

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13078 OF 2023

1. Rekha Wasudev Ganjre,
2. Priya Ravindra Hate. ...Petitioners

Versus

1. The State of Maharashtra,
through its Secretary,
Department of Home,
Mantralaya, Mumbai.
2. The Special Director General of Police,
Training and Special Squad,
State of Maharashtra, Mumbai,
Office at Maharashtra State Police,
Head Quarters, Shahid Bhagat Singh Marg,
Colaba, Mumbai-400 001.
3. Additional Director General of Police,
Training and Special Force,
State of Maharashtra,
Office at Maharashtra State Police
Head Quarters, Shahid Bhagat Singh Marg,
Colaba, Mumbai-400 001.
4. The Commissioner of Police,
Nagpur City, Nagpur,
Office at Police Bhawan, Civil Lines,
West High Court Road,
Nagpur.
5. The Director,
Mahapariksha,
Maharashtra Information Technology
Corporation Ltd., (Maha. IT) Office at
Dinshaw Wacha Road, Near K.C. College,
Churchgate, Mumbai - 440032. ...Respondents

WITH
WRIT PETITION NO.13079 OF 2023

1. Amol Dileep Raut,
 2. Sujitsing Nihalsing Maher,
 3. Soyal Abdul Shaikh,
 4. Pradip Narayan Ghune,
 5. Yogesh Damu Chandile,
 6. Amol Shriram Rore,
 7. Vishal Kaduba Sonane,
 8. Shivaji Shriram Chim,
 9. Satish Popat Jadhav,
 10. Vijay Arun Bahir,
 11. Kishor Punjaram Autade,
 12. Baliram Sudam Gaikwad,
 13. Abhimanyu Arjun Sarkale,
 14. Atul Pandurang Sarkate,
 15. Pradip Darasing Rathod,
 16. Tripathi Dnyanaba Nagargoje,
 17. Kiran Vishwanath Kuklare,
 18. Vishal Babasaheb Shinde,
 19. Rajendra Ashok Ghodke,
 20. Gajanan Kashisram Sabale,
 21. Kiran Kachru Jagtap,
 22. Sandip Bhagwan Waghmare,
 23. Gopinath Panditrao Khude,
 24. Devanand Vishvanath Hatagale,
 25. Vishnu Shankar Suslade,
 26. Vasanta Namdeo Rathod,
 27. Priyanka Bhaurao Gawande,
 28. Pushpa Ramkaran Yadav
- ...Petitioners

Versus

1. The State of Maharashtra,
through its Secretary,
Home Department,
Mantralaya, Mumbai.
2. Additional Director General of
Police (Training & Special Unit),
Maharashtra State, Mumbai.

3. The Superintendent of Police,
Buldhana, District Buldhana.
4. The Commissioner of Police,
Amravati, District Amravati.
5. The Commissioner of Police,
Nagpur, District Nagpur.
6. The Superintendent of Police,
Wardha, District Wardha.
7. The Superintendent of Police,
Akola, District Akola.
8. The Superintendent of Police,
Nagpur (Rural), District Nagpur. ...Respondents

Mr. Akash Moon for Petitioners in WP/13078/2023.

Mr. P. B. Patil for Petitioners in WP/13079/2023.

Mr. B. V. Samant, Addl. G. P. a/w. Mrs. T. N. Bhatia, AGP for Respondents-State.

**CORAM : A. S. CHANDURKAR,
JITENDRA JAIN, J.J.**

Date on which the Arguments were Heard : 26th April 2024.

Date on which the Judgment is Pronounced : 3rd May 2024.

JUDGMENT :- (Per Jitendra Jain, J.)

1. These two Writ Petitions are transferred from Nagpur Bench of this Court to the Principal Seat since the Principal Seat was seized of similar matters arising out of the Full Bench decision of the Maharashtra Administrative Tribunal ('Tribunal') dated 17th March 2023 in Original

Application No.144 of 2022 (*Amit Harishchandra Daphal Vs. Superintendent of Police & Anr.*) with connected matters.

2. We have decided Writ Petition No.7650 of 2023 (*Ashok Mallinath Halsangi & Anr. Vs. State of Maharashtra & Ors.*) with connected Writ Petitions today. However, the Counsel for the present Petitioners contended that the facts of their case are different than the facts of the other group of Petitioners and therefore they should be heard separately. It is on this backdrop that we have de-tagged the present Writ Petitions from the other group and heard them separately.

