IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14850 OF 2017

01] Randheer S/o. Dinkarrao Deshmukh
02] Shivaji S/o. Shankarrao Pawar
03] Ramdas S/o. Tukaram Bhise
04] Manik S/o. Khanderao Khochare
05] Mahadeo S/o. Keshavrao Ekhande
06] Gundu s/o. Narsing Gajakhos
07] Bhivaji s/o. Shekoba Janrao
08] Mohd. Abdul Kadir s/o. Mohd. Abdul Nabi
09] Sudhakar s/o. Baburao Rajmane
10] Smt. Ratnamala Bharath Kokate
11] Subhash s/o. Sanganappa Jidge
12] Smt. Kusumbai Vyanketrao Sonkhede
13] Smt. Radhika Ramesh Sangamkar **...PETITIONERS**

VERSUS

01] The State of Maharashtra
Through its Principal Secretary
Rural Development and Water
Conservation Department,
Mantralaya Mumbai-32.

02] The Principal Secretary,
Irrigation and Water Resources
Department, Mantralaya Mumbai-32.

03] The Principal Secretary
Public Works Department,
Mantralaya, Mumbai-32.

04] The Chief Executive Officer,
Zilla Parishad, Osmanabad.
Tq. & Dist. Osmanabad.

05] The Chief Executive Engineer,
Minor Irrigation Division,
Osmanabad, Tal. & Dist. Osmanabad. **...RESPONDENTS**

Mr. V. G. Salgare, Advocate for Petitioners.
Mr. K. N. Lokhande, AGP for Respondent Nos. 1 to 3-State.
Mr. B. B. Bhise, Advocate for Respondent Nos. 4 and 5.

CORAM : KISHORE C. SANT &
JITENDRA JAIN, JJ.
RESERVED ON : 07th OCTOBER 2026.
PRONOUNCED ON : 23rd OCTOBER 2026.

ORDER :- [PER: KISHORE C. SANT, J.]

1] Heard Mr. Salgare, learned Advocate for the Petitioners, Mr. Lokhande, learned AGP for Respondent Nos. 1 to 3/State and Mr. Bhise, learned Advocate for Respondent Nos. 4 and 5/Zilla Parishad. By consent of the parties, petition is taken up for final disposal at the stage of admission.

2] The petitioners are the retired employees of Respondent No.4/Zilla Parishad, Osmanabad. They were working in Technical Services (Class-III) (Engineering) and District Services (Class-III) (Sub-ordinate

Engineering). Their grievance is only about non-granting the benefits of Assured Career Progression Scheme (ACPS) on completion of 12 years of service.

3] The brief facts giving rise to the present petition are as follows:

. The petitioners, on their respective dates of appointments, came to be appointed in the Cadre of Maharashtra Zilla Parishads District Technical Services (Class-III) (Engineering) and District Services (Class-III) (Sub-ordinate Engineering). They were appointed much prior to 1995. In the year 1995, Government took a policy decision dated 08/06/1995 to give time bound promotion. It was specifically decided to grant benefits to the persons who could not get regular promotions for want of actual promotional posts; however, they are eligible to be appointed to such promotional posts. It was thus decided that a person who is eligible for a promotional post shall be notionally given the benefits of the promotional post and to grant all other benefits except actual posting. The only condition is that the person should be otherwise fit and eligible to be appointed on the promotional post.

4] The Government again took a decision on 20/07/2001 and instead of giving time-bound promotion and introduced a policy of ACPS. This

scheme is made applicable to the employees whose salary is in pay scale is Rs.8,000-13,500 or less. The said benefit was to be given after completion of 12 years of service. The said benefit would not be applicable if the person had received such benefits twice in his service tenure. The said benefit would be given where no actual post is available. It is again reiterated that to receive the benefit, a person needs to be eligible to get actual promotion. With some corrections/modifications, the Government again issued another decision on 01/04/2010. The said decision was taken considering the recommendations made by Sukathankar Committee which was appointed for revised ACPS scheme that was made applicable from 01/01/2006.

