



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.888 OF 2024

Parmeshwar s/o Laxman Gadwe

... PETITIONER

VERSUS

1. The State of Maharashtra,
through its Principal Secretary,
Industries, Energy and Labour
Department, Mantralaya Mumbai – 32
2. The Maharashtra State Electricity Transmission
Company Ltd. Prakash Ganga', Plot No.C-19,
E-Block, 7th Floor, Bandra Kurla Complex,
Bandra (E) Mumbai
through – Its Managing Director
3. The Maharashtra State Electricity
Transmission Company Ltd.
'Prakash Ganga', Plot No.C-19, E-Block,
7th Floor, Bandra Kurla Complex,
Bandra (E) Mumbai, through -
the Chief General Manager, (HR)
4. The Executive Engineer,
400 K.V.R.S. (O&M) Division, Girwali,
Tal. Ambajogai, Dist. Beed

... RESPONDENTS

...

Advocate for the Petitioner : Mr. Amol B. Chalak
AGP for Respondent No.1 : Ms. S.S. Joshi
Advocate for respondent Nos.2 to 4 : Mr. S.V. Adwant

...

CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.

DATE : 02.12.2024

PER COURT:

Heard.

2. Rule. Rule is made returnable forthwith. Learned AGP waives service for respondent No.1. Learned advocate Mr. Adwant waives service for respondent Nos.2 to 4. At the joint request of the parties, the

matter is heard finally at the stage of admission.

3. The petitioner who claims to be a project affected category person, his ancestral land having been acquired by the erstwhile Maharashtra State Electricity Board, is seeking to derive the benefit of additional marks under the Project Affected Skill Development Scheme, in the direct requirement being undertaken by respondent Nos.2 to 4, for the post of Assistant Engineer (Transmission) as per the Advertisement No.07/2023 dated 04.10.2023. He is challenging the communication dated 18.12.2023 whereby, respondent Nos.2 to 4 have refused to extend such benefit under Administrative Circular No.518 dated 29.09.2017, on the ground that the scheme is applicable only to Class III and Class IV employment in the matter of 5% statutory reservation in horizontal category in tune with section 6(c) and Section 10(6) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (the Rehabilitation Act).

4. The learned advocate for the petitioner Mr. Amol B. Chalak would advert our attention to the scheme and would submit that there is nothing in the scheme to demonstrate that it is applicable only to the employees of Class III and Class IV categories. He would submit that the erstwhile Maharashtra State Electricity Board (MSEB) underwent trifurcation in the year 2005. The Maharashtra State Electricity Transmission Company Limited (MSETCL), Maharashtra State Electricity Distribution Company Limited (MSEDCL) and the Maharashtra State Electricity Generation Company (MSEGCL) were the three subsidiary

companies. The service regulation in respect of each of these companies were also framed. This Court in the matter of **Amol Govindsing Maher and others Vs. MSEB Holding Co. Ltd. and Ors.**; (WP No.12906/2023) by the judgment and order dated 29.02.2024 has *inter alia* held that the holding company formulates the broad guidelines in respect of recruitment and service conditions on the touchstone of which, the subsidiary companies like respondent No.2 are supposed to lay down their parameters. When MAHAGENCO (MSEGCL) has adopted a similar policy vide its Administrative Circular No.508 dated 16.11.2022, even respondent No.2 should follow the same parameters. The impugned communication is in violation of this principle. The two subsidiary companies of the holding company cannot have separate and inconsistent service conditions laying down the parameters for undertaking the recruitment and providing reservation/grace marks.

5. Per contra, Mr. Adwant would submit that there is no illegality in refusing to concede to the petitioner's request. The scheme is evolved on the parameters laid down under Section 6(c) and 10(6) of the Rehabilitation Act, which in turn only contemplates providing preferential treatment only to Class III and Class IV employees. Since the petitioner is seeking appointment in a recruitment for the Class II post he is not entitled to claim any additional marks in the light of the scheme. Mr. Adwant would further submit that the issue before this Court in the matter of **Amol Govindsing Maher** (supra) was different and the

petitioner is not entitled to derive any benefit therefrom. He would also refer to the full bench decision of this High Court in the matter of **Rajendra Pandurang Pagare and Ors. Vs. State of Maharashtra; 2009(4) Mh.L.J. 961**. He would submit that the project affected persons are entitled to a horizontal reservation and should compete against themselves under the Recruitment Rules. The petitioner, therefore, is not entitled to any additional marks and the petition be dismissed.

6. We have considered the rival submissions and perused the papers.

7. At the outset, it is necessary to emphasize the fact that the petitioner is not questioning the vires of the Administrative Circular No.518 of 29.09.2017 providing for a scheme regarding grant of additional marks. The only issue is as to if he is entitled to derive any benefit thereunder. Though it is a matter of fact that this Administrative Circular No.518 (**Exhibit-C**) does not expressly indicate that it would be applicable only in respect of recruitment to the post of Class III and Class IV category, as has been indicated in the impugned communication dated 18.12.2023 (**Exhibit – L**) the source for the scheme is Section 6(c) and Section 10(6) of the Rehabilitation Act. There can be no other source enabling respondent No.2 to evolve any such scheme. When these two provisions in turn expressly contemplate application of any such a scheme to only Class III and Class IV category employees, when the post to which the petitioner stakes the claim is a Class II post, he is not

entitled to derive any benefit of the scheme. Mere absence of a specific reference in the Administrative Circular No.518 to the provisions of Section 6(c) and Section 10(6) cannot come to the rescue of the petitioner.

8. As far as a similar scheme being applied in the sister company of respondent No.2 is concerned, in our considered view even the petitioner is not entitled to claim any discrimination. Once it is seen that the Administrative Circular No.518 derives its source from Section 6(c) read with Section 10(6) of the Rehabilitation Act, the stand of the petitioner on the ground that the two subsidiary companies of the holding company are resorting to different set of Rules/Administrative Circular cannot be countenanced, more so when there is no such challenge.

9. In the matter of **Amol Govindsing Maher** (supra) the issue was not a similar one as has been in the present matter. The issue in that matter was as to whether respondent No.2 herein which was respondent No.4 in that matter, had altered the prerequisite/eligibility qualification while undertaking the recruitment for the post of Assistant Engineer (Transmission) by direct selection and whether the change was legally permissible without the approval of the holding company. It was a matter of stipulation in the advertisement requiring seven years experience in power transmission. It is in that context the issue was examined of the power of respondent No.2 to provide such eligibility criteria without the

permission of the holding company. That being not the issue in the matter in hand, the petitioner is not entitled to derive any benefit from it.

10. Apart from the above state of affairs, it is pertinent to note that though respondent Nos.2 to 4 published an advertisement and the petitioner applied for online test for the post of Assistant Engineer (Transmission), the test is still to be scheduled. Meaning thereby that the petitioner is still to undergo the selection process and is claiming the relief on the basis of hypothesis to the effect that in case he is not selected for want of sufficient marks excluding those permissible under the scheme in question. It is only because he indulged in some correspondence seeking to derive the benefit of that scheme that the impugned communication was issued to him. It is evident that the petitioner is merely taking a chance and has no cause of action since the recruitment process is still to be undertaken. Therefore, even on this count the petitioner is not entitled to any relief.

11. In the light of above, as the petitioner is seeking selection to the post of Assistant Engineer (Transmission) which is a Class II post, besides the fact that the petition is premature, is not entitled to derive the benefit of Administrative Circular No.518 dated 29.09.2017.

12. The writ petition is dismissed. Rule is discharged.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)