



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.12842 OF 2024

1. Akshay s/o. Satish Shinde,
Age 29 years, Occu. Arogya Sevak,
R/o. R.No.3, Shramsafalya Housing
Society, Bajajnagar, Chh. Sambhajinagar,
Dist. Chh. Sambhajinagar
2. Gopinath s/o. Ramprasad Palwe,
Age 29 years, Occu. Arogya Sevak,
R/o. Sukhchain Hostel, Narali Bag,
Chh. Sambhajinagar, Taluka and
Dist. Chh. Sambhajinagar
3. Pravin s/o. Dhanji Shejul,
Age 29 years, Occu. Arogya Sevak,
R/o. Didgaon, Taluka Sillod,
District Chh. Sambhajinagar
4. Datta s/o. Prabhu Shinde,
Age 27 years, Occu. Arogya Sevak
R/o. Narali Bag, Near Anjali Talkies,
Khadkeshwar, Aurangabad
Taluka and District Aurangabad
5. Sameer s/o. Dayanand Dudhe,
Age 27 years, Occu. Arogya Sevak
R/o. At post Ghatkul, Taluka Pombhurna,
District Chandrapur .. Petitioners

Versus

1. The State of Maharashtra
Through its Secretary,
Rural Development and Panchayatraj
Department, Bandhkam Bhavan-35,
Marjban Road, Fort, Mumbai
2. The Zilla Parishad, Aurangabad/
Chhatrapati Sambhajinagar
Through its Chief Executive Officer
3. The Zilla Parishad, Beed
Through its Chief Executive Officer

4. The Zilla Parishad, Chandrapur
Through its Chief Executive Officer .. Respondents

**WITH
CIVIL APPLICATION NO.13481 OF 2024
IN WRIT PETITION NO.12842 OF 2024**

1. Balkrishna Bhausahab Dhakane,
Age 36 years, Occu. Nil,
R/o. At Post Shevgaon, Taluka Shevgaon,
District Ahilyanagar (MH)
2. Pradyum Pandharinath Bundhe,
Age 27 years, Occu. Nil,
R/o. Tandulvadi, Post Daregaon,
Taluka Sindakhedraja, Dist. Buldhana (MH)
3. Narendra Gulab Patil,
Age 27 years, Occu. Nil,
R/o. Takarkheda, Taluka Amalner,
District Jalgaon (MH)
4. Rhushikesh Rajendra Dandade,
Age 26 years, Occu. Nil,
R/o. At Chikli, Taluka Chikli,
District Buldhana (MH)
5. Sangmeshwar Virbhadr Swami,
Age 27 years, Occu. Nil,
R/o. At Post Sawargaon (Thot),
Taluka Ahmedpur, District Latur (MH)
6. Akshay Kishor Jadhav,
Age 27 years, Occu. Student,
R/o. At Post Rajangav Khuri,
Taluka Paithan, District Chh. Sambhajinagar (MH)
7. Pradumn Pramod Shinde,
Age 25 years, Occu. Student,
R/o. At Post Wadi (Bamni),
Taluka and District Dharashiv (MH)
8. Vivek Balasaheb Daud,
Age 26 years, Occu. Student,
R/o. At Post Shivnagari, Kannad,
District Chh. Sambhajinagar (MH)

9. Ajit Balwant Tadekar,
Age 27 years, Occu. Nil,
R/o. Near Ganpati Mandir,
Bembli, Taluka and District Dharashiv (MH)
10. Yogesh Dhawalkant Tribhuvan,
Age 27 years, Occu. Nil,
R/o. 47 A Balaji Nagar,
Opp. Mahendra Hotel Sakri Road,
Dhule, District Dhule (MH) .. Applicants

