



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

Writ Petition No.4868/2024

Dhanraj Namdeorao Madavi,
Age 57 years, Occ.-Service.
R/o . Kothari Watika No.3, House No.14, Malkapur,
Tah. and District Akola-444002.

.... Petitioner.

Versus

- 1) Zilla Parishad, Akola, through its
Chief Executive Officer, District Akola.
 - 2) The District Water Conservation Officer,
Minor Irrigation Division, Akola, District Akola. Respondents.
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- Mr. M.D. Lakhey, Advocate for petitioner.
 - Ms Jaipurkar, AGP for resp. no.2.
 - Mr. P. Mehta, Advocate for resp. no.1.
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CORAM : Smt. M.S. Jawalkar and Nandesh S. Deshpande, JJ.
Date : 18-04-2026.

Oral Judgment (per : Nandesh S. Deshpande, J.)

Rule. Rule made returnable forthwith. Heard finally with
the consent of parties.

2. The present petition seeks a direction to Respondent No. 1, namely the Chief Executive Officer, to regularize the period of the departmental enquiry and to grant continuity of service during the pendency of the said enquiry, i.e., from 18.06.2016 to 13.04.2017, along with all consequential benefits and increments for the said period. The petition further prays for a direction to Respondent No. 1 as well as Respondent No. 2 to release all

admissible benefits, including those under the Assured Career Progression Scheme (ACPS).

3. We have heard learned Counsel for the petitioner as also learned AGP for the respondents.

4. The facts, as can be seen from the petition, are as under:

On 22.12.1989, the petitioner was initially appointed to the post of Junior Engineer in the respondent department and was subsequently promoted to the post of Section Engineer at Akola. In the year 2009, a show cause notice came to be issued against the petitioner regarding alleged manipulation and corruption, pursuant to which a departmental enquiry was proposed. A charge sheet was served on 16.10.2009. However, despite the issuance of the charge sheet, the departmental enquiry was not proceeded with. On account of the inordinate delay in initiating and concluding the departmental enquiry, the petitioner was constrained to approach this Court by filing Writ Petition No. 1557/2021. By judgment dated 04.12.2021, this Court was pleased to quash and set aside the proposed departmental enquiry on the ground of delay and laches in concluding the same. Insofar as other consequential benefits were concerned, the petitioner was granted liberty to approach the respondent employer. Thereafter, on 02.05.2022, the petitioner approached Respondent No. 1 seeking release of the benefits to

which he was entitled. Despite repeated representations, no action was taken. Ultimately, the respondents rejected the petitioner's claim on the ground that a criminal prosecution against the petitioner is still pending, and therefore, the benefits have been withheld.

5. The learned counsel for the petitioner has drawn our attention to an earlier judgment of this Court in the writ petition referred to hereinabove, wherein a categorical finding was recorded that the departmental enquiry had failed to make any progress despite a considerable lapse of time and, therefore, ought not to be proceeded with further. He further submits that, in an identical set of circumstances involving the same employer, namely in *Vasant s/o Mahadevrao Kulkarni vs. State of Maharashtra and Others* (Writ Petition No. 3182/2022), this Court had quashed and set aside the departmental enquiry and directed grant of retiral benefits to the petitioner therein. A similar view has also been taken by this Court in *Ravindrakumar Manikrao Mawande vs. State of Maharashtra and Another* (Writ Petition No. 3542/2024) and *Sanjay Gulabsingh Chauhan vs. Zilla Parishad, Akola* (Writ Petition No. 5649/2024). In all these matters, the employer was Zilla Parishad, Akola, and on identical facts, the departmental enquiries were set aside on the ground of inordinate delay, with consequential directions to grant all retiral benefits to the respective petitioners.

6. The learned counsel for the petitioner submits that the petitioner continues to remain in service; however, despite the departmental enquiry having been quashed by this Court, he has not been granted continuity in service. Aggrieved thereby, the petitioner has filed the present petition seeking appropriate reliefs.

7. *Per contra*, Mr. Mehta, learned counsel appearing for the respondent – Zilla Parishad, opposes the submissions advanced on behalf of the petitioner. He points out that in *Vasant (supra)*, a specific stand was taken by the Zilla Parishad that a criminal case was pending against the petitioner, and the same situation prevails in the present matter. He submits that the outcome of the criminal trial cannot be assumed in a particular manner, and therefore, merely because the departmental enquiry has been quashed, the petitioner is not automatically entitled to the benefits as claimed.

8. The rival contentions fall for our consideration.

9. It is a matter of record that, in the case of *Vasant Kulkarni* and two other employees referred to hereinabove, this Court had considered the issue of inordinate delay and consequently granted retiral benefits to the petitioners therein. As rightly pointed out by the learned counsel for the petitioner, although a specific stand regarding the pendency of a criminal trial was taken by the

employer in the said matter, the same was not accepted by this Court while quashing the departmental enquiry and granting retiral benefits. In the present case as well, the departmental enquiry has already been quashed and set aside. As a consequence thereof, the petitioner is entitled to continuity in service for the relevant period.

10. Accordingly, the petition is partly allowed. The respondent No. 1 – Chief Executive Officer, Zilla Parishad, Akola, is directed to regularize the period of the departmental enquiry and grant continuity in service to the petitioner for the period from 18.06.2016 to 13.04.2017, along with all consequential benefits, including increments.

11. Insofar as the benefits under the Assured Career Progression (ACP) Scheme are concerned, the respondent shall consider and decide the same in accordance with law and the prescribed procedure. It is clarified that such benefits shall be granted only if the petitioner is otherwise found eligible.

12. The learned counsel for the petitioner further submits that various representations seeking grant of ACP benefits are pending with the respondent. The respondent is, therefore, directed to decide the said representations in accordance with the applicable rules, keeping in view the observations made hereinabove, within a period of eight weeks from today.

13. With these directions, the petition stands partly allowed and disposed of.

14. Rule is made absolute in above terms. No costs.

(Nandesh S. Deshpande, J.)

(Smt. M.S. Jawalkar J.)