



Niti

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.207 OF 2024**

1. Mr. Shubham D. Phadte
Age 29 years, Indian National,
resident of House No.99/B,
Kharwada, Bandora, Ponda, Goa.
2. Ugam L. Naik,
Age 29 years, Indian National,
resident of House No. 115,
Tishem, Borim, Ponda, Goa.
3. Prathamesh Ulhas Velip
Age 23 Years, Indian National,
Resident of House No.94/a,
Indrawadi Gaondongri,
Cancona South Goa.
4. Sarvesh Sunil Belgaonkar
Age 24 Years, Indian National
Resident of House No.996/E GF-5,
D wing, Tarchi Bhatt, Siolim,
Bardez, Goa.
5. Rama Suhas Kumteka
Age 31 Years, Indian National,
Resident of House No.1339,
Bapsora Velim Salcete Goa-403723.
6. Sanish Somnath Naik
Age 27 years, Indian National,
Resident of House No. 229,
Phonchebhat, Savoi, Volvoi,
Ponda Goa-403401.
7. Dattaprasad Toraskar

Age 33 Years, Indian National,
Resident of flat no 204 vineth
prestige, Corlim Mollar Tiswadi Goa.

8. Ketan Kashinath Phal Dessai
Age: 27 Years, Indian National,
Address: H.no. 33/1, Mudkud,
Agonda, Canacona, Goa 403702.

9. Aniketh Anand Kalangutkar
Age: 26 Years, Indian National,
Resident of House No 267/1,
Shivolkarwada Mulgao Assonora,
Goa 403503

10. Atul Ramchandra Gaonkar
Age:- 25 Years, Indian National,
Resident of House no. 246,
Zharachawada, Tivrem,
Ponda, Goa 403107.

11. Vishal Hari Vaigankar,
Age 30 Years, Indian National,
Resident of House 302, Khalchawada,
Arambol, Pernem, Goa-403524.

...Petitioners

Versus

1) State of Goa, Through Chief
Secretary Having office at Secretariat,
Porvorim-Goa.

2) The Personal Department,
Through its secretary, Having office
at Secretariat, Porvorim-Goa.

3) Director General of Police, Having
office at Police Headquarters,
Panaji -Goa

4) Goa Public Service Commission
Through its Chairman/Secretary,
Having office at EDC Building,
Panaji Goa.

... Respondents

Mr A.F. Diniz, Senior Advocate with Mr P. Sawant, Advocate for
the Petitioners.

Mr Deep Shirodkar, Additional Government Advocate for the
Respondents.

**CORAM : BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.**

DATE : 1st OCTOBER 2025

ORAL JUDGMENT : (*Per Bharati Dangre, J.*)

1. Since the petition is already admitted, upon the pleadings being completed, we have taken up the same for hearing.

2. Advertisement No.9 of 2023 was published by the Goa Public Service Commission, inviting applications for 28 posts of Junior Scale Officer of Goa Police Service (Deputy Superintendent of Police). The advertisement for filling up the posts in the Department of Personnel prescribed the eligibility along with the required educational and other qualifications.

The advertisement as regards the criteria for age prescribed that a candidate shall be at least 21 years of age on the last date of receipt of the application and he shall not be more than 30 years of age as on the last date of receipt of the application, with the proviso appended that the

Government may, by special order issued in that behalf, relax the upper age limit up to 40 years.

The procedure for selection contemplated a pre-screening test to be followed by a screening test for which the syllabus was prescribed, i.e. CBRT, which was to be followed by a competitive written test. In between the two tests, the physical efficiency test would be conducted.

When the process was initiated pursuant to the advertisement, a pre-screening test was conducted on 22.10.2023 and all the petitioners cleared the said test and they were assessed on the basis of Computer Based Recruitment Test (CBRT), which was held on 26.11.2023. It is the case of the petitioners that the final result of the said test was declared and they even cleared the said test.