Versus

1. The State of Maharashtra
Through its Secretary,
Rural Development and Panchayat Raj
Department, Bandkam Bhavan-35,
Marjban Road, Fort, Mumbai
2. The Zilla Parishad, Aurangabad/
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Through its Chief Executive Officer
3. The Zilla Parishad, Beed
Through its Chief Executive Officer
4. The Zilla Parishad, Chandrapur
Through its Chief Executive Officer
5. Akshay Satish Shinde,
Age 29 years, Occu. Student,
R/o. R.No.3, Shramsafalya Housing Society,
Bajaj Nagar, Chh. Sambhaji Nagar,
Taluka and District Chh. Sambhaji Nagar
6. Gopinath Ramprasad Palwe,
Age 29 years, Occu. Student,
R/o. Sukhchain Hostel,
Naralibag, Chh. Sambhaji Nagar
7. Pravin Dhanji Shejul,
Age 29 years, Occu. Student,
R/o. Didgaon, Taluka Sillod,
District Chh. Sambhaji Nagar (MH)
8. Datta Prabhu Shinde,
Age 27 years, Occu. Education,
R/o. Narali Bagh, Near Anjali Talkies,
Khadkeshwar, Aurangabad,
Taluka and District Aurangabad (MH)

9. Sameer Dayanand Dudhe,
Age 27 years, Occu. Education,
R/o. At Post Ghatkul, Taluka Pombhurna,
District Chandrapur (MH) .. Respondents

**WITH
CIVIL APPLICATION NO.1503 OF 2025
IN WRIT PETITION NO.12842 OF 2024**

Maharashtra Rajya Hangami Favarni Karmchhari
Ek Vel Samaveshan Kruti Samitee,

Through its Executive President

1. Ananda s/o. Narayan Dunde,
Age 45 years, Occu. Field Worker,
R/o. Yashodhara Nagar, CIDCO,
Nanded, Taluka and District Nanded
2. Madhav s/o. Narsing Mundhe,
Age 38 years, Occu. Field Worker,
R/o. Yashodhara Nagar, CIDCO,
Nanded, Taluka and District Nanded .. Applicants

Versus

1. The State of Maharashtra
Through its Secretary,
Rural Development and Panchayatraj
Department, Bandhkam Bhavan-35,
Marjban Road, Fort, Mumbai
2. The Zilla Parishad, Aurangabad/
Chhatrapati Sambhajinagar
Through its Chief Executive Officer
3. The Zilla Parishad, Beed
Through its Chief Executive Officer
4. The Zilla Parishad, Chandrapur
Through its Chief Executive Officer
5. Akshay Satish Shinde,
Age 29 years, Occu. Student,
R/o. R.No.3, Shramasafalya Housing Society,
Bajaj Nagar, Chh. Sambhaji Nagar,
Taluka and District Chh. Sambhaji Nagar

6. Gopinath Ramprasad Palwe,
Age 29 years, Occu. Student,
R/o. Sukhchain Hostel,
Naralibag, Chh. Sambhaji Nagar
7. Pravin Dhanji Shejul,
Age 29 years, Occu. Student,
R/o. Didgaon, Taluka Sillod,
District Chh. Sambhaji Nagar (MH)
8. Datta Prabhu Shinde,
Age 27 years, Occu. Education,
R/o. Narali Bagh, Near Anjali Talkies,
Khadkeshwar, Aurangabad,
Taluka and District Aurangabad (MH)
9. Sameer Dayanand Dudhe,
Age 27 yeas, Occu. Education,
R/o. At Post Ghatkul, Taluka Pombhurna,
District Chandrapur (MH) .. Respondents

Mr. S. R. Barlinge, Advocate for Petitioner;

Mr. A. S. Shinde, Additional Government Pleader for Respondent No.1/State;

Mr. S. B. Ghute, Advocate for Respondent No.2;

Mr. L. H. Kawale, Advocate for Respondent No.3;

Mr. S. R. Dheple, Advocate for Respondent No.4

Mr. Amol B. Chalak, Advocate for Applicants in CA/13481/2024;

Mr. Vishwajeet R. Jain, Advocate for Applicants in CA/1503/2025

**CORAM : S. G. MEHARE &
SHAILESH P. BRAHME, JJ.**

RESERVED ON : 06.02.2025

PRONOUNCED ON : 07.03.2025

JUDGMENT (Per : S. G. MEHARE, J.) :-

1. **Rule.** Rule made returnable forthwith. Heard finally with consent of the learned counsel appearing for the parties.

