

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.55/2023

Sri Sanjit Reang, son of Late Khachandra Reang, resident of Kalma, PO-Muhuripur, PS-Baikhora, Sub-Division-Belonia, District-South Tripura, PIN-799142, aged about 50 years.

.....Petitioner(s).

V E R S U S

1. The State of Tripura, represented by the Commissioner & Secretary, Rural Development Department, Government of Tripura, having his office at Secretariat Building, PO-Kunjaban, PS-New Capital Complex, District-West Tripura, PIN-799006.

2. The Commissioner & Secretary, Rural Development Department, Government of Tripura, having his office at Secretariat Building, PO-Kunjaban, PS-New Capital Complex, District-West Tripura, PIN-799006.

3. The Chief Engineer, Rural Development Department, Government of Tripura, having his office at Secretariat Building, PO-Kunjaban, PS-New Capital Complex, District-West Tripura, PIN-799006.

4. Tripura Public Service Commission, represented by its Secretary, having his office at TPSC Bhawan, PO-Agartala, PS-West Agartala, Sub-Division-Agartala, District-West Tripura, PIN-799001.

5. The Secretary, Tripura Public Service Commission, having his office at TPSC Bhawan, PO-Agartala, PS-West Agartala, Sub-Division-Agartala, District- West Tripura, PIN-799001.

.....Respondent(s).

For Petitioner(s) : Mr. Somik Deb, Sr. Advocate,
Mr. P. Chakraborty, Advocate.

For Respondent(s) : Mr. Dipankar Sarma, Addl. G.A.,
Mr. Raju Datta, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment: **15th February, 2024.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER(ORAL)

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. P. Chakraborty, learned counsel appearing for the petitioner. Also heard Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the State

respondents No.1 to 3 and Mr. Raju Datta, learned counsel appearing for the respondents No.4 & 5/TPSC.

2. Petitioner is a Degree holder in Engineering. He was initially appointed as a Junior Engineer (Degree) in Rural Development Department, Government of Tripura vide order dated 30.05.2003 (Annexure-1). He was then promoted as Assistant Engineer on 04.08.2012 (Annexure-2). In the present writ petition, petitioner has questioned the amendment to Recruitment Rules, 2015 framed under Proviso to Article 309 of the Constitution of India vide Notification dated 25.06.2015 to the extent as contained in Clause-11(c) which prescribes passing of an additional paper of Law & Arbitration for Degree holder Assistant Engineers for being eligible for promotion to the post of Executive Engineer against the 70% of the post of Executive Engineer earmarked for the Degree holder Assistant Engineer category coupled with an experience of 7 years of continuous and regular service in the grade of Assistant Engineer. The relevant Rule is quoted hereunder:

Recruitment Rules for the post of Executive Engineer under the Rural Development Department, Government of Tripura.

1	Name of Post(s):-	Executive Engineer
2	Number of Post(s):-	14(fourteen) nos. plus additional post(s) as and when created.
3	Classification:-	Group-A, Gazetted. (equivalent to TES Grade-III)
4	Scale of Pay:-	Rs.13,575.00-Rs.37,000.00 (PB-4), Grade Pay-Rs.5000.00 plus other allowances per month subject to revision by the Government from time to time.
5	Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled up by various methods.	100% by promotion failing which by transfer on deputation.
6	Age limit for Direct Recruitment	Not applicable.

7	Educational and other qualifications required for direct recruitment	Not applicable
8	Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees.	Not applicable
9	Period of Probation, if any:-	1(one) year
10	Whether Selection post or Non Selection Post	Selection
11	In case of recruitment by Promotion/deputation/transfer grades from which promotion/deputation/transfer is to be made.	<u>Promotion:-</u> a) 70% of the posts of Executive Engineer shall be filled by the Degree holder Assistant Engineer (Civil/Mechanical/Electrical) having 7(seven) years continuous and regular service experience in the grade of Assistant Engineer. b) 30% of the posts of Executive Engineer shall be filled by the Diploma holder Assistant Engineer (Civil/Mechanical/Electrical) having 7(seven) years continuous and regular service experience in the grade of Assistant Engineer. c) Degree holder Assistant Engineer should have to pass departmental examination on i) Accounts Paper, ii) Simple Rules Paper & iii) Law & arbitration Paper, subject to revision by the Government from time to time. d) Diploma holder Assistant Engineer should have to pass Departmental examination on i) Accounts paper & ii) Simple rules paper subject to revision by the Government from time to time. e) Engineering officers who have attained the age of 55 (fifty five) years and above are exempted from passing departmental examinations. Seniority of Degree holder Engineers and Diploma holder Engineers shall be maintained separately and not to be clubbed together. <u>Transfer on Deputation:-</u> From the officers holding analogous posts in other Department under State Government.
12	If a DPC exists, what is its Composition	Group "A", DPC
13	Circumstances in which T.P.S.C. is to be consulted in making recruitment:-	As required under Tripura Public Service Commission (Exemption from consultation) Regulation, 1973.