5] The above-referred Government decisions are applicable to all employees under the State Government. So far as cadre of the petitioners is concerned, the Chief Executive Officer, Zilla Parishad, issued a letter dated 23/12/2008 in respect of some of the employees, including the present petitioners, who had completed 45 years of age and were therefore exempted from passing the qualifying test to become eligible to the post of Civil Engineering Assistant. In other words, they

were exempted from appearing for the qualifying test to become eligible to get promotion. The petitioners, therefore, became eligible for the promotional post of Civil Engineering Assistant. The Chief Executive Officer on 24/12/2008 again passed an order holding the petitioners eligible to get the pay scale of Junior Assistant Engineer on completion of 12 years in service. However, it was directed that though the pay scale is to be applied, the petitioners would not be entitled to get the arrears of difference in salary. The petitioners, thereafter, preferred representations to the authorities for getting actual benefits.

6] The reliance is also placed on Government decision dated 20/05/1999, wherein the decision was taken to create only one cadre as a Civil Engineering Assistant by merging Mistri Grade-I, Mistri Grade-II, Road Clerk, Muster Clerk, Timekeeper, Draftsman, etc. and placing all of them as Civil Engineering Assistants. There is no dispute about the said proposition. The Additional Secretary, State of Maharashtra on 22/06/2007 passed an order making a pay scale of Civil Engineering Assistant applicable to Mistri Grade-I and Mistri Grade-II, Road Clerk, Muster Clerk, Timekeeper, Draftsman, etc. However, the same were not considered. The petitioners, therefore, approached this Court by filing

Writ Petition No.215/2017.

7] This Court vide order dated 11/01/2017 disposed off the petition by directing the respondents to decide the representations expeditiously within four weeks. Some of the petitioners again approached this Court by filing Writ Petition No.2962/2017 praying for deciding the representations which were made just prior to filing of the Writ Petition. This Court disposed of that petition by directing the respondents to decide their representations as well.

8] Petitioner No.1 namely, Randheer Dinkarrao Deshmukh again made a representation on 27/01/2017 requesting the Chief Executive Officer to grant actual benefits of difference of salary. It is stated in the representation that though notionally pay scale of the promotional post was made applicable, no actual monetary benefits were extended. It is in that view, now the petitioners have approached this Court.

9] Respondent No.4 and 5 have filed a reply to the petition. It is accepted that the petitioners were notionally given pay scale of the promotional post and their salary was fixed on that basis. It is also admitted that, however, the arrears were not paid. The defence which is

now taken is that since actual promotional posts were not available, the petitioners were not given the salary of promotional post on completion of 12 years of service. It is specifically accepted that the pay scale of Rs.5500-9000 was granted by order dated 24/12/2008 w.e.f. 01/01/1996. It is further admitted that the same was given only for the purpose of retirement benefits, and the employees would not be entitled to get any actual payment and allowance (Bhatta). It is further stated that since the petitioners have not worked on promotional posts, they would not be entitled to get actual salary. A reliance is also on the Government Resolution dated 28/07/2014. It is further stated in the reply that the employees would not be entitled to the benefits of first time-bound pay scale. The chart giving specific details of petitioners is as follows:

Sr. No.	Name of petitioners	Designation	Date of appointment
01	Randheer Dinkarrao Deshmukh	Mistry Grade-II	03/1/1972
02	Shivaji Shankarrao Pawar		03/01/1972
03	Ramdas Tukaram Bhise	Mistry Grade-II	22/02/1971
04	Manik Khanderao Khochare	Mistry Grade-II	18/02/1971
05	Mahadeo Keshavrao Ekhande	Mistry Grade-III	17/02/1971