2. Pursuant to the advertisement No.1 of 2023, issued by respondent No.2 / Zilla Parishad, Aurangabad / Chhatrapati Sambhajanagar, the petitioners are the candidates shown in the merit list for the post of *Arogya Sevak*. After the merit list was published, respondent No.1 through its Secretary issued a communication dated 15.10.2024 directing the Chief Executive Officer, Zilla Parishad to appoint the candidates first, who acquired experience as per Government Resolution dated 04.05.2025 in preference to the petitioners/candidates as per the merit list. It is the contention of the petitioners that they are meritorious students. The Recruitment Rules cannot be changed suddenly after the selection process has been completed. The recruitment was regulated by the Rules framed by respondent No.1 on 04.06.2003. Giving preference to the candidates securing same marks is no longer *res integra* by the various pronouncements of this Court as well as the Hon'ble Supreme Court. The communication dated 15.10.2024 is contrary to the recruitment Rules and against the law laid down by this Court and the Hon'ble Supreme Court. Therefore, they have prayed to quash and set aside communication dated 15.10.2024.

3. The contesting respondent is the State. The State has filed the affidavit-in-reply. They have denied the contention of the petitioners. It is their case that vide *notification* dated 04.06.2003, the recruitment to the post of *Arogya Sevak (Purush)* regulated by

the Rules framed by respondent No.1. They were published after the amendment to the Recruitment Rules. As per the eligibility for recruitment it was mentioned that the preferences would be given to the candidates who have passed Secondary School Certificate Examination with Science subject and possess experience of ninety (90) days under the *Rashtriya Malaria Pratirodh Scheme*. The ratio of appointment by way of promotion was 10:90. However, the ratio of appointment by way of nomination shall be decided between Seasonal Spraying Field Workers and other candidates is 50:40. 50% quota was for the seasonal spraying field workers. The advertisement was clear that 50% seats were for the seasonal spraying field worker. If the candidates having experience of ninety (90) days seasonal spraying field worker under the National Malaria Resistance Scheme are not available, then candidates who have the Secondary School Certificate with Science subject would be selected. They have referred to Rule 5(2) of the Maharashtra Zilla Parishads District Services (Recruitment) Rules, 1967 (for short, "Rules") and submitted that in view of those Rules, respondent No.2 took a conscious decision to fill the vacant posts of *Arogya Sevak (Purush)* and issued the impugned communication. As per notification dated 04.06.2003, the merit list should be prepared for the candidates having minimum marks in the online written examination and the candidates having experience of Seasonal Spraying Field Workers,

they should be appointed first on that posts in terms of General Administration, Government Resolution, dated 04.05.2022. In the event the eligible candidates are not available and the posts remained vacant, then the Chief Executive Officer and the Divisional Commissioner should take necessary action as mentioned in Rule 5 of the Rules. A separate merit list should be prepared for the candidates who do not have seasonal spraying field worker experience, but having higher marks in the written examination and take an action to appoint them according to the merit as per the Government Resolution dated 04.05.2022 for the remaining vacant posts. In sum and substance, it is their contention that the impugned communication is pursuant to the Recruitment Rules. It is not the change of the game rule in the midst. The petitioners were not eligible in the category which they are seeking posting on the basis of merit. They have prayed to dismiss the petition.

4. Civil Application No.13481 of 2024 for intervention is by the candidates who have been selected. They have also supported the Government and it is prayed to vacate interim protection granted as per order dated 27.11.2024.

5. Another Civil Application No.1503 of 2025 for intervention has been filed by Maharashtra Rajya Hangami Favarni Karmachari Ek Vel Samaveshan Kruti Samitee and another. Their contention is

that since the candidates are not available, the post should be kept vacant and not to be filled from the other categories.