3. The Petitioners are seeking to challenge the order of the Full Bench of the Tribunal dated 17th March 2023 with a further prayer that their appointment should not be cancelled on the basis of the said Full Bench decision of the Tribunal.

4. For the purpose of the adjudication, we would narrate the facts of Writ Petition No.13079 of 2023.

Brief Facts:

5. On 30th November 2019, the Respondents published an advertisement for the post of 'Police Constable Driver'. The Petitioners applied for the said post by making more than one application in more than one district. The Petitioners cleared the written examination and

also cleared the physical test. The Petitioners names were shown in the merit list and were also given appointment letters. Meanwhile, a communication dated 29th October 2021 was issued by Respondent No.2 cancelling the appointments of those candidates who were found to have made more than one application for the same post in more than one unit. The said communication was challenged by the Petitioners before the Tribunal at Nagpur by filing Original Application Nos.309 and 325 of 2022. The Nagpur Bench of the Tribunal allowed the Original Applications filed by the Petitioners on 31st March 2022 and pursuant thereto the Petitioners came to be appointed for the post. Meanwhile, a Full Bench of the Tribunal was constituted at Mumbai to adjudicate the issue of whether a candidate can make more than one application for the same post in various units. The Full Bench of the Tribunal after hearing all the parties came to the conclusion on 17th March 2023 that a candidate can make only one application for one post in one unit and if a candidate makes more than one application, being for different units then the same would be illegal. It is on this backdrop that the Petitioners are aggrieved since their appointments have been held to be illegal and therefore they are before us.

6. The learned counsel for the Petitioners submit that on a conjoint reading of clauses 11.10 and 11.17 of the advertisement dated

30th November 2019, there is no prohibition for a candidate to make more than one application for the same post in various units. The Petitioners further submitted that the last sentence in clause 11.10 which prohibits more than one application for the same post in different units is contrary to the initial part of the said clause and furthermore the advertisement does not provide for any consequence if the candidate makes more than one application, being for different units for the same post. The Petitioners relied upon the definition of a 'police unit' as per Recruitment Rules of 2019. The Petitioners, in the alternative, submit that even in such a scenario the candidate should be considered at least for the first of the applications on a reading of clause 11.17 of the said advertisement. The Petitioners further submitted that they were not heard by the Full Bench and therefore the decision rendered by the Nagpur Bench in their case should not be reversed and that the decision of the Full Bench cannot be implemented against them. The Petitioners have also distinguished the decision in the case of ***K. G. Ashok & Ors. Vs. Kerala Public Service Commission & Ors.***¹. The Petitioners by referring to an earlier advertisement dated 3rd September 2019 submitted that the last sentence of clause 11.10 of the advertisement of 30th November 2019 was not there in the past. The Petitioners further submitted that the selected candidates are less meritorious and, therefore, at least for

1 (2001) 5 SCC 419

the purpose of zone of consideration and keeping in mind that the best talent has to be selected, their prayers should be considered. The Petitioners further submitted that in the Recruitment Rules of 2019, there is no restriction on making more than one application. The Petitioners have further relied upon communications dated 12th August 2021 and 27th December 2021. The Petitioners have relied upon various decisions and prayed that their appointment should be protected and the decision of the Full Bench should not be made applicable to them.

7. Per contra, the learned counsel for the Respondents submitted that the Petitioners have been heard and the notice was also given to the Petitioners and therefore they cannot make a grievance that they have not been heard. The Respondents further submitted that by pleading their case on merits, the Petitioners have taken mutually destructive plea by submitting that on the one hand they have not been heard by the Full Bench of the Tribunal and on the other hand have canvassed before this Court their submissions on merits. The Respondents have further submitted that in any case since they have now been heard fully, the grievance of them not being heard does not survive. The Respondents have submitted that on a conjoint reading of clauses 11.10, 11.17, 23 and 24 of the advertisement, a candidate is prohibited from making more than one application for the same post in more than one unit and

therefore the Respondents are justified in terminating the employment of the Petitioners. It is submitted that the Full Bench had rightly decided the issue referred to it. The Respondents, therefore, prayed for dismissal of the Writ Petitions.