Clause-11(b) of the schedule provides 30% of the posts of Executive Engineer to be filled by the Diploma holder Assistant Engineer

(Civil/Mechanical/Electrical) with 7 years of continuous and regular service experience in the grade of Assistant Engineer who are required to pass only two papers, i.e. i) Accounts Paper & ii) Simple Rules Paper.

3. Be it also indicated herein that for the next higher post of Superintending Engineer, the Recruitment Rules, 2015 also provide for eligibility criteria at Clause-11 of the Schedule in the Notification dated 25.06.2015. The post of Superintending Engineer is to be filled up 100% by promotion failing which by transfer on deputation. The eligibility criteria at Clause-11 of the Schedule indicates that for being promoted to the post of Superintending Engineer, a candidate should have 7(seven) years continuous and regular service in the grade and should at least have a degree in Civil Engineering from a recognized University or its equivalent academic qualification. Clause-11(ii) also prescribes passing of three papers in which one of them is Law & Arbitration paper. However, in both the schedules, one relating to promotion to the post of Executive Engineer and the other relating to promotion to the post of Superintending Engineer, the relevant Clause-11(e) and 11(iii) provide that Engineering officers who have attained the age of 55 years would be exempted from passing the departmental examinations. Evidently Diploma holders are not eligible for promotion to the post of Superintending Engineer and higher posts. The question arises whether a passing of an additional paper of Law and Arbitration for the Degree holder for being promoted to Executive Engineer is a valid classification or not having rational nexus with the objects sought to be achieved?

4. On behalf of the petitioner, Mr. Somik Deb, learned Sr. Counsel assisted by Mr. P. Chakraborty, learned counsel, has submitted that laying down of a higher qualification can be a basis for reasonable classification but laying down of a condition to pass an additional paper of Law and Arbitration for the Degree holder Assistant Engineer is unreasonable and has no rational nexus with the objects sought to be achieved. Diploma holders and Degree holders Assistant Engineer form part of the common cadre of Assistant Engineer and eligible for being promoted to Executive Engineer cannot be segregated by laying down a requirement of passing an additional paper of Law and Arbitration only for the purposes of promotion for the Degree holders Assistant Engineers. This would be adding an onerous eligibility criteria to a cadre of Assistant Engineers who already have a higher qualification. It is further submitted that after the amendment to the Arbitration and Conciliation Act, 2015 an official of the department or an Engineer who is a party to an Arbitration Proceeding cannot act as an independent arbitrator. Therefore, there is no valid justification to include such a paper in the promotional exercise to the post of Executive Engineer.

5. Learned senior counsel for the petitioner has placed reliance upon the following judgments:

(a) ***Food Corporation of India and others vrs. Om Prakash Sharma and others*** reported in (1998) 7 SCC 676 [Para-22];

(b) ***T.R. Kothandaraman and others vrs. Tamil Nadu Water Supply & Drainage BD and others*** reported in (1994) 6 SCC 282 [Para-2, 5, 6, 8, 16-18, 21-24 and 26];

(c) *State of Punjab and others vrs. Senior Vocational Staff Masters Association and others* reported in (2017) 9 SCC 379; and

(d) *State of Uttarakhand and others vrs. S.K. Singh and others* reported in (2019) 10 SCC 49 [Para-18-31].

6. Learned senior counsel for the petitioner submits that the relevant clause 11(c) laying down an additional requirement of passing of Law and Arbitration paper should, therefore, be held to be discriminatory as an impermissible classification amongst incumbents to the common cadre of Assistant Engineers for the purposes of promotion to the post of Executive Engineer.

7. Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State, submits that the relevant clause 11(c) of the amended Recruitment Rules, 2015 prescribes passing of an additional paper of Law and Arbitration for being considered for promotion to the post of Executive Engineer which is a reasonable classification between both the Degree holder and Diploma holder Assistant Engineers depending upon their educational qualifications and also for the reason that Degree holder Assistant Engineers are only eligible for being promoted from the post of Executive Engineer to the higher post of Superintending Engineer and above. In view of the wide application of the Arbitral Law in Engineering departments, the Government has thought it proper to prescribe an additional paper for Degree holder Engineers who are eligible for holding higher post of Superintending Engineer and have to deal with matters relating to arbitration in their service career. The rule making authority has the wisdom to prescribe service

conditions as administrative exigencies may need or necessitate. It is open for the State to prescribe qualifications and other conditions of service including avenues of promotion criteria to be fulfilled for such promotions. They pertained to the field of policy and are within the exclusive discretion and jurisdiction of the State subject to of course the limitations or restrictions envisaged in the Constitution of India. The wisdom of rule making authority is not open to question. If the classification is based upon valid objects sought to be achieved which in the present case is to equip the Degree holder Assistant Engineers to deal with higher responsibilities of matters relating to Arbitration proceedings during their service career, the laying down of an additional criteria of passing Law and Arbitration paper for them as compared to Diploma holders is neither arbitrary nor discriminatory.

8. Learned counsel for the State has relied upon the following decisions:

(a) *P.U. Joshi and others vrs. Accountant General, Ahmedabad and others* reported in *AIR 2003 SC 2156* [Para-10-13];

(b) *Chandigarh Administration through the Director, Public Instructions (Colleges), Chandigarh vrs. Usha Kheterpal Waie and others* reported in *AIR 2011 SC 2956* [Para-12].

He submits that, therefore, the challenge should fail.

Mr. Raju Datta, learned counsel for the TPSC, has also adopted the arguments made by learned counsel for the State.

9. I have considered the submissions of learned counsel for the parties at some length and also examined the relevant Rule brought into force

by the Recruitment Rules, 2015 notified on 25.06.2015. The entire challenge of the writ petitioner to the relevant clause 11(c) of the Schedule to the Recruitment Rules, 2015 is based upon the argument of unreasonable classification and that it does not meet the tenets of Article 14 of the Constitution of India. I have gone through the judgments cited on behalf of the petitioner. The issue has been examined in several decisions of the Apex Court. It has been held that though equality is the very bulwark of the provisions of the Constitution, in service jurisprudence, classifications are a matter of necessity. Judicial pronouncements have sought to balance the equality principle with the principle of classification, dependent upon the nexus for making the classification. Higher educational qualifications have been repeatedly emphasized as an aspect which can give exclusive promotion, earlier promotion or for that matter, an accelerated promotion. A higher degree of qualification intrinsically would bring in certain skills, though undoubtedly, that should be useful and have a nexus with the job being performed. As to who should examine this nexus, it has been left to the wisdom of the administrative authorities, who are best equipped to do so. Where persons having two different qualifications are given the opportunity of promotion, there cannot be an absolute equality for the reason that the administration may consider giving the lesser qualified an opportunity of promotion on different terms, rather than completely prohibiting them from promotion.

10. The Apex Court for that matter in the case of *State of Jammu & Kashmir vrs. Triloki Nath Khosa [(1974) 1 SCC 19]* has also emphasized that minute and microscopic classification should not be permitted on micro-distinctions. It has also been held that even where direct recruits and promotees

are integrated into a common class, they could for the purpose of promotion to the higher cadre, be classified on the basis of educational qualification. The conclusion, thus, was that if the diploma holders can be barred altogether from promotion, it was difficult to appreciate how and why the rule-making authority can be precluded from restricting the promotion. The rule-making authority may be of the opinion, having regard to the efficiency of the administration and other relevant circumstances that while it is not necessary to bar the diploma holders from promotion altogether, their chances of promotion should be restricted. Between direct recruits and promotees, preferential treatment based on educational qualification was held as valid for considering promotion. However, among equally qualified candidates, there could be no further classification. It is for the State to decide whether the qualification has a reasonable relation to the nature of duties and responsibilities of the promotional post. Similarly, the question whether the difference in educational qualification is sufficient to give preferential treatment to one class of candidates against another, is ordinarily left to the executive authorities to decide as they have expertise in administrative matters. Ordinarily it would not be proper for the Court to sit in appeal over their decisions, unless it is something totally arbitrary or shocking.