6. Heard Mr. Barlinge, learned counsel for the petitioners at length. His argument revolves around the changing the rules of the game in the midst. He has vehemently argued that once the petitioners were selected on the merit, they should have not be deprived of recruiting against the candidates who possessed *Arogya Sevak* certificate and less marks. He further argued that there was no specific clarification as such. The impugned communication is apparently in violation of the Rules. Similarly situated Zilla Parishads have given the preference to meritorious candidates. He would submit that merit should be preferred against all other candidates. Once they have been selected based on merit, they cannot be deprived of keeping them behind the candidates who are less meritorious to the petitioners. He referred to Clause 7 of the advertisement and pointed out the qualifications of candidates for eligibility. The petitioners possess the qualification for appointment as *Arogya Sevak (Purush)* 50%. Interpreting the said clause, he has vehemently argued that the intention of the employer was not specific that the meritorious students would not be given preference and instead of them the employees having experience of 90 days under the *Rashtriya Malaria Pratirodh Scheme* would be considered. He would further argue that the terms of the advertisement could not be changed,

particularly, after the merit list has been published. It is arbitrary and perverse and demoralizing the meritorious candidates. In no case, particularly, relying on Rule 5(2) of the Rules, such communication impugned before the Court could be issued.

7. To bolster his arguments, he relied on the following cases;

- (i) *Rajesh s/o. Dnyaneshwar Rathod and another vs. Mr. Balu s/o. Namdev Bhosale and others, Writ Petition 2654 of 2023 with Civil Application No.8958 of 2023, of the Co-ordinate Bench of this Court, dated 24.08.2023;*
- (ii) *Upendra Narain Singh and others vs. State of U.P. and another, 2006 SCC OnLine All 709;*
- (iii) *Suresh Kumar Bairagi and others vs. State of Uttarakhand and others, Writ Petition No.775 of 2010 and other Petitions, 2011 SCC OnLine Utt 308;*
- (iv) *Rajveer Singh Kumawat and Others vs. Union of India and others, 2018(3) RLW 2201 (Raj);*
- (v) *Naveen Dahiya vs. State of Haryana, Laws (P&H)-2018-2-63;*
- (vi) *Anmol Kumar Tiwari and Ors. vs. State of Jharkhand and Ors. Supreme Court, Civil Appeal Nos.429-430 of 2021, dated 18.02.2021;*
- (vii) *Ashok Ram Parhad and Ors. vs. The State of Maharashtra and Ors., Supreme Court, Civil Appeal No.822 of 2023, dated 15.03.2023.*

He submits that the writ petition deserves to be allowed.

8. The Recruitment Rules dated 19 March 2003 are applied to the post of Aarogya Sevak (Purush). In those Rules, the term "Seasonal Spraying Field Workers" has been defined. The "Higher Secondary School certificate" has also been defined. The Recruitment Rules are very specific. Referring to the Rules, the learned A.G.P. would submit that the Recruitment Rules itself were clear that the preference should be given to the candidates possessing 90 days experience as seasonal spraying field workers. The ratio of nomination from such category and other category was 50:40 as contemplated in this Rules and that has been correctly adhered to. The Rule of preference to the candidates securing equal marks could not apply in this case for the reason that these posts were advertised particularly for the candidates having the experience as mentioned above. He also referred to the advertisement and vehemently argued that 50% posts i.e. 57 posts were purely reserved for the candidates who have experience. As mentioned above, the petitioners did not possess experience certificates. Hence, in view of the above Rules, the impugned communication has been issued. Thus, it does not violate the Rules and not changing the rules of game in the midst. The situation of the another Zilla Parishad was different. It was depending on the candidates found eligible and in that situation appropriate decision has been taken. Hence, the petitioners cannot claim parity. The Rules are unambiguous and the

petitioners have not been discriminated and that they have not been completely eliminated. They may be considered after posting the experienced candidates. He would submit that the case laws relied by the petitioners would not assist them. The conditions in the advertisement were unambiguous and free from infirmity. Therefore, the petition may be dismissed.

9. A small question to be determined is, whether the impugned communication dated 15.10.2024 is in violation of the Recruitment Rules and the change of the rules of the game in the midst or after the selection.

