



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 874 OF 2025

1. Uttam Devidas Telgote
Age @ 53 yrs, Occ – Service,
R/o. Post Post Khanapur wes, Valmiki Nagar,
Akot, Tq. Akot, Dist. Akola.

... PETITIONER

...VERSUS...

1. The State of Maharashtra
Through its Secretary for
Rural Development Department,
Mantralaya, Mumbai.
2. The Zilla Parishad, Akola
Through its Chief Executive Officer, Akola,
Dist. Akola.

...RESPONDENTS

Mr. S. M. Vaishnav, Advocate for petitioner.
Ms. H. S. Dhande, AGP for respondent/State.
Ms. H. Jaipurkar, Advocate for respondent no. 2.

CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 11th MARCH, 2026.
PRONOUNCED ON : 08th APRIL, 2026.

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

2. The Petitioner has filed the present writ petition challenging the communication dated 02.01.2025 bearing Outward No. 11/2025 issued by Respondent No. 2 — Zilla Parishad, Akola, whereby the request of the Petitioner for grant of First and Second benefit under the Assured Career Progression Scheme (hereinafter referred to as 'ACPS') was rejected.

3. The brief facts of the case are that, the Petitioner was initially appointed as Gram Sevak in Zilla Parishad, Nagpur vide appointment order dated 15.12.1997, and was thereafter transferred to Zilla Parishad, Akola vide inter-district transfer order dated 19.03.2003. The Petitioner was due for promotion to the post of Village Development Officer, however, was illegally deprived of the same on the ground that his Scheduled Tribe validity certificate was not available, and in his place a junior employee Shri. D.R.

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Wankhade was promoted vide order dated 30.06.2014, despite the fact that the Petitioner had already submitted his validity certificate dated 17.01.2014 on 03.02.2014.

4. The State of Maharashtra introduced the time bound promotion scheme vide Government Resolution dated 08.06.1995, whereby an employee who has not been promoted is entitled to the pay scale of the promotional post on completion of 12 years of regular service. As the Petitioner was appointed on 15.12.1997, he became entitled to the first benefit of ACPS on 15.12.2009, on which date no departmental inquiry was pending against him. A charge sheet was issued to the Petitioner only on 09.06.2021, making four allegations and initiating departmental inquiry under Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964.

5. The request of the Petitioner for grant of ACPS benefit was rejected vide order dated 12.10.2023 by relying upon Government Resolution dated 08.03.2017. The Petitioner challenged the same in W.P. No. 7510/2023, during the course of which the Zilla Parishad

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made a statement before this Court that the G.R. dated 08.03.2017 could not be applied with retrospective effect and that the request for grant of first benefit w.e.f. 15.12.2009 would be considered afresh. Pursuant to the order dated 30.09.2024 passed in W.P. No. 7510/2023, the Petitioner submitted a detailed representation dated 22.10.2024, however, the said request was once again rejected by the impugned communication dated 02.01.2025, compelling the Petitioner to approach this Court.

6. We have heard Shri. S.M. Vaishanv, learned Counsel for the Petitioner and Mrs. H.S. Dhande, Assistant Government Pleader for Respondent no. 1 and Ms. H. Jaipurkar for, learned Counsel for the Respondent no. 2.

7. The learned Counsel for the Petitioner submits that as per Government Resolution dated 08.06.1995, the employee is entitled to the promotional pay scale on completion of 12 years of service, and there is no condition in the said resolution that no departmental inquiry should be pending against the employee on the date on which the benefit falls due. The Petitioner became Shubham

entitled to the first benefit on 15.12.2009, on which date no departmental inquiry was pending against him, and the charge sheet was issued only on 09.06.2021; accordingly, the benefit cannot be denied by relying on the present factual scenario, as the position existing on the date of entitlement is alone relevant.

8. It is further submitted that Government Resolution dated 08.03.2017, which is relied upon in the impugned communication, provides for the procedure to be followed by the Departmental Promotion Committee where departmental inquiry or judicial proceedings are pending against an employee, and the said resolution is applicable only for the purpose of actual/regular promotion and cannot be made applicable for grant of benefit under ACPS. It is also submitted that in any event the G.R. dated 08.03.2017 cannot be applied with retrospective effect to deny a benefit which had already accrued to the Petitioner on 15.12.2009, as the said G.R. is expressly applicable only from the date of its publication. The Hon'ble Apex Court in *Dwijen Chandra Sarkar v. Union of India* has categorically held that time bound promotions are different from regular promotions and are intended to relieve

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frustration on account of stagnation, and the G.R. dated 08.03.2017 applicable only for regular promotions cannot be imported into the ACPS scheme.

