in a batch of W.Ps. 1907, 5007, 5008, 5027, 5030, 5229, 7006, 7007, 7072, 7074, 7075, 7750, 7768, 7769 of 2022 & 889 of 2023)

8. The aforesaid findings of the Tribunal clearly reveal that it has acted in consonance with the principle of judicial consistency. Various judgments deciding the same issue were taken into consideration, and the order has been passed accordingly. It is not even the case of the original respondents/petitioners that the judgments relied upon by the Tribunal have been challenged before the Apex Court.

9. Not only this, a similar issue has been decided by this Court in Writ Petition Nos. 1307, 2415, 2424, 5185, 5200, 5952 of 2023 decided on 25/10/2023. The relevant portion of the said judgment is reproduced below :-

“2] Each petitioner who came to be appointed as Junior Engineer with the respective Zilla Parishads seek benefit of Assured Career Progression Scheme. Such benefit is sought not from the date of upgradation as Sectional Engineer but on completion of twelve years service in accordance with the said Scheme. Our attention is invited to the judgment passed by a Co-ordinate Bench of this Court in ***Vijaykumar Manoharrao Nomulwar & Ors. Vs. The State of Maharashtra & Ors. [Writ Petition No. 1907/2022 decided on 20/4/2023]*** with other connected Writ Petitions. In the said Writ Petitions, a direction has been issued to Zilla Parishads to consider the case of each petitioner in accordance with the judgment of this Court in ***Association of the Sub-Ordinate, Kolhapur Vs. State of Maharashtra [Writ Petition No. 2605/2017 decided on 6/2/2019]*** and that the upgradation under the Government Resolution dated 16/4/1984 cannot be treated as the first

benefit within the meaning of Clause2(b)(3) of the Government Resolution dated 1/4/2010.”

10. That being so, we do not find any illegality committed by the Tribunal. Hence, the writ petition is **dismissed**.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)