10. Both learned counsels have referred to clause (7) of the advertisement which relates to the educational qualification for the employment by nomination. Sub-clause (2) thereof was also referred to. Referring these clauses, it has been interpreted by the petitioners' counsel that primary educational qualification for the post was 12th with Science subject. It was never disclosed in the advertisement that the preference would be given to those candidates who have experience as mentioned above. He would submit that any other candidates who do not possess such experience should have to complete the primary course in three attempts within twelve months. Therefore, it cannot be said that course is exclusively for the persons who holds experience of 90 days qualification.

11. Clause (2) is reproduced for the sake of convenience which reads thus;

2	आरोग्य सेवक (पुरुष) 50 (हंगामी फवारणी क्षेत्र कर्मचारी)	विज्ञान विषय घेवुन माध्यमिक शालांत परीक्षा उत्तीर्ण झालेले उमेदवार अर्ज करण्यास पात्र असतील. राष्ट्रीय मलेरिया प्रतिरोध कार्यक्रमांतर्गत हंगामी क्षेत्र कर्मचारी म्हणुन 90 दिवसांचा अनुभव धारकांना प्राधान्य देण्यात येईल. ज्यांनी बहुउद्देशीय आरोग्य कर्मचाऱ्यांसाठी असणारा 12 महिन्याचा मुलभूत पाठ्यक्रम यशस्वीरित्या पूर्ण केलेला नसेल तर अशा उमेदवारांनी सदर प्रशिक्षण नियुक्ती नंतर तीन संधीत यशस्वीरित्या पूर्ण करणे आवश्यक राहिल. राष्ट्रीय मलेरिया प्रतिरोध कार्यक्रमांतर्गत हंगामी क्षेत्र कर्मचारी म्हणुन 90 दिवसांचा अनुभव धारक उमेदवार उपलब्ध न झाल्यास विज्ञान विषय घेवुन माध्यमिक शालांत परीक्षा उत्तीर्ण झालेले उमेदवारांची निवड करण्यात येईल.
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12. Recruitment Rules dated 19.03.2003 defines the term “Seasonal Spraying Field Workers”. Clause (3) of the Recruitment Rules provides the method of the recruitment as seasonal spraying employee (male) Gat “C”. First clause speaks about the seniority. Sub-clause (b) which is relevant to the question raised in this matter is that the candidates who fulfill the conditions would be appointed by nomination. First clause relates to the age. Second clause is about holding the higher secondary school with Science subject. However, it was provided that the candidates who have 90 days’ experience as seasonal area employee would be given preference. Ratio of the appointment by promotion and nomination was 10:90 and ratio for the seasonal spraying employee and other was 50:40.

13. The case of **Rajesh s/o. Dnyaneshwar Rathod** (supra) relied upon by the petitioners was on the fact that an advertisement was issued in respect of Craft Instructors in the Industrial Training Institute throughout the State (ITIs). The Recruitment Rules were published under Article 309 of the Constitution of India. The Recruitment Rules provide for minimum educational qualification and experience for the course of craft instructors which are in the ratio of 75:25 between promotees and direct recruits respectively. The degree or diploma in the relevant stream of engineering or ITI certificate after passing SCC with Mathematics and Science subjects or equivalent examination was also prescribed. The Director General Training (DGT), by the communication dated 27.05.2014, informed that for appointments to the post of instructors the candidate should have professional qualification as ITI pass out with National Craft Instructor Certificate for the trades where CIT Scheme course was available and candidates with a degree or diploma in relevant field of engineering having no CITS certificate to be appointed on condition that they would complete the requisite CITS training within prescribed period. It was thus directed that CITS qualification should be an essential requirement for the post of Craft Instructors. The impugned advertisement was issued without amending the Recruitment Rules. The advertisement prescribes that the preference would be given to CITS candidates in case the

scores of candidates were equal. In that case, the issue of supremacy of the Rules against the administrative guidelines was involved. However, the Tribunal held that the administrative guidelines issued by the DGT under Article 73 would not prevail over Rule 10 Article 309. On these facts and issue involved in the case, the Co-ordinate Bench held that the executive instructions / administrative guidelines issued by DGT by resorting to Article 73 would not supersede the Recruitment Rules, 1983 framed under Article 309 of the Constitution of India, pursuant to which the impugned advertisement was issued.