8. We have heard learned counsel for the Petitioners and the Respondents and with their assistance have perused the documents annexed to the petition and brought to our notice during the course of hearing.

9. Before we deliberate the issue which is raised for our consideration, it is important to reproduce the relevant clauses 4, 11.10, 11.17, 14.4, 23 and 24 of the advertisement dated 30th November 2019 including its English translation:

“४) उमेदवारांचे अर्ज ऑनलाईन (Online) पध्दतीने स्विकारण्यात येणार असल्याने अर्ज करतांना शैक्षणिक प्रमाणपत्रे / कागदपत्रे, अन्य प्रमाणपत्रे जोडणे आवश्यक नाही. त्यामुळे ऑनलाईन अर्जाची माहिती उमेदवारांनी जाहिरातीमध्ये नमूद केलेल्या सर्व अटी, शैक्षणिक अर्हता व मागणीनुसार आरक्षण, वयोमर्यादा शिथिलीकरण वगैरेची पात्रता तपासूनच भरावी. ऑनलाईन अर्जामध्ये उमेदवाराने त्यांच्या पात्रतेनुसार काळजीपूर्वक संपूर्ण, अचूक व खरी माहिती भरणे आवश्यक आहे. ऑनलाईन पध्दतीने अर्ज भरतांना काही चुका झाल्यास किंवा त्रुटी झाल्यास व भरतीच्या कोणत्याही टप्प्यावर अर्ज नाकारला गेल्यास त्याची सर्वस्वी जबाबदारी संबंधीत उमेदवाराची राहिल. याबाबत उमेदवाराची तक्रार विचारात घेतली जाणार नाही. ऑनलाईन अर्जात भरलेली माहिती अर्ज सादर केल्यानंतर बदलता येणार नाही.

4) As the applications of the candidates are going to be accepted through “Online” mode, it is not necessary to enclose educational certificates / documents, other certificates while submitting the applications. Therefore, candidates shall fill up the information in the online form only after checking all the conditions, educational

qualification, reservation sought, relaxation in age-limit etc. eligibility mentioned in the advertisement. Candidates are required to carefully fill up the entire, accurate and true information in the online application as per their eligibility. If any mistake or error is occurred while filling up the form through online mode and if the application is rejected at any stage of the recruitment, then the candidate concerned shall be solely responsible for the same. No complaint in this regard by the candidate shall be entertained. Once the application is submitted, no information filled in in the online application can be changed.

११.१० उमेद्वारास (१) जिल्हा पोलीस दलातील पोलीस आयुक्त / पोलीस अधीक्षक यांच्या आस्थापनेवरील पोलीस शिपाई चालक, (२) लोहमार्ग पोलीस दलातील पोलीस शिपाई चालक व (३) राज्य राखीव पोलीस बलातील सशस्त्र पोलीस शिपाई पदासाठी एक अशा एकूण पदांसाठी तीन आवेदन अर्ज सादर करता येतील [महिला उमेदवारांना राज्य राखीव पोलीस बलातील सशस्त्र पोलीस शिपाई पदासाठी आवेदन अर्ज सादर करता येणार नाही.

एकाच पोलीस घटकातील एकाच पदासाठी एकापेक्षा जास्त अर्ज सादर करता येणार नाहीत, (उदाहरणार्थ:- पोलीस आयुक्त, बृहन्मुंबई यांच्या आस्थापनेवरील पोलीस शिपाई चालक पदासाठी एकापेक्षा जास्त अर्ज भरता येणार नाहीत किंवा राज्य राखीव पोलीस बलातील एकाच गटात सशस्त्र पोलीस शिपाई पदासाठी एकापेक्षा जास्त अर्ज भरता येणार नाहीत). जर एका उमेदवाराने एकाच पोलीस घटकातील एकाच पदासाठी एकापेक्षा अधिक अर्ज केलेले आहेत. असे आढळून आले तर अशा उमेदवारांची उमेदवारी रद्द केली जाईल.

एकाच पदासाठी विविध पोलीस घटकांत आवेदन अर्ज सादर करता येणार नाहीत.

11.10. The candidate may submit three applications, one each for all posts viz. 1) Police Constable/Driver on the Establishment of the Commissioner of Police / Superintendent of Police in District Police Force, 2) Police Constable / Driver in the Railway Police Force and 3) Armed Police Constable in State Reserve Police Force. [The Female candidates cannot submit Applications for the post of Armed Police Constable in State Reserve Police Force.]