On 12.12.2023, physical efficiency test was held and the petitioners even cleared this test and pursuant thereto they were awaiting the conduct of the written examination. At this stage, and to be precise on 24.11.2023, the Personnel Department of the State addressed a communication to the Secretary of GPSC, requesting to stop the recruitment process initiated for the post of Junior Scale Officer of Goa Police Service (Deputy Superintendent of Police) in terms of the advertisement, since the Government was contemplating to enhance the upper age limit for recruitment. The communication categorically stated thus; *“The above referred requisition for appointment by direct recruitment may be treated as withdrawn”*. This resulted into a response

by the GPSC, being addressed to the Chief Secretary, Government of Goa, by its communication dated 29.11.2023, when it placed the steps taken pursuant to the advertisement issued by it and it was stated that the process had reached testing the physical efficiency test and pursuant thereto the candidates are likely to be invited to answer a written examination as per the Goa Police Service Rules, 2022. Thereafter, the interview shall be held and the merit list of the recommended candidates, category wise will be forwarded to the Government.

The GPSC, therefore, specifically flagged the practical difficulties in the following words:

“We hope you appreciate that halting the recruitment process at this stage will not be in order and therefore the Commission has decided to continue with the recruitment process. This decision has been taken in the view of the anticipated legal issues that will arise due to premature closure of the recruitment process. We therefore strongly recommend that letter dated 24.11.2023 shall be withdrawn.”

However, on 12.12.2023, the State Government (Department of Personnel) again reiterated the decision in its communication dated 29.11.2023.

3. It is in this aforesaid circumstances, the petitioners have approached the Court, as according to them, pursuant to the advertisement being issued and since they qualified themselves through the three testes that were conducted and were ready for their appearance in the written examination, scrapping of the process of selection by the State Government and despite the serious objection being raised by the

GPSC, is found to be an arbitrary decision and the petitioners therefore seek issuance of writ of mandamus for quashing and setting aside the orders passed by the State Government on 12.12.2023 and 24.11.2023 to discontinue the ongoing selection process and a direction is sought to be issued to respondent no.4 - GPSC to continue the ongoing selection process initiated pursuant to the advertisement no.9/2023.

4. During the course of hearing of the matter today, Mr Shirodkar, the learned Additional Government Advocate, has placed before us a Notification dated 19.09.2025 issued by the Department of Personnel, in exercise of powers conferred by proviso to Article 309 of the Constitution and in consultation with the Goa Public Service Commission, thereby amending the Goa Police Service (Goa Police Service Rules, 2022). Amongst the various amendments, the amendment with which we are concerned is in Rule 8 of the principal rule in item (ii) for clause (b) as the clause stands substituted with the following clause:

“(b) He shall not be more than 40 years of age on the last date of receipt of the application; provided that the upper age limit may be relaxed by the Government in respect of the Government servants and other categories of persons as may be notified by the special order issued in this behalf by the Government for maximum up to 45 years.”

By placing reliance upon the said Notification, Mr Shirodkar is under instructions to make a statement that since the earlier process initiated vide advertisement no.9/2023 is cancelled/scrapped, by invoking the new rules and the change introduced therein, a fresh

advertisement shall be issued inviting applications for filling up the post in question.

Upon this statement being made before us, we indicated that the petitioners can now participate in the process to be initiated pursuant to an advertisement being issued based upon the amended Goa Police Service Rules, 2022, which has now enhanced the maximum age limit for the candidates to be 40 years by substituting the earlier prescribed age of 30 years. However, learned Senior Counsel Mr Diniz, does not agree to this submission and preferred to advance his arguments as according to the decision taken by the State Government in scrapping the process cannot be sustained on various counts.