14. In the case of ***Upendra Narain Singh and others*** (supra), the issue for determination before the Court was, whether the directions issued by the Central Government on the recommendations of the National Council of Vocational Training (NCVT) are mandatory and binding upon the State Government which has the powers under the proviso to Article 309 to frame service rules subject to the provisions of the Constitution and acts of appropriate Legislature and further having acted upon these recommendations whether the State Government could have again amended the Rules of 1991 to bring these qualifications is arbitrary without a valid and justiciable reason. The issue involved in the present case is not identical to the issue of that case. Hence, it would not assist the petitioners.

15. The issue before the Court in the case of **Suresh Kumar Bairagi** (supra) was about essential qualification of candidates for recruitment. The relevant Rule does not provide any relaxation in respect of essential qualification but Rule 9(5) (as amended) of the Rules provides that if candidates, having essential qualification of C.T.I. certificate, are not available at the time of recruitment, other qualified candidates may be appointed, provided that candidates shall have to successfully complete the C.T.I./T.T.T.I. training within four years from appointment at their own cost. However, after the advertisement was published, the corrigendum dated 22.07.2010 imposing condition of experience certificate in the prescribed proforma alongwith T.T.T.I. was removed with a clarification that after final selection, the selected candidates will require to furnish experience certificate. Further essential condition of driving license was also removed and it was provided that selected candidates will supply license within two years from the date of the appointment. Discussing the relevant Recruitment Rules and the law, it has been held that respondents have not committed any illegality in considering the candidature of such candidates who were having other essential qualification except C.T.I. certificate and Rule 8(5)(a) of the Rules does not relax the essential qualification of 'C.T.I. Certificate' in any manner. It is also mentioned that Clause 3 of the corrigendum dated 22.07.2010 was held illegal because relaxation in essential condition of driving

license for a period of two years from the date of appointment cannot be granted. It was in violation of Service Rules. An employee is supposed to have minimum required qualification at the time of his recruitment. This case has altogether different facts. Hence, it would not help the petitioners.

16. The case of **Rajveer Singh Kumawat** (supra) was about the State Government allowing the person having lower qualification to hold the posts, the rights of such aspirants having higher and better technical qualifications, will be marred and violated, which is unconstitutional being discriminatory and violative of their constitutional rights and concept of equality. This case is again on the different issue. Hence, would not assist the petitioners.

17. In case of **Naveen Dahiya** (supra), the criteria adopted for selection was challenged. The advertisement was also impugned on the ground that it was in violation of Rule 9(3) of the Industrial Training Department, Haryana. The issue involved in this case was different and it would not help the petitioners.

18. The case of **Anmol Kumar Tiwari** (supra) was on the facts that 382 candidates were selected against 384 vacancies as candidates belonging to SC Quota for the two posts of Sergeant were not available. A High Level Committee was constituted by the State Government to examine the irregularities in the selection process. It was found that the select list was prepared wrongly by

ignoring merit of candidates and by giving undue importance to the preferences. The High Court of Jharkhand at Ranchi, had cancelled the select list. 43 persons were appointed on the basis of the revised select list that was prepared in accordance with the recommendations of the Committee. 42 candidates were terminated from their services. The High Court has allowed the writ petition of those 42 persons holding that they cannot be held responsible by committee in the matter of their selection and there is no allegation of misrepresentation on their part. They were directed to be appointed against the existing / future vacancies and should be placed at the bottom of seniority list in the revised merit list. Some intervenors who had secured more marks than the petitioners appeared in the matter. However, the Single Judge rejected their intervention on the ground that they cannot be said to be similarly situated to the writ petitioners. The State of Jharkhand had preferred Letters Patent Appeal (LPA) against the said judgment. It was also dismissed. Hence, the matter went to the Hon'ble Supreme Court. The main contention of the appellants was that admittedly they were more meritorious than the Writ Petitioners. The intervenors should have been issued the appointment as they were high on merit. However, so far as the claim of the intervenors who were meritorious, the Hon'ble Supreme Court held that the appointment of persons with lesser merit ignoring those who have secured more marks would be in