More than one applications cannot be submitted for one and the same post in one and the same Police Unit. (For example : More than one applications cannot be submitted for the post of Police Constable-Driver on the Establishment of the Commissioner of Police, Greater Mumbai or more than one applications cannot be submitted for the post of Armed Police Constable in one and the same Group of the State Reserve Police Force.) If it is found that a candidate has submitted more than one applications for one and the same post in one and the same Police Unit, then, the candidature of the said candidate shall be cancelled.

Applications for one and the same post cannot be submitted in various Police Units.

११.१७ जर कोणत्याही उमेदवाराने एकापेक्षा अधिक लॉगिन आयडीसह नोंदणी केली असेल तर उमेदवारांची पहिली यशस्वी नोंदणी फक्त पुढील प्रक्रिया जसे हॉल तिकीट, परीक्षेत उपस्थिती, गुणवत्ता यादी आणि अन्य संबंधित प्रक्रियांसाठी विचारात घेण्यात येईल. कोणत्याही डुप्लीकेट नोंदणीस अवैध नोंदणी मानले जाईल आणि कोणत्याही प्रकारचे पैसे परतफेड केले जाणार नाहीत. उमेदवाराद्वारे प्रथम यशस्वी नोंदणीमध्ये काही चुकीची माहिती देण्यात आली असेल तर कृपया या विषयाबद्दलची योग्य प्रक्रिया जाणून घेण्यासाठी enquiry@mahapariksha.gov.in वर लिहा किंवा टोल फ्री क्रमांक १८००३०००७७६६ वर कॉल करा.

11.17 If any candidate has made registration with more than one Log-In ID, then the first successful registration of the candidates shall be taken into consideration only for further process like Hall Ticket, Attendance at the examination, Merit List and other concerned processes. Any duplicate registration shall be deemed as illegal registration and no money of whatsoever nature shall be refunded. If any erroneous information in the first successful registration has been given by the candidate, then to know the appropriate process in that regard, kindly write to ["enquiry@mahapariksha.gov.in"](mailto:enquiry@mahapariksha.gov.in) or call on the Toll Free Number 180030007766.

Note: Once the Form is submitted, no permission shall be granted to make any change in the registration details such as "USER NAME" E-mail ID, Reservation Category (parallel or reservation category applicable), 1/2/3 Preference for Examination Centre, Date of Birth, Photograph and signature of the Candidate, details of educational qualification etc.

१४.४ निवडीच्या कोणत्याही टप्प्यावर (निवड प्रक्रिया सुरु झाल्यानंतर किंवा नियुक्तीनंतर कोणत्याही क्षणी) अर्जदार विहित अर्हता धारण न करणारा आढळल्यास, ऑनलाईन अर्जात दिलेली माहिती / अगर कागदपत्रे खोटी सादर केल्याचे किंवा खरी माहिती दडवून ठेवल्यांचे निदर्शनास आल्यास शासनाची दिशाभूल केल्यामुळे त्यांच्यावर प्रत्यक्ष अप्रत्यक्ष दबाव आणल्यास अथवा गैरप्रकारचा अवलंब केल्यास त्यास निवड प्रक्रियेतून वगळण्यात येईल व नियुक्ती झाली असल्यास कोणतीही पूर्वसूचना न देता त्याची नियुक्ती समाप्त करण्यात येवून त्यांच्या विरुद्ध कायदेशीर कारवाई करण्यात येईल.

14.4 At any stage of selection (after the selection process is commenced or at any point of time after the appointment), if it is found that the candidate is not holding the prescribed qualification,

has submitted false information in the on-line application / or documents or has concealed the true information, has brought direct / indirect pressure for having misleading the Government or has adopted any improper course, his name shall be removed from the selection process and if he has been appointed, then his appointment shall be terminated without giving any prior notice and legal action shall be initiated against him/her.

२३. विशेष सूचना:-

२३.१.१ उमेदवारांच्या माहितीकरिता www.mahapariksha.gov.in या संकेतस्थळावर प्रस्तावित परीक्षेची कार्यप्रणाली (Software) कशी हाताळावी हे समजण्याकरिता नमुना परीक्षेची लिंक (link) उपलब्ध करून देण्यात येईल.

