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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6298 OF 2018

Iqbal Yasin Kazi

..... Petitioner

Vs.

The State of Maharashtra & Ors.

..... Respondents

Ms.Leena Patil for the Petitioner

Mr.R.P.Kadam, A.G.P. for the State / Respondent nos.1 to 4

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : APRIL 25, 2023

P.C.

1. The Petitioner had approached the Maharashtra Administrative Tribunal. The case of the Petitioner is that the Petitioner is exempted from passing the departmental examination for absorption to the post of Chief Engineering Assistant on reaching the age of 45 years and that the Petitioner should be deemed to be appointed as Chief Engineering Assistant on reaching that age and given Time Bound Promotion accordingly.

2. The learned Counsel for the Petitioner submits that that upon attaining the age of 45 years as per the relevant PWD rules, the Petitioners are exempted from passing the departmental examination and as such to be considered for the post of Chief

Engineering Assistant. The Tribunal has arrived at a conclusion that 50% posts to be filled in by absorption are not available for promotion. It was not the case of the Respondents also before the Tribunal that the absorption has to be made within 50% quota and that the said posts are not available.

3. We have heard the learned A.G.P.

4. The Tribunal has observed that the absorption shall be possible only if vacancies were available for 50% absorption. The Petitioners shall be eligible to be absorbed as Chief Engineering Assistant subject to seniority and fitness as provided in the Rules and the vacancy should also be filled from absorption quota.

5. The court has observed that the Petitioner could not make out the case that they were eligible to be appointed as Chief Engineering Assistant on attaining the age of 45 years, as the vacancies from 50% quota were available. As the 50% quota was not available, the Petitioner could not be absorbed.

6. In light of that, no error has been committed by the Tribunal.

7. Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)