violation of the Articles 14 and 16 of the Constitution of India. It has been further observed that the intervenors secured more marks than the writ petitioners. After cancellation of appointment of the writ petitioners, 43 persons were appointed from the revised select list. By the appointment of 43 persons, the number of posts that were advertised i.e. 384 have been filled up. The intervenors have no right to appointment to posts beyond those advertised. Finally, the Court expressed disinclination to direct appointment of the intervenors as selection in issue pertain to an advertisement issued in 2008 and upheld the judgment of the High Court.

19. The case of **Ashok Ram Parhad** (supra) was about the *inter se* seniority between direct recruits and promotees. In this case, it has been held in service jurisprudence the service rules are liable to prevail. There can be Government resolutions being in consonance with or expounding the rules, but not in conflict with the same.

20. We have already reproduced the relevant clause of the educational qualification published in the advertisement and the relevant Recruitment Rules. Reading Sub-clause 2 of Clause 7 of the advertisement, we are of the considered view that 50% posts were specifically advertised for the candidates who had 90 days experience as Seasonal Spraying Field Workers. In addition thereto, the second requirement for them was to complete 12

months primary course in three attempts. If such candidates are not available then the candidates who possesses secondary certificate with Science subject would be selected. The intent of the advertisement was clear that firstly the candidates who possesses the qualification as mentioned in the first part of Clause (2) could be selected. Reading this section with the Recruitment Rules of 19 March 2003, it cannot be said that it is in violation of the Recruitment Rules. On the contrary, the rules provide that preference should be given to those candidates who possess 90 days experience as seasonal spraying workers. The selection quota for such candidates and other open candidates was 50:40. We find substance in the submission of the learned A.G.P. that clause (I) was specifically for the aspirants who possess the HSC certificate with Science subject and 40% seats were reserved for them. A sub-clause was inserted in clause (2), if the candidates from 50% quota are not available, the candidates possessing HSC with Science subject will be given appointment. Therefore, naturally the common merit list was to be prepared. Reading these clauses (1) and (2) together, one could understand that first meritorious students from the categories having HSC certificate with Science subject would be selected as per the merit and if any candidates vacancies remained vacant from clause (2), such candidates would be considered. So, by way of issuing impugned the communication dated 15.10.2024, it cannot be said it would

affect to the merit of the petitioners. This is the process of giving preferential appointment to the aspirants who possess the experience of 90 days and for them specifically 50% of the posts i.e. 57 posts were kept reserved. We do not find that impugned communication dated 15.10.2024 is affecting the rights of the petitioners or intervenor.

21. We do not find substance in the petition. Hence, the writ petition stands dismissed.

22. Pending intervention applications stand disposed of accordingly.

23. No order as to costs.

24. Rule stands discharged.

[SHAILESH P. BRAHME]
JUDGE

[S. G. MEHARE]
JUDGE

25. After the judgment is pronounced, the learned counsel for the petitioners seeks stay to the impugned order for six weeks as the stay order was operating. He would submit that the petitioners' hope to get the success. However, the learned A.G.P. and the learned counsel for the respondents strongly opposed the request, saying that around 2600 posts are to be filled up throughout the State. Only for four petitioners, such a large number of aspirants cannot be deprived of the posting.

26. We have discussed the issue and dismissed the writ petition. The recruitment process is a time consuming process. The petitioners are waiting for postings. The nature of the duties of the persons selected pertains to be health. Therefore, we do not feel it appropriate to accept the request of the learned counsel for the petitioners to stay the impugned judgment and order passed today.

[SHAILESH P. BRAHME]
JUDGE

[S. G. MEHARE]
JUDGE

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