२३.१.२ उमेदवारांना सरावासाठी (Mock Test) पीडीएफ स्वरूपात नमुना प्रश्नपत्रिका www.mahapariksha.gov.in या संकेतस्थळावर उपलब्ध करून देण्यात येणार आहे.

२३.२ ऑनलाईन अर्जांमध्ये भरलेली माहिती आणि कागदपत्रे तपासणीच्या वेळी सादर केलेली कागदपत्रे यात तफावत आढळल्यास उमेदवाराची निवड भरती प्रक्रियेच्या कोणत्याही टप्प्यावर रद्द होऊ शकेल अथवा उमेदवाराने मागितलेले सामाजिक समांतर आरक्षण अथवा वयोमर्यादा शिचील करणे इत्यादी बदल/सवलती नामंजूर करण्यात येतील.

२३.३ परीक्षा कक्षात परीक्षा केंद्राच्या परिसरात मोबाईल फोन अथवा इतर कोणत्याही प्रकारची इलेक्ट्रॉनिक साधने आणण्यास व वापरण्यास सक्त मनाई आहे.

२३.४ प्रमाणपत्र पडताळणीच्या वेळी प्रमाणपत्रांमध्ये त्रुटी आढळल्यास / माहिती खोटी आढळल्यास अथवा एखादे प्रमाणपत्र सादर न केल्यास उमेदवाराला त्याचवेळी पुढील प्रक्रियेसाठी अपात्र केले जाईल.

२३.५ जाहिरातीतील नमुद केलेले सर्व शासन निर्णय/ अधिसूचना / शासन परिपत्रके ही महाराष्ट्र शासनाच्या www.maharashtra.gov.in या वेबसाईटवर उपलब्ध आहेत. तसेच महापरीक्षा पोर्टलचे संकेतस्थळावर लिंक करण्यात आलेले आहेत.

23. Special Instructions :-

23.1.1 The Link of the Model examination will be made available on the website viz. www.mahapariksha.gov.in for the information of the candidates, to understand as to how the Software of the proposed examination should be handled.

23.1.2 Model question paper in PDF Format will be made available on the website viz. www.mahapariksha.gov.in for the candidates for practice (mock Test).

23.2 If any discrepancy is found in the information filled in in the on-line application and in the documents submitted at the time of verification of documents then, the selection of the candidate may be cancelled at any stage of recruitment process or the changes/concessions regarding social/parallel reservation or relaxation in age limit, requested by the Candidate shall be rejected.

23.3 Bringing and using the Mobile phones or any types of electronic gadgets in the Examination Hall and within the vicinity of the Examination Centre are strictly prohibited.

23.4 At the time of verification of the certificates, if any error / false information is found in the certificates or if any certificate is not produced, then the Candidate shall be declared ineligible for further process at that time itself.

23.5 All Government Resolutions / Notifications / Government Circulars mentioned in the Advertisement are available on the web-site viz. www.maharashtra.gov.in of the Government of Maharashtra. Similarly, the same are also linked to the web-site of "Mahapariksha" Portal.

२४. उमेदवारांना काही अडचण भासल्यास खालील दिलेल्या हेल्पलाईनवर वेळेत संपर्क साधावा.

अ.क्र.	संस्था / कार्यालयाचे नाव	दूरध्वनी / मोबाईल क्रमांक
१.	ऑनलाईन आवेदन अर्ज भरण्यास काही अडचण असल्यास/प्रवेश पत्राबाबत विचारणा करण्यासाठी महापरीक्षा पोर्टलशी संबंधित संकेतस्थळ व दूरध्वनी क्रमांक	enquiry@mahapariksha.gov.in हेल्प लाईन १८००३०००७७६६
२.	अपर पोलीस महासंचालक, प्रशिक्षण व खास पथके, महाराष्ट्र राज्य, मुंबई (कार्यालयीन वेळेत)	०२२-२२८५५६१४
३.	अपर पोलीस महासंचालक, प्रशिक्षण व खास पथके, महाराष्ट्र राज्य, मुंबई. यांचे e-mail id:-	adg.trg.office@mahapolice.gov.in
४.	पोलीस आयुक्त, बृहन्मुंबई कार्यालय (पोलीस भरती कक्ष) दूरध्वनी क्रमांक	०२२-२४१२३१११