11. In the present case, the promotion rules, in fact, provide that 70% of the posts of the Executive Engineer shall be filled up by the Degree holder Assistant Engineer having 7(seven) years continuous and regular service in the grade of Assistant Engineer whereas only 30% of the posts of Executive Engineer has been earmarked for promotion from Diploma holder Assistant Engineer with similar 7 years experience. The only distinction between the two

categories is that while Degree holder Assistant Engineers have to pass an additional paper of Law and Arbitration both the Degree holder and Diploma holder Assistant Engineers have also to pass two common papers, i.e. Accounts Paper and Simple Rules Paper. The contention of the petitioner is that despite having a higher qualification of Degree holder, he has been put to more onerous conditions for being promoted to the post of Executive Engineer compared to Diploma holder Engineers which does not have a valid basis for classification. However, it is also evident from a reading of the relevant schedule for promotion to the post of Executive Engineer and to that of the Superintending Engineer that it is only the class of Degree holder Assistant Engineers who become entitled for promotion not only to the post of Executive Engineer but to the post of Superintending Engineer and above post. The Diploma holder Assistant Engineers are only eligible for being promoted to the post of Executive Engineer and no further. The rule making authority has, in fact, provided for 70% of the post of Executive Engineer to be filled up from that of the Degree holder Assistant Engineers and restricted the quota of promotion of Diploma holder Assistant Engineers to only 30% of the post of Executive Engineer. In that way, Degree holder Assistant Engineers do get a higher chance of being promoted to the post of Executive Engineer against a higher quota of the post of Executive Engineers.

12. The respondent-State has sought to justify the relevant condition in Clause-11(c) on the ground that it is only the Degree holder Assistant Engineers who are entitled to be considered for promotion to the Executive Engineer post and higher post, i.e. Superintending Engineer and above. The schedule to the Amended Rules relating to promotion to the post of

Superintending Engineer again prescribes passing of three papers by the Degree holder Executive Engineers having 7 years of experience which includes Law and Arbitration paper. Prescribing the requirement of a higher qualification to hold a post in that way cannot be said to be an unreasonable classification on the part of the rule making authority to be hit by the tenets of Article 14 of the Constitution of India as being discriminatory in nature. Whereas in most of the decided cases, laying down of a higher qualification restricts the chances of promotion to a class of employees who have lesser qualification, in the present case, the requirement of passing of an additional paper of Law and Arbitration has been prescribed for a category of Engineers who have a higher qualification of Degree compared to the Diploma holders. The object of equipping them to deal with arbitration matters which Engineering departments are increasingly being made to face on account of the expansion of arbitration as an Alternative Dispute Resolution Mechanism and that too, after coming into force of the Arbitration and Conciliation Act, 1996 and its amendment in the year 2015 can be said to be a rational object sought to be achieved. A classification between the Degree holders and Diploma holders on the basis of different educational qualification is permissible. The question is whether the classification prescribing passing of an additional paper of Law & Arbitration has a rational nexus with the objects sought to be achieved. The nexus as observed hereinabove is easily discernible as Degree holder Executive Engineers are only eligible for being promoted to higher post, such as Superintending Engineer and above. The relevant rules of promotion to the post of Superintending Engineer also prescribe passing of the additional paper of Law and Arbitration for being eligible for such higher promotion. As such,

this Court is of the view that the classification between the Degree holder Assistant Engineers and Diploma holder Assistant Engineers so far as the passing of additional paper of Law and Arbitration is concerned is not an unreasonable classification which is discriminatory in nature.

13. Learned senior counsel for the petitioner has harped upon the observations made at paragraph-22 in the case of ***Om Prakash Sharma and others*** (supra) where it has been observed that different tests should not be prescribed for determining the respective promotional opportunities and that too solely with reference to the source from which they were drawn. Once a cadre is formed by recruiting persons drawn from different departments of the Government, there would normally be no justification for discriminating between them by subjecting one class to more onerous terms in the matter of promotional chances. However, it is also apposite to mention here that the Apex Court at para 31 referred to the case of ***Rajasthan SEB Accountants Association Vs. Rajasthan SEB, (1997) 3 SCC 103*** and observed that educational qualification is a proper basis of classification for promotion. Such a classification with a view to achieve administrative efficiency cannot be said to be on any fortuitous circumstance and unreasonable as has been held by the Apex Court in the case of ***Triloki Nath Khosa*** (supra). The aforesaid rulings show that validity of the classification has to be judged on the facts and circumstances of each case.