06	Gundu Narsing Gajakhos	Mistry Grade-II	20/02/1971
07	Bhivaji Shekoba Janrao	Mistry Grade-II	17/09/1974
08	Mohd. Abdul Kadir Mohd. Abdul Nabi	Mistry Grade-II	23/02/1973
09	Sudhakar Baburao Rajmane	Mistry Grade-II	01/09/1964
10	Smt. Ratnamala Bharath Kokate	Mistry Grade-II	17/02/1971
11	Subhash Sanganappa Jidge	Mistry Grade-II	27/06/1970
12	Smt. Kusumbai Vyanketrao Sonkhede	Mistry Grade-II	23/02/1971
13	Smt. Radhika Ramesh Sangamkar	Mistry Grade-II	19/02/1971

10] Mr. Salgare, learned Advocate for the petitioners, vehemently argued that the petitioners were given first time-bound pay scale on completion of 12 years from 1996. The second promotional benefits also ought to have been given upon completion of 12 years after 1996. In the present case, though notional promotions were given, the pay scale was considered only for the purpose of giving retiral benefits while fixing pension. This is against the policy of the Government as is seen from the Government decisions dated 08/06/1995 and 24/12/2008. On the other hand, it is accepted that the petitioners were given the benefits of pay scale of promotional post on completion of 12 years and in some cases,

24 years of service, as the case may be. However, no monetary benefits are given. There is no reason assigned except that actual promotional posts were not available. He thus submits that the said reasoning needs to be held against the scheme and in unconstitutional by giving the benefits of actual monetary benefits.

11] Mr. Bhise, learned Advocate for Respondent Nos. 4 and 5 vehemently opposes the petition. He submits that the petitioners have not worked on promotional posts. There is no question of giving them the benefits of salary or to pay the salary as per the pay scale applicable to the promotional post. The decision is rightly taken. The decision to consider the said pay scale for the purpose of pensionary benefits is in consonance with the policy. The petitioners have thus been benefited to the policy and no grievance can be raised by them.

12] This Court has considered the facts of the case. It is clearly seen that the petitioners were held eligible to be appointed to the promotional post. They could not be appointed only for the reason that no actual posts were available.

13] This Court has considered the scheme of time bound promotion and also of ACPS. The Government had taken a decision specifically keeping in view that though many of the employees are eligible to get the promotional posts, they are not deprived of the same for the reason that no promotional posts are available. For this reason, benefits are not given of the promotional post. The policy is framed particularly, for the reason that such person should not be deprived of promotion, it is thought that there is stagnation because of this. It is to remove such stagnation the said scheme is framed.

14] In the present case, there is no denial of the fact that the petitioners were held to be eligible to get the promotion. Though it is argued that some of the petitioners could not pass qualifying test; however, they were given exemption from passing qualifying test in view of the fact that they have completed age of 45 years. It is not the case that they are wrongly given exemption. Such argument also cannot be made for the reason that it is the Respondents only who granted such exemption. To the reply, the petitioners have filed rejoinder exhaustively. This Court however finds that when the position is clear on record, there is no need to call the details.

15] This Court in Writ Petition No.10171 of 2015 had already held petitioners therein entitled to the time-bound promotion on completion of 12 years of their service as Mistry Grade-II. If the 12 years period is completed prior to 1994, the benefits were to be given from 1994.

16] This Court, therefore, is of the opinion that the same course should be made applicable to the present petitioners. If they have completed a period of 12 years prior to 1996, in that case, they will be entitled to promotional post benefit, as it is also a case of the petitioners that they are given the benefits from 1996.

17] It is seen in the petition that some of the petitioners opted to retire voluntarily, in such cases, if they have not completed 12 years after 1996, then naturally they would not be entitled to get the second-time benefits.

18] Considering all above, this Court finds that the petition deserves to be allowed. The petition is allowed in terms of prayer clause (C).

19] The said exercise be done within a period of four weeks from today and arrears be paid to the petitioners to which they are entitled to within a period of six months from today.

20] With these, Writ Petition stands disposed off.

21] Civil applications, if any, also stand disposed off.

[JITENDRA JAIN, J.] [KISHORE C. SANT, J.]

D.A.ETHAPE