24. If the Candidates face any difficulty then, they may contact on the below-mentioned Help-lines, within time.

Sr.No.	Name of Institution/Office	Telephone/Mobile No.
1.	In case of any difficulty in submitting application on-line/For making enquiry about Admit Card, the Web-site and	enquiry@mahapariksha.gov.in Helpline : 180030007766

	<i>Telephone number pertaining to the MahaPariksha Portal.</i>	
2.	<i>Additional Director General of Police, Training and Special Teams, Maharashtra State, Mumbai (within Office hours)</i>	022 – 22855614
3.	<i>E-mail id of the Additional Director General of Police, Training and Special Teams, Maharashtra State, Mumbai</i>	Adg.trg.office@mahapolice.gov.in
4.	<i>Office of the Commissioner of Police, Greater Mumbai (Police Recruitment Cell) Telephone No.</i>	022-24123111

10. The first issue which requires to be considered is whether the Petitioners were put to notice of the Full Bench hearing. In this connection it is relevant to note paragraph 9 of the Full Bench decision which reads thus:

9. Learned counsel Shri Moon has filed M.A. No.12/2023 in O.A. No.144/2022. Learned counsel Shri Moon also caused appearance for 4 candidates, who have been benefited because of the order passed by learned Nagpur Bench of the Tribunal in O.A. No.22/2022 with connected O.As. Said applicants though were initially disqualified on the ground of filling in multiple applications for one and the same post, subsequently were considered for their appointment on the strength of the aforesaid order passed in O.A. No.22/2022 with connected O.As. We though did not allow Intervention Application bearing M.A. No.12/2023, we permitted learned counsel Shri. Moon to make the submissions on behalf of the aforesaid applicants. We had directed the learned C.P.O. to ensure that the candidates, who got the benefit of the order passed in Group-I applications and have been accordingly given appointments, shall be noticed that the matter is now being heard by a Larger Bench. On 5.1.2023 learned CPO informed that total 125 candidates got the benefit and all of them are duly noticed. It was the contention of learned counsel Shri Moon that he has instructions from such 4 candidates to appear and argue on their behalf. In the circumstances, we permitted learned counsel Shri Moon to make submissions on behalf of the said applicants who stand at par with the applicants in Group- I applications.

11. It is also important to note that the Joint Commissioner of Police has in his affidavit dated 25th August 2023 on behalf of

Respondent Nos.1 and 2 stated in paragraph 4 that the Tribunal on 10th January 2023 had put up on the notice board, a notice regarding the hearing of the Full Bench and the issue raised therein. Pursuant to the Tribunal's direction, notice of the Full Bench hearing was pasted in all the units and the candidates were also served through their respective units and training centres. The notice affixed by the Tribunal dated 6th January 2023 and the notice pasted by Respondent No.2 in all the units have been annexed to the said petition.

12. In view of above, we do not accept the contention of the Petitioners that they were not put to notice about the Full Bench hearing. The affidavit on behalf of Respondent Nos.1 and 2 clearly states that not only was the notice put up on the notice board of the Tribunal but on the directions of the Tribunal, the notice of the Full Bench hearing was also pasted on the notice board of all the units and the candidates were also served through their respective units. Therefore, in our view the submissions made by the Petitioners on them not being heard by the Full Bench has to be rejected. In any event, the Petitioners have made their submissions before this Court on the merits and therefore the grievance raised would not survive. Even if we propose to remand the Petitioners to the Tribunal insofar as they are concerned, no purpose would be served because the decision of Full Bench would still

be applicable because the Petitioners were not the only parties before the Tribunal but there were other candidates also. The question referred has thereafter been decided by the Tribunal.

13. Now we propose to deal with the issue as to whether a candidate could have made more than one application for the same post in different units and if such a course of action is adopted by the Petitioners then whether their appointments are required to be terminated.

14. The Petitioners in paragraph 4, page 9 of Writ Petition No.13079 of 2023 have stated and admitted that on a reading of clause 11.10 it shows that making an application for one and the same post in more than one unit is not permissible. The Petitioners seek to rely upon clause 11.17 to however contend that only the first successful attempt of login should be considered if registration is sought through more than one login ID. In our view, the Petitioners are not justified in making a submission that there is any ambiguity in various parts of clause 11.10 so as to enable them to make more than one application in different units for the same post. Clause 11.17 that prescribes the effect of having registered for more than one login cannot be read in a manner to defeat what is stated in clause 11.10. Therefore, the contention of the Petitioners that the advertisement does not prohibit them from making

more than one application for the same post in different units is to be rejected.