14. In the case of ***Om Prakash Sharma and others*** (supra), the appellant Food Corporation of India had not been able to adduce any material to show that the graduates deserved preferential treatment vis-à-vis

non-graduates in prescription of shorter length of service for graduates and longer for non-graduates for being promoted to the post of Assistant Grade I (AG-I) and Assistant Grade II (AG-II). As observed hereinbefore, the Apex Court in the same case has also held that educational qualification is a proper basis of classification for promotion. Even applying the principles laid down in the case of *Om Prakash Sharma and others* (supra) to the present facts of the case do not render laying down an additional criteria of passing Law and Arbitration paper for incumbents holding the post of Assistant Engineer as Degree holder as being discriminatory as they are only considered eligible and entitled for promotion to higher post of Superintending Engineers and above compared to those who form the class of Diploma holder Assistant Engineers.

15. In the case of *T.R. Kothandaraman and others* (supra) also relied on behalf of the petitioner, the Apex Court has once again held that classification based on higher educational qualification is permissible depending on the facts and circumstances of each case but total restriction cannot be imposed so as to block the chances of promotion. While determining the validity of classification historical background, efficiency in service, need for higher education and social justice have to be kept in mind and a proper balancing of the same had to be made in regard to the object of classification. The difference in ratio between a promotional quota between Degree holders and Diploma holders were not interfered with in the relevant Tamil Nadu Agricultural Engineering Service Rules which were held reasonable and not violative of Articles 14 and 16 of the Constitution of India. The above decisions cited on behalf of the petitioner do only substantiate the underlying proposition that prescribing an additional qualification or a higher qualification

for promotion and that too, amongst two different classes of incumbents to the post of Assistant Engineers, i.e. Degree holder and Diploma holder in the present case is not arbitrary or invalid on that score.

16. Learned counsel for the petitioner has also relied upon the decision of the Apex Court in the case of ***Senior Vocational Staff Masters Association and others*** (supra) which, however, deals with prescription of pay scale for incumbents forming the same cadre though having different qualifications, i.e. Degree holders and Diploma holders brought into the cadre through common process of selection pursuant to a common advertisement. This decision, however, does not have any application to the facts of the present case.

17. Moreover, the last decision cited by the learned senior counsel for the petitioner, i.e. in the case of ***S.K. Singh and others*** (supra) is apposite to be referred to hereunder as they only add strength to the opinion expressed by this Court in the foregoing paragraphs of the judgment. The Apex Court in the said case had the occasion to examine whether accelerated promotion to the post of Assistant Engineers to the extent of 7.33% for Degree holder Junior Engineers with 3(three) years experience as against normal promotion requiring minimum 10 years of service was valid or not. It was held that even where direct recruits and promotees are integrated into common class for purpose of promotion to higher cadre, they can be classified on the basis of educational qualifications. Further having regard to efficiency of administration rule-making authority may not completely bar diploma holders from promotion but restrict their chances as it has happened in the instant case where only 30% of the post of

Executive Engineers have been earmarked for promotion from Diploma holder Assistant Engineers whereas 70% of the posts have been left for the Degree holder Assistant Engineers to be promoted. The Apex Court after dealing with the precedents on the subject from paragraphs-17 to 26 held as under:

"27. The spectrum of judicial opinions referred to aforesaid leaves us with little doubt that though equality is the very bulwark of the provisions of the Constitution, in service jurisprudence, classifications are a matter of necessity and judicial pronouncements have sought to balance the equality principle with the principle of classification, dependent on the nexus for making the classification. Higher educational qualifications have been repeatedly emphasised as an aspect which can give exclusive promotion, earlier promotion or for that matter, as in this case, an accelerated promotion. A higher degree of qualification intrinsically would bring in certain skills, though undoubtedly, that should be useful and have a nexus with the job being performed. As to who should examine this nexus, that has been left to the wisdom of the administrative authorities, who are best equipped to do so [M. Rathinaswami v. State of T.N., (2009) 5 SCC 625 : (2009) 2 SCC (L&S) 101] .