9. It is lastly submitted that the Respondent no. 2, Zilla Parishad has acted in an arbitrary and discriminatory manner in violation of Articles 14 and 16 of the Constitution of India by granting ACPS benefits vide order dated 12.09.2023 to junior employees namely Shri. Balaji Badge and Shri. Vikas Bhagwant Hande, who are at Sr. Nos. 194 and 195 in the seniority list published on 01.01.2023, whereas the Petitioner is at Sr. No. 37 in the said seniority list and has been consistently denied his legitimate benefits without any valid reason.

10. Per contra, Mrs. H.S. Dhande, learned Assistant Government Pleader appearing for Respondent No. 1, has made oral submissions supporting the impugned communication dated 02.01.2025 and submits that the action taken by Respondent No. 2 is in consonance with the applicable Government Resolutions and the relevant rules

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governing service conditions of Zilla Parishad employees, and accordingly no relief deserves to be granted to petitioner.

11. The learned Counsel for Respondent No. 2 adopts the submissions of the learned Assistant Government Pleader and further submits that in the earlier W.P. No. 7510/2023, this Court disposed of the petition on 30.09.2024 on the statement that the Petitioner's representation would be considered in view of G.R. dated 08.03.2017, and accordingly the representation dated 22.10.2024 was duly considered and decided.

12. It is further submitted that the proposal for grant of ACPS benefit was received by Respondent No. 2 only on 05.09.2023, during the pendency of court proceedings and departmental enquiry, and therefore though no departmental enquiry was pending on 15.12.2009, the proposal was simply not before Respondent No. 2 at the relevant time.

13. It is further submitted as regards the promotion of Shri. D.R. Wankhade is considered, Petitioner was duly informed vide Shubham

communication dated 23.04.2013 to submit his caste validity certificate within the prescribed time, and as he failed to do so, Shri. D.R. Wankhade was given promotion in accordance with G.R. dated 16.06.2008; the Petitioner produced his validity certificate only on 04.02.2014, hence the allegation of illegal promotion of a junior employee is wholly incorrect.

14. It is lastly submitted that vide the impugned communication dated 02.01.2025, it has been made clear that the claim of the Petitioner will be considered upon conclusion of the court proceedings and departmental enquiry, and the petition therefore deserves to be dismissed.

15. We have heard the contentions canvassed by the learned counsels for the parties and perused the material on record. The impugned communication 02.01.2025, without spelling out any specific reason, only refers to earlier communications, thereby intimating the petitioner that he being not eligible for the benefit of the ACPS. This, in our view, was not contemplated by the earlier order of this Court in Writ Petition No. 7510 of 2023 and more

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particularly the order passed on 30.09.2024. The impugned order, therefore, cannot be said to be in consonance with the said earlier order referred supra.

16. As can further be seen from the reply of the respondent no. 2, that the proposal for grant of benefit of time-bound promotion was received on 05.09.2023. At that time, admittedly, a departmental enquiry was pending. However, it is relevant to point out that the employee / petitioner cannot be blamed for the alleged delayed receipt of the proposal for the grant of benefit of time-bound promotion. The action of the respondent, therefore, cannot be, said to be legal.

17. As can further be seen from the Government Resolution dated 08.03.2017, (on which reliance is placed by respondent no.2) the said resolution lays down the policy to be adopted for promotion against whom departmental enquiry is pending. The title of the said resolution is clear enough to elucidate the said fact that it is only applicable in the case of actual promotion. It, therefore, follows that the same would not be applicable while granting the benefit under

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the ACPS as is in the case of the petitioner. Thus, the reliance placed on the said resolution is entirely misplaced.

18. Furthermore, as can be seen from the Government Resolution dated 08.06.1995, petitioner being appointed on 15.12.1997 was entitled to the first benefit of the Time-Bound Promotion Scheme on 15.12.2009, on which date, admittedly, no departmental enquiry was pending against the petitioner. Thus, there was no reason for the respondents to deny the benefit of the said Time-Bound Promotion Scheme to the petitioner. The endeavour of the respondents to apply the Government Resolution dated 08.03.2017 retrospectively cannot be countenanced. The action of the respondents, therefore, is infirm and it being so warrants interference in writ jurisdiction. The petition, therefore, allowed in following terms:-

ORDER

- i) The Petition is allowed.
- ii) The communication dated 02.01.2025 issued by the respondent no. 2 is quashed and set aside.

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iii) It is directed that the respondents shall grant the first benefit of Time-Bound Promotion Scheme to the petitioner, w.e.f. 15.12.2009 and also to grant second benefit in accordance with the Government Resolution, paying the arrears of difference of salary within three months from the date of this order.

19. Rule is made absolute in the aforesaid terms. Writ petition is disposed of.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)