15. Paragraph 2 of clause 11.10 states negatively that more than one application cannot be submitted for one and the same post in one and the same police unit. Third paragraph of the said clause 11.10 again negatively provides expressly that applications for one and the same post cannot be submitted in various police units. The conjoint reading of these two sentences in clause 11.10 in very clear term like Nelson's eye expressly prohibits the candidate from making more than one application for the same post in more than one police unit. Therefore, if the contention of the Petitioners wherein they have relied upon the definition of "police unit" as per Recruitment Rules is to be accepted, still in the light of the express clause of advertisement, the candidate cannot make more than one application for the same post in more than one police unit. On a reading of clause 11.10 of the advertisement in its entirety, there is not only an express prohibition for making more than one application for the same post in the same unit but also there is a prohibition for making an application for the same post in more than one unit. Therefore, even on pure and plain reading of clause 11.10, the submission made by the Petitioners is to be rejected. In our view, there is no ambiguity of clause 11.10 and, therefore, this

Court in the garb of judicial review cannot sit in the chair of appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary of the plain language of the same. This Court cannot adopt interpretative rewriting of clause 11.10 of the advertisement.

16. However, the Petitioners have contended that on a reading of clause 11.17 more than one application can be made and it is the first successfully submitted application which ought to be considered. In our view, this reading of clause 11.17 by the Petitioners is self-contradictory to what they have stated in paragraph 4 of the Writ Petition which we have analysed above. Even otherwise, clause 11.17 deals with a situation where a candidate has created more than one login id. In such a case, the said clause provides that successful registration of the first login id would be considered for further process like issuing hall ticket, attendance, merit list etc. and any duplicate registration shall be deemed as illegal registration. The said clause only deals with login id and it has no relation with clause 11.10 so as to construe both these clauses harmoniously in support of the Petitioners. In our view, clause 11.10 and clause 11.17 operate in two different fields, and therefore, clause 11.17 cannot come to the rescue of the Petitioners. It is also important to note that clause 11.17 expressly provides that if any erroneous

information in the first successful registration has been given by the candidate, then to know the appropriate process in that regard, a candidate can either call on the Toll Free Number or write a mail to the email address mentioned therein. The Petitioners have not availed this remedy if at all there was some confusion in the interpretation of clause 11.17. The object of clause 11.17 is only to ensure that only one login id is created by one candidate. The object behind the same is to curb the possibility of creating more than one login id and making multiple applications. The said objective is in consonance with clause 11.10 which expressly prohibits a candidate from submitting more than one application for the same post. Therefore, the harmonious construction of the two clauses is to the extent that a candidate cannot be permitted to make more than one application for the same post qua each district. Therefore, the contention of the Petitioners on this count is also required to be rejected.

17. If the Petitioners had any doubt on the interpretation of clause 11.17, they could have approached the helpline as provided in clause 24 for necessary clarification. It is not the case of the Petitioners that they had availed the said clarification. Therefore, even on this count the submission made by the Petitioners cannot be accepted.

18. It is also important to note that around 1,17,000 candidates applied for the post out of which 2,897 candidates have made multiple applications which means 97.5% of the candidates understood correctly that even on a reading of clause 11.17 and 11.10 that only one application could be made. If there was an apparent confusion on the reading of two clauses, then many candidates would have raised the grievance. The fact that almost 97.5% candidates understood the clause correctly, it cannot be said that there was any confusion or ambiguity *moreso* when the Petitioners themselves have admitted in paragraph 4 of the petition that more than one application could not have been made under clause 11.10. As opined by us earlier, the ambiguity sought to be created by the Petitioners by relying upon clause 11.17 is misconceived.

19. It is also important to note clause 4 of the said advertisement which provides that if any mistake is found in making online application then the candidature would be rejected at any stage of the selection process and the candidate will solely be responsible. This clause also justifies the action of the Respondent-State for disqualifying the candidates and/or for terminating their employment for such reason, which has been approved by the Tribunal.