28. It has also been opined that even where persons having two different qualifications are given the opportunity of promotion, there cannot be an absolute equality for the reason that the administration may consider giving the lesser qualified an opportunity of promotion on different terms, rather than completely prohibiting them from promotion.

29. We are conscious of the fact that in further posts, higher than AE, there is no distinction between persons having different qualifications. There are no direct appointments. The posts are filled in only through promotions. The question is: what is really being done? In our view, all that has been done is that, at a particular promotion stage, in the wisdom of the administration, recognising higher skills developed through higher qualifications, and as an incentive to others to acquire these higher qualifications, an accelerated promotion on a small percentage of posts had been granted.

30. We did put to the learned counsel for the private respondents if they could have been shut out from promotion, or if the time periods could have been different for promotion, then the result would have been the same as their grievance today i.e. some of the degree-holders would rank higher than the diploma-holders. Thus, this is not something out of the ordinary which has happened, or would result in a situation which can be categorised extraordinary by reason of accelerated promotion to the degree-holder.

31. We have noticed another important aspect i.e. that the direct recruitment to the post of AE required a candidate to be a degree-holder. 50% of the posts were reserved for degree-holding direct recruits. In the 50% promotion quota, a 10% promotion quota was carved out, leaving only 40% for promotion through the normal route. Possibly with the intention of obviating any grievance which the promotees may have, the normal promotion route was sought to be maintained at 50%, without any accelerated promotion in that portion, by bringing in 10% from the direct recruitment quota to the promotion quota, and that being utilised for accelerated promotion, for promotees with a degree. Had this quota not been there at all, whether earlier or later, but the direct recruitment in promotion quota had been maintained in equal ratio, the diploma-holders could, in any case, have had no grievance. The bringing forth from the direct recruitment quota (for which the qualification is the degree) to the promotion quota and giving that through accelerated promotion for such persons who have a degree can, thus,

hardly be said to have any intrinsic defects which could violate Articles 14 and 16 of the Constitution.

32. The historical perspective also cited before us hardly supports the private respondents as even the State of Uttar Pradesh, as it existed earlier, and the Rules as they existed then, provided for such 7.33% quota, which was never assailed by any party.

33. We may also add before ending, that there exist inconsistencies, which we have pointed earlier in para 16, in the principles laid down in the impugned judgment [*S.K. Singh v. State of Uttarakhand*, 2011 SCC OnLine Utt 1417] in para 30.

34. We are, thus, unequivocally of the view that the impugned judgment [*S.K. Singh v. State of Uttarakhand*, 2011 SCC OnLine Utt 1417] cannot be sustained and the challenge to the Rule is misplaced. The consequence would be the dismissal of the writ petition by the diploma-holders and the appeal of the Government being allowed. Parties are left to bear their own costs."

18. As held therein even where persons having two different qualifications are given the opportunity of promotion, there cannot be an absolute equality for the reason that the administration may consider giving the lesser qualified an opportunity of promotion on different terms, rather than completely prohibiting them from promotion. In the present case, the Assistant Engineers from both Degree and Diploma holder category have been given opportunity for promotion to the post of Executive Engineer but the quota of Diploma holders have been restricted to 30% whereas those of Executive Engineers have been enlarged to 70% which is a valid classification. The petitioner belonging to the Degree holder class, therefore, cannot be allowed to complain on the requirement of passing an additional paper of Law and Arbitration for being promoted to the post of Executive Engineer when it is also obvious that only Degree holder Engineers are eligible for promotion to higher post of Superintending Engineer and above which require expertise in dealing with arbitration matters. Though the concerned Engineer may not act as an arbitrator, as may be impermissible in an arbitration proceeding relating to the department in view of the amendment to the Arbitration and Conciliation

Act, 2015, but having such additional qualification of Law and Arbitration paper would be justified for dealing with arbitration matters, at higher stages in their career. This in the opinion of the Court is a valid reason for the rule-making authority to lay down such an additional requirement for Degree holder Assistant Engineers for being considered for promotion to higher post. It is also true that non-passing of the departmental examinations completely does not oust the chances of promotion to the higher post of Executive Engineer or Superintending Engineer as the Schedule 11(e) and 11(iii) of the relevant Rules provide that Engineers who have attained the age of 55 years and above are exempted from passing departmental examinations.

19. Therefore, in view of reasons recorded hereinabove, this Court does not find any merit in the challenge. The writ petition is accordingly dismissed.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

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