

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4561 OF 2016

Gokul Sahebrao Chavan and others

.. **Petitioners**

Versus

The Executive Engineer and others

.. **Respondents**

Shri Kamalakar J. Suryawanshi, Advocate for the Petitioners.
Shri S. V. Adwant and Neha Kamble, Advocate for Respondent
Nos. 1 and 3.

**CORAM : S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.**

DATE : 5th October, 2017

PER COURT :

1. Mr. Suryawanshi, learned counsel for the petitioners submits that all these petitioners possess the qualification of ITI (Wireman). The certificates to that effect have been issued by the Competent Authority. Pursuant to the advertisement dated 1st April, 2016 the petitioners had applied for the post of 'Technician Grade-IV'. In the said advertisement the qualification of 'Wireman' is not shown. The petitioners have assailed the said advertisement in the present petition. Pursuant to the interim order passed by this court the petitioners have participated in the selection process. According to the learned counsel, the impugned advertisement is contrary to the

Government Resolution dated 9th July, 2015. As per the Government Resolution dated 9th July, 2015 the equivalence is awarded to the wireman trade and is included in electrical sector alongwith electrician trade. Annexure - A to the Government Resolution dated 9th July, 2015, makes this aspect abundantly clear.

2. The learned counsel further submits that the respondent - company is a Government of India undertaking and is bound by the said Resolution. Other two companies have followed the said Government Resolution and it is only this respondent - company which has not adhered to the Government Resolution dated 9th July, 2015. The learned counsel submits that under Circular dated 1st March, 2017, the respondent - company has also adopted and accepted the Government Resolution dated 9th July, 2015. They have refixed the qualification required for 'Technician Grade-IV' and the Centre of Excellence (Electrical Sector) awarded by the NCTVT, New Delhi is a recognised qualification for 'Technician Grade - IV.' The learned counsel further submits that though the advertisement is issued on 1st April 2016, no further steps were taken by the respondents up to August 2017. In view of that, the respondents ought to have recalled the said advertisement and should have issued the fresh advertisement. The act of the respondent in not following the Government Resolution dated 9th July, 2015 is erroneous. The advertisement being contrary to the Government Resolution dated 9th July, 2015, deserves to be quashed and set aside.

3. Mr. Adwant, learned counsel for the respondents submits that the qualification at the entry level for 'Wireman' trade and 'Electrician' trade is distinct. The qualification at the entry level for 'Electrician' trade is much higher than the 'Wireman' trade. For 'Wireman' trade even 8th standard pass student is eligible whereas for 'Electrician' trade the candidate has to pass 10+2. The learned counsel submits that, the respondent is a company incorporated under the Companies Act having its independent identity. The respondent-company has its own recruitment rules. The respondent-company is the best judge of the qualification to be possessed by the candidate for the post of 'Technician Grade-IV'. The syllabus for a person undergoing electrician trade course and that of wireman course are totally different, distinct and separate. Considering the skilled personnel for the job of 'Technician Grade-IV' the qualification is prescribed in the advertisement the same is valid as per the Rules and the Policy existing then. The learned counsel has also taken us through the provisions of the Apprentices Act, 1961.

4. We have considered the submissions canvassed by the learned counsel for respective parties and the advertisement, Government Resolution and the Circular.

5. The respondent-company under Administrative Circular dated 1st March, 2017 has modified the educational qualification criteria for the post of 'Technician Grade-IV' in technician cadre and Assistant Operator in operating cadre in the company. The

said revision of qualification is pursuant to the Government Resolution dated 9th July, 2015, relied by Mr. Suryawanshi, the learned counsel for the petitioners. The advertisement is issued on 1st April, 2016. The candidates would apply considering the terms and conditions enumerated in the advertisement. The respondent-company in the advertisement provided qualification of a 'Electrician' trade for the post of 'Technician Grade-IV' and not Centre of Excellence (Electrical Sector) awarded by the NCTVT, New Delhi. In light of that, large number of aspiring candidates possessing the said certificate of excellence 'Electrical Sector' would not have applied.

6. The date on which the advertisement is issued would be relevant date to be considered. On the said date the Circular dated 1st March, 2017 was not in existence. In view of that the refixed qualification as provided in the circular dated 1st March, 2017 would not be relevant for consideration while considering the challenge to the advertisement dated 1st April, 2016. The Government Resolution dated 9th July, 2015 was not adopted and accepted by the respondent – company as on the date of advertisement.

7. In view of the above, there is nothing on record to state that the qualification provided for the post of 'Technician Grade-IV' was against the Rules, Regulations or the Circulars of the respondent – company.

8. In light of the above, the claim of the petitioners cannot be considered. The writ petition is dismissed. No costs.

[S. M. GAVHANE, J.] [S. V. GANGAPURWALA, J.]

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