



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15000 OF 2023

UMAKANT SHRIDHAR GIRI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH
DEPARTMENT OF INDUSTRIES ENERGY AND LABOUR
AND ANOTHER

...
Shri Shaikh Ashraf Patel, Advocate i/by Shri Avhad Abhijeet P.,
Advocate for the Petitioners.
Shri S.K. Tambe, AGP for Respondent 1/State.
Shri S.V. Adwant, Advocate for Respondent 2.
...

CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.

DATE :- 11th December, 2023

Per Court :-

1. This matter was heard at length on 07.12.2023 and 08.12.2023. We granted time to the learned Advocate for the Petitioners to take instructions. Today, the learned Advocate for the Petitioners submits that this Court may pass an order.
2. The Petitioners have put forth prayer clauses B, C and D as under:-

“B. By appropriate writ, order or directions in the like nature, the Respondent No.2 may kindly be directed to permit the present Petitioners to

apply for the post of Assistant Technician (General) in Service Advertisement No.09/2023 dated 20.11.2023 from 'Wireman' Educational Qualification.

- C. The Respondent No.2 may kindly be directed to consider the present Petitioners for the post of Assistant Technician (General) in Service Advertisement No.09/2023 dated 20.11.2023.*
- D. Pending hearing and final disposal of this Writ Petition the Petitioners may kindly be permitted to apply for the post of Assistant Technician (General) in Service Advertisement No.09/2023 dated 20.11.2023 issued by Respondent No.2.”*

3. Respondent No.2 Company has published an advertisement No.09/2023 on 20.11.2023. By the said advertisement, the posts of Assistant Electrician (Transmission) are being filled in. Filing of the forms commenced on 20.11.2023 and ended on 10.12.2023, midnight.

4. By the said advertisement, Respondent No.2 Company intends to recruit the Assistant Electricians (Transmission), on contractual basis. The period of contract is of three years. After completing three years of contractual employment, the Company would be taking a decision as to whether, the concerned Assistant Electricians can be regularized as “Assistant Technicians (General)”.

5. It is apparent that the Petitioners have wrongly

stated in the petition, for the reasons best known to them, that the Company is filling up the posts of Assistant Technicians (General). This is totally fallacious since the Company is recruiting contractual employees for the posts of Assistant Electrician (Transmission).

6. In similar circumstances, by the order dated 07.03.2017, this Court dismissed Writ Petition No.6337/2016 (*Haribhau Gangadharrao Chate vs. The State of Maharashtra and others*). In the said matter, the candidates, who had successfully completed the Electrician Course as is approved by the NCTVT, New Delhi, were held to be eligible for recruitment. The Petitioner before the Court was a Wireman, which is a different course, though approved by the NCTVT, New Delhi. Recording that the Company has restricted the advertisement to recruiting the candidates who were holding the certificate of Electrician, this Court concluded that the said Petitioner, not being an Electrician, was not eligible.

7. Another Bench of this Court, by the judgment dated 24.01.2018 delivered in Writ Petition No.4835/2016 (*Sachin Kamlakar Gadekar and others vs. The Chief Engineer, Maharashtra State Electricity Transmission Company and*

others), noted that the Petitioners had prayed for modifying the advertisement to include their candidature for selection as they had completed apprenticeship as Lineman with the Company. They had completed ITI course in Electrician trade and completion certificates were issued in their favour. This Court noted that there are two trades for apprenticeship, one as Electrician and another as Lineman. As far as the Electrician trade is concerned, one year apprenticeship was necessary and for the trade of Lineman, two years apprenticeship was necessary. The Petitioners had completed their apprenticeship as Lineman of two years. By the Company's advertisement, the candidates, who had completed apprenticeship as Electrician, were entitled to get 10% additional marks considering the nature of work to be done by the in service candidates. By a reasoned order, it was held that as the Petitioners had not completed apprenticeship as Electrician, they were not entitled for 10% of additional marks.

8. Yet another Bench of this Court delivered an order on 05.10.2017 in Writ Petition No.4561/2016 (*Gokul Sahebrao Chavan and others vs. The Executive Engineer and others*), wherein, the Petitioners were ITI Wiremen. The advertisement

was for the posts of Technician Grade-IV. The advertisement did not indicate the post of Wireman. Based on an interim order, the Petitioners participated in the selection process. After the matter was heard finally, this Court observed in paragraphs 2 to 8 as under:-

- “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 GradeIV' 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.”*

9. Coming back to this case, it is obvious that besides the social reservations, parallel reservation is provided for women, ex-service men, project affected persons, earthquake affected persons, physically challenged category, orphans and sports persons. Clause 4.1 of the advertisement indicates that the candidates applying for the contractual appointment to the post

of Assistant Electrician (Transmission), should have completed the course of two years under the scheme of Centre of Excellence (Electrical Sector), by the NCTVT, New Delhi. For the purposes of such qualification, it is mentioned that the following courses should have been completed by the concerned candidates:-

<i>Basic Courses</i>	<i>1 Year</i>	<i>Board Based Basic Training Course in Electrical Sector (BBBT)</i>
<i>Advance Course/ Module</i>	<i>6 months</i>	<i>Training in Advanced modules for next six months in following modules after BBBT. “Operation & Maintenance of Equipment used in HT, LT, Substation and cable jointing.”</i>
<i>Apprenticeship Training</i>	<i>6 months</i>	<i>6 months apprenticeship in the trade of Mechanic (HT, LT Equipment's and Cable Jointing) under Apprenticeship Act, 1961 awarded by NCTVT, New Delhi.</i>
<i>The candidate should have completed and cleared each above courses/ training/ apprenticeship for which he should possess mark sheets & training / passing certificates awarded by NCTVT, New Delhi.</i>		

10. The Petitioners have contended that the Electrician and Wireman courses have the same syllabus. The Petitioners obtained their National Trade Certificates from the ITI as

Wireman. The Company should have allowed the Wireman to apply for the posts of Electrician by drawing equivalence between the Wireman and Electrician certificate courses. A parallel is attempted to be drawn by contending that the Government Resolution dated 09.07.2015 contains the list of courses, which are equivalent to the trade courses covered in the Craftsman Training Scheme and in Annexure-A at Sr.No.5 (the learned Advocate for the Petitioner submits that it is a mistake committed in the pleadings by typing Sr.No.4), the sector is mentioned as Electrical and equivalent trades as Wireman and Electrician.

11. Respondent No.2 Company is a specialized company in transmission. After the Maharashtra State Electricity Board underwent trifurcation, Respondent No.2/ Maharashtra State Electricity Transmission Company is formed, which has its expertise in transmission of electricity. It would not be appropriate for this Court to rely upon the Government Resolution, which was issued in different set of circumstances, to conclude that the Lineman is as qualified as an Electrician. A Lineman could not be an Electrician and therefore, vice-versa, the Electrician could not be a Lineman, in relation to the nature

of work expertise that is required by the Company.

12. Considering the above and taking into the earlier orders passed in similar circumstances when this Court refused to alter the advertisement merely because the Petitioners claimed that they could perform duties on the post, which was advertised, this petition fails.

13. In view of the above, **this Writ Petition is dismissed.**

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(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)