

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 239 OF 2026

Narayan s/o Baburao Jadhav & Ors.

....Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

.....
Mr. D. R. Irale Patil and Mr. S. D. Irale Patil – Adv. for the Petitioners
Mr. R. S. Wani – AGP for the State
.....

CORAM : SMT. VIBHA KANKANWADI
AND

HITEN S. VENEGAVKAR, JJ.

DATED : 24TH MARCH, 2026

FINAL ORDER [Per Smt. Vibha Kankanwadi, J.] : -

1. The present petition has been filed praying for the setting aside of the impugned order dated 30.07.2025 issued by Respondent No. 2, and for the issuance of a writ of mandamus directing Respondent No. 2 to grant the petitioners the benefit of seniority and the pay scale of Rs. 150/- to Rs. 325/- from their respective dates of appointment as Assistants to Junior Engineers, thereby conferring upon them the status of Sectional Engineers along with all consequential benefits.

2. The learned AGP waives service of notice on behalf of Respondent No. 1. There is no necessity to issue notice to Respondent No. 2.

3. The petitioners contend that they were appointed to the post of Assistant to Extension Officer (Works) under an order dated

19.01.1967. Over a period of time, they were absorbed and promoted as Junior Engineers in the same Zilla Parishad, Dhule. The petitioners were governed by the Maharashtra Zilla Parishad District Service (Recruitment) Rules, 1967. Similarly situated persons thereafter made representations to the Chief Executive Officer, Zilla Parishad, Aurangabad, seeking the benefit of seniority from the date of their appointment, pursuant to the Government Resolution dated 16.04.1984. The Zilla Parishad, Aurangabad, had sought clarification from the Divisional Commissioner, Aurangabad, which was then reflected in the communication dated 25.04.1986. Thereafter, the order was passed by the Chief Executive Office, Zilla Parishad, Aurangabad, on 11.05.1986 granting benefits to the similarly situated persons. The petitioners also invited the attention of Respondent No. 2 to the demi-official letter dated 25.04.1988 issued by the Assistant Secretary, Rural Development Department, Mantralaya, Mumbai, to the Chief Executive Officer, Zilla Parishad, Aurangabad, whereby further clarification was provided and the benefits were extended to other employees. However, Respondent No. 2 i.e. Zilla Parishad, Dhule, did not extend the said benefits to the petitioners. Now the effect thereof is that similarly situated Engineers, namely, Shri Akhade and three others, have been considered as Junior Engineers from 25.08.1988. Taking into consideration all these aspects, the petitioners made a common representation to Respondent No. 2 on 07.05.2018 and subsequently on 12.01.2024. It was also brought to the

notice of Respondent No. 2 that, upon completion of seven years of service, the petitioners ought to have been placed in the pay scale of Junior Engineers, and that similarly situated persons in other departments of the Zilla Parishad are receiving the same benefit. However, Respondent No. 2, by communication dated 30.07.2025, rejected the representation on the ground that no such provision exists under the Recruitment Rules.

4. The learned Advocate for the petitioners has taken us through all the documents and submits that, in view of the Government Resolution dated 16.04.1984, the benefits were granted to persons who were already in service as Assistants to the Extension Officer upon completion of their seven years of service. The petitioners had been pursuing the matter with the office for the grant of such benefits, and when similarly situated persons were receiving the same, the same could not have been denied to the petitioners.

5. The fact to be noted is that the Petitioners, who were appointed in January 1967, seek implementation of the Government Resolution dated 16.04.1984 in their favour, which pertains to the up-gradation of their posts and the applicability of the pay scale to such upgraded posts. The petitioners before this Court are presently aged about 78 to 79 years. Considering the age of superannuation as 58 years, they would have retired approximately 20 years ago i.e. around 2005-06.

6. When the petitioners seek the implementation of the Government Resolution dated 16.04.1984, the obvious question that arises is that, when the said Resolution came into force, it is not alleged that they were unaware of it. If that be so, the question is why they remained silent until their retirement.

7. Thereafter, either prior to or immediately following their retirement, the 5th Pay Commission was implemented, and subsequently, further Pay Commissions were also implemented. Their pension would have been revised from time to time, however, it appears that at no point prior to their retirement did they raise any grievance in this regard. There is no documentary evidence to indicate that, prior to 07.05.2018, they made any such attempt while in service. A perusal of the said communication, particularly the references therein, does not disclose any earlier representations. Even in the said communication, they have not stated that they had claimed the benefit under the Government Resolution at any earlier point of time, even orally.

8. An employee is expected to be diligent with regard to the fixation of pay and, ultimately, in fixation of pension. In view of the aforesaid facts, we are of the opinion that there is a delay of about 40 years, therefore, the petition suffers from delay and laches.

9. The learned Advocate for the petitioners has vehemently submitted that pension gives rise to a continuing cause of action, and

that the non-grant of the said benefit affects the pension amount. Therefore, according to him, the petition is not barred by delay and laches, especially as the representation was rejected only on 30.07.2025.

10. We do not agree with the said submissions. The cause of action arises immediately when the relevant circumstances exist or emerge. If, according to the petitioners, they were entitled to benefits under the Government Resolution dated 16.04.1984, then the cause of action arose at that time itself. The Petitioners have not shown any reason for their inaction over such a long period. The claim does not relate to pension as a continuing cause of action. The difference in pay scale was never claimed or calculated for the petitioners based on the Government Resolution dated 16.04.1984. Therefore, they ought to have been vigilant and approached the appropriate authority in time.

11. Since the Petition suffers from gross delay and laches, the Writ Petition is dismissed.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE