

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.O. NO.1648/2014 IN MCA ST. NO.22563/2014 IN W.P.NO. 4882 TO
4888/2012, 4901/2012, 5013/2012 TO 5018/2012 (D)

(BABARAO NATTHUJI BHONGADE & OTHERS **VERSUS** THE C.E.O., Z.P. WARDHA & ANOTHER)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri B. Lahiri, counsel for the applicants.
 Shri P.V. Thakre, counsel for the R-1.
 Mrs.K.R. Deshpande, A.G.P. for the R-2.

CORAM : B.R. GAVAI AND
A.P. BHANGALE, JJ.

DATE : FEBRUARY 27, 2015.

For the reasons stated therein, the application is allowed. The delay in filing the review application is condoned. The civil application stands disposed of.

M.C.A. ST. NO. 22563/14.

The review application is taken up for hearing. The review application is necessitated in view of the observations of the Division Bench of this Court in Writ Petition No.5370 of 2014 in its order dated 05.11.2014.

The applicants-petitioners were working with the respondent no.1 on various posts, viz. Mistri Grade-I, Mistri Grade-II, Tracer, etc. in Zilla Parishad vide Government Resolution dated 05.08.2003. All these posts were amalgamated in the cadre of Civil Engineering Assistant. The petitioners had not passed the qualifying examination for getting the benefit of the scale of the cadre of Junior Engineer. The Executive Officer on 05.02.2011 by relying on the Government Circular dated 08.12.1995 granted exemption from appearing in the said qualifying examination to those petitioners who had completed 45 years of age. As such, the

petitioners were placed in the higher pay-scale with effect from 01.10.1994 and in the pay-scale of 5500-9000 with effect from 01.01.1996 and in the pay-scale of Rs.9300-34000 (Grade Pay of Rs.4300/-) with effect from 01.01.2006. However, by subsequent order dated 07.09.2012, the benefit granted vide order dated 05.02.2011 was recalled. In this background, the petitioners were required to approach this Court.

Since the pay-scale as per the order dated 05.02.2011 was not restored, the petitioners filed contempt petition. However, the same was disposed of. The petitioners thereafter filed a petition bearing Writ Petition No.5370 of 2014. The same was also disposed of as the Court was of the view that a proper remedy for the petitioners was to file an application seeking review of the order passed by this Court. As such, present review application is filed.

We find that the respondent-Zilla Parishad has totally misconstrued our judgment dated 12.12.2012. Vide the said order, we had made Rule absolute in terms of Prayer Clause (1) and the order dated 07.09.2012 was quashed and set aside. When the order dated 07.09.2012 was quashed and set aside, the net effect is that the order dated 05.02.2011 stands restored.

The review application is, therefore, disposed off with a clarification that the order dated 05.02.2011 issued by the Chief Executive Officer, Zilla Parishad stands restored and the petitioners would be entitled to the pay-scale as notified in the order issued by the Chief Executive Officer, Zilla Parishad, dated 05.02.2011. The respondent-Zilla Parishad is directed to pay the arrears to the petitioners, if not paid earlier, by working out the same in accordance with the order dated 05.02.2011 and also pay the retirement benefits within a period of six months from today, in case any of the employee has retired from service.

Order accordingly. No costs.

JUDGE

JUDGE

APTE