



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2492 OF 2025

Anil M. Gawade, Aged about 57 years,  
Occupation: Service, R/o. Plot No.80,  
Patel Nagar, Borgaon, Gorewada Road,  
Nagpur-440 013

.... PETITIONER.

// **VERSUS** //

1. The Hon'ble Registrar (Administration),  
Hon'ble Bombay High Court, Bench at  
Nagpur, Nagpur.
2. The Principal District Judge,  
Principal District & Sessions Judge,  
Nagpur and the Disciplinary Authority.
3. The State of Maharashtra,  
Through its Secretary, Finance  
Department, 5<sup>th</sup> Floor, New  
Administration Bldg. Opp.  
Mantralaya, Mumbai – 400 032.

.... RESPONDENTS.

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Shri Parth Sagdeo, Advocate for Petitioner.  
Ms R.S.Sirpurkar, Advocate for Respondent Nos.1 & 2.  
Shri J.Y. Ghurde, A.G.P. for Respondent No.3/State.

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CORAM : ANIL S. KILOR AND  
RAJ D. WAKODE, JJ.

DATED : FEBRUARY 17, 2026.

ORAL JUDGMENT : (Per : Anil S. Kilor, J)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. The petitioner, who was initially appointed as a Class-IV employee in the year 1992, was subsequently promoted to the post of Junior Clerk. However, as no further promotional post was available to him after the Government Resolution dated 20/07/2001, introducing the Assured Career Progression Scheme (ACPS), came into effect, the petitioner was granted the benefit of the said scheme by order dated 12/02/2009. Thereafter, another Government Resolution dated 01/04/2010 was issued, providing for the grant of a second benefit under the ACPS. However, thereafter the benefit earlier granted to the petitioner under the ACPS by order dated 12/02/2009 came to be withdrawn. The said withdrawal is under challenge in the present petition.

4. Thus, the question which is involved in this petition is, whether the benefits granted under the Government Resolution dated 20/07/2001 for Assured Career Progression Scheme could be withdrawn?

5. This question is no more *res integra* in view of the Full Bench judgment of this Court dated 12/04/2024 passed in **Writ Petition No. 2394 of 2015** in the matter of *Smt. Sunanda Ashok Sonawane ..vs.. The District Judge, District Court, Dhule*. In the said matter, a question was referred by the Division Bench to the Full Bench, namely :

“Under what circumstances, in terms of the Government Resolution, either of the year 2001 or 2010, could the benefits under the Assured Progress Scheme be withdrawn on the ground of ineligibility or disqualification?”

6. The Full Bench, while answering the said question, has recorded following observations :

“42. In these circumstances, we conclude that it would be open to an employer/ establishment to meticulously verify each case on completion of 12 years (first segment) and 24 years (second segment) of service on the same post (meaning that he is stagnated). If at those stages, he is held eligible, the ACPS benefits would be extended to him. Once a candidate is held eligible for the 1<sup>a</sup> ACPS monetary benefits, the said benefits cannot be withdrawn for subsequently having been found ineligible at the time of the de-facto promotion. As like the examples cited above, declaring the person ineligible with retrospective effect or deprive him of the benefits which he has qualified to earn earlier, is irrational, illogical and unjustified. Therefore, for not reaching the benchmark, stoppage of the benefits, already extended after due compliance of clause 2(5) of the 2001 GR at the stage of completion of 12 years, is impermissible. This would not be applicable to a case of disqualification, viz. when a candidate refuses to accept the actual promotional post when selected and declines to shoulder the responsibilities of the said post.”

7. It is evident from the above referred observations of the Full Bench that once the candidate is held eligible for first ACPS monetary benefits, the said benefits cannot be withdrawn for subsequently having been found ineligible at the time of the *de-facto* promotion. For not reaching the benchmark, stoppage of benefits, already extended after due compliance of clause 2(5) of the 2001 G.R. at the stage of completion of 12 years, is impermissible.

8. In the present matter, the petitioner was granted the benefits of ACPS in view of the G.R. of 2001, as the promotional post was not vacant at the relevant time. However, when the post subsequently became vacant, the petitioner was not shortlisted in the 1:3 ratio for filling up the said vacancy. This appears to be on account of his confidential reports having B or B+ grade consecutively for three years, his performance in the interview was not satisfactory and by way of punishment in the Departmental Enquiry, his one increment was temporarily withheld for one year. Therefore, merely because the petitioner was not found fit in the said selection process, he cannot be retrospectively declared ineligible so as to withdraw the benefits already granted to him under the ACPS. The Full Bench has categorically held that a person cannot be treated as ineligible with retrospective effect so as to deprive him of the benefits which had already accrued and were validly granted earlier.

9. In that view of the matter, we pass the following order:

- (i) The impugned order dated 26/07/2011 passed by respondent No.2, whereby the benefits of the Assured Career Progression Scheme granted to the petitioner on 12/02/2009 came to be withdrawn, is hereby quashed and set aside. Consequently, the letter dated 09/05/2024 issued by the Registrar, District Court, Nagpur is also quashed and set aside.
- (ii) Respondent No.2 is directed to release all consequential benefits to the petitioner within a period of four months from today.

The Rule is made absolute accordingly. No order as to costs.

( RAJ D. WAKODE, J )

(ANIL S. KILOR, J )

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