20. The submissions made by the Petitioners by relying upon advertisements issued for other years are to be rejected. The fact that in

the advertisement before us there is a specific bar mentioned in the last sentence of clause 11.10 which expressly in negative terms prohibits from making more than one application for the same post in various police units, clearly shows that the appointing authority has prohibited such a course of action for the purpose of recruitment to be made by the present advertisement which is posed for our consideration.

21. The Petitioners have relied upon definition of ‘police unit’ under clause 2(g) of the Recruitment Rules, 2019, to contend that there is no prohibition in making more than one application for the same post in different units. In our view, if this interpretation is to be accepted then the last sentence of clause 11.10 which prohibits such a course of action would become redundant. A harmonious reading of the second and third paragraphs of clause 11.10 would mean that a candidate is prohibited from making more than one application for the same post in different units. The Petitioners have also understood the same as evident from the averment made in paragraph 4 of the Writ Petition. Clause 2(g) of the Recruitment Rules, 2019 defines ‘police unit’ to mean office of the Commissioner of Police or Superintendent of Police and the said definition begins with “*unless the context requires otherwise*”. The said definition does not further classify police unit region-wise whereas in the advertisement dated 30th November 2019, the recruitment is district-

wise/unit-wise. Therefore, when it comes to reading of clause 11.10 of the advertisement under consideration, the interpretation which is required to be given to the phrase 'unit' in clause 11.10 would be qua the 36 districts specified in the said advertisement. Therefore, the phrase 'unit' has to be read to mean the office of the Commissioner of Police or Superintendent of Police in each of these 36 districts and if read so then clause 11.10 in its entirety would mean that a candidate applying in one district cannot apply for the same post in another district. Therefore, in our view, the action of the Respondents cannot be faulted.

22. We now propose to deal with the decisions relied upon by the Petitioners.

23. The first decision relied upon by the Petitioners is the decision of the Supreme Court in the case of *Neelima Srivastava Vs. State of U.P & Ors.*² for the proposition that the overruling of a decision subsequently in another case would not mean that the other parties in some other proceedings, which have become final, is binding. In our view, said decision would not be applicable to the facts of the present case since the Petitioners were put to notice about the issue raised before the Full Bench with respect to the correctness of the decisions of the Tribunal which were in favour of the Petitioners. Furthermore, when it comes to

2 (2021) SCC Online SC 610

mass recruitment from a common advertisement, facts would be different than when it comes to private litigation between two parties which gets overruled in some subsequent decisions between parties subsequently.

24. The second decision relied upon by the Petitioners is the case of *State of U.P Vs. Shashi Joshi*³ for the proposition that if the service is not effected then same is not binding. We have already observed that the Petitioners have been put to notice and some of them intervened and were also heard. Therefore, merely because they were not impleaded, the Petitioners cannot contend that the decision of the Full Bench is not binding.

25. The next decision relied upon by the Petitioners is of the Rajasthan High Court in the case of *Jaheer Ahamad Vs. State of Rajasthan*⁴. The said decision has been exhaustively dealt with and correctly distinguished by the Full Bench in its decision in paras 61 to 63. In the light of the same, the reliance placed on the decision of the Rajasthan High Court cannot be of any assistance to the Petitioners before us.

26. The next decision relied upon by the Petitioners is in the case of *Dr. (Major) Meeta Sahai Vs. State of Bihar & Ors.*⁵ for the proposition

3 (2015) 3 SCC 175

4 2021 SCC Online Raj-4148

5 (2019) 20 SCC 17

that in case of ambiguity and if faced between a choice in which only a few people would be eligible versus a fairly large group, the latter ought to be adopted to have a diverse pool of applicants to promote merit and further provide equal opportunity to the masses. We fail to understand as to how this decision would be applicable to the facts of the present case moreso when the Petitioners before us are mini-scale compared to the candidates who have applied for the advertised post and correctly interpreted clause 11.10, which we have already observed above were 97.5% compared to 2.5% who have made multiple applications. On the contrary, the observation of the Supreme Court in the said decision supports the case of the Respondents rather than that of the Petitioners.

27. In view of above, looked at from any angle, the Writ Petitions are required to be dismissed with no order as to costs. In view of the disposal of the Writ Petitions, the pending interim application, if any, does not survive and is accordingly disposed of.

28. The operation of the present judgment is stayed for a period of four weeks from the date of uploading of this judgment.

[JITENDRA JAIN, J.]

[A. S. CHANDURKAR, J.]