The learned Senior Counsel would submit that the well-known principle that rules of the game cannot be changed once the game has begun as reiterated in the decision of the Constitution Bench of the Apex Court in case of *Tej Prakash Pathak and Ors. V/s. Rajasthan High Court and Ors.*¹ and once the advertisement was issued by specifically clarifying that the selection of the candidates shall be in accordance with the relevant Rules in force, it is not open for the State Government to half way scrap the process and now advance a contention that since the Rules are now amended a fresh process shall be initiated. He would also place reliance upon the decision of the Apex Court in case of *N.T. Devin Katti and Ors. V/s. Karnataka Public Service Commission*

¹ (2025) 2 SCC 1

and Ors.², to submit that it is a settled principle that when advertisement expresses the steps that appointments shall be made in accordance with the existing Rules or order, subsequent amendment in the existing Rules or order will not affect the pending selection process unless the contrary intention is expressly or impliedly indicated. This decision having been followed in case of **Assam Public Service Commission and Ors. V/s. Pranjal Kumar Sarma and Ors.**³, it the submission advanced by the learned Senior Counsel that the norms existing on the date selection process begins will control the selection and alteration to norms do not affect the ongoing process unless new rules are given retrospective effect. He would also invite our attention to the stand adopted by the GPSC in its communication when it wrote to the State Government that it will not be advisable to discontinue the process as the process was already under way and has reached up to the stage of the conduct of the physical test and the candidates are now ready for appearance in the written examination, pursuant thereto interviews shall be held and the selection list shall be declared.

Mr Diniz has also placed reliance upon the decision of this Court in case of **Vikas Balwant Alase and Ors. V/s. Union of India through Secretary and Ors.**⁴ and, in particular, the observations recorded in the

² (1990) 3 SCC 157

³ (2020) 20 SCC 680

⁴ 2022 SCC OnLine

decision of the Division Bench as regards the applicability of the norms/the rules, when the advertisement was issued.

5. In the wake of aforesaid arguments, we have carefully perused the pleadings in the petition and also perused the reply affidavit filed on behalf of respondent nos.1 and 2. The petition itself is accompanied with the necessary notings in this regard as to how the file was moved and a decision was arrived at to recall the process initiated pursuant to an advertisement issued and the notings, placed on record in form of Annexure G, refer to the existing provisions in form of Goa Police Service Rules 1977 and make a detailed reference to the method of recruitment as well as the existing vacancies. Recording that the sanctioned strength of the posts of Deputy Superintendent of Police is 65 and only 3 posts are filled on regular basis and almost 95% of the posts are vacant, a decision was taken to take up the drive of filling up the said posts and accordingly an advertisement was issued, in accordance with the existing Goa Police Service Rules 2022. However, the noting also contained the details of the proposal being forwarded to the GPSC requisitioning the process to be undertaken for filling up the said posts and pursuant thereto the GPSC undertook the process by inviting applications for filling the said posts. However, when the process is in progress, the noting in the file from the Department of Personnel record that during the ongoing process of recruitment for the said posts, it was subject matter of several complaints and criticism, which is also being raised in the media, specially due to the upper age limit prescribed for

being eligible to apply for the post. It further record that it was brought to the notice of the Hon'ble Chief Minister that the posts have been advertised prescribing 30 years as the upper age limit for the general category, whereas for the same level posts in the civil services, the upper age limit prescribed is 40 years. More so, it also makes a reference to numerous representations to increase the upper age limit, considering the fact that the posts have not been filled on a direct recruitment basis for more than 25 years. The noting, therefore, recorded as below:

“This being the fact, need has been felt that the upper age limit for Junior Scale Officers of Goa Police Services need to be renewed and enhanced. Hence, the ongoing process of recruitment and advertisement may be withdrawn immediately”.

Thereafter, the opinion of the Advocate General was sought, and the noting further record that in pursuant to the said Notification where the Government was advised to withdraw the advertisement of ongoing recruitment process of Junior Scale Officer (Group A Gazetted), the Department on 24.11.2023 informed GPSC to stop the recruitment process as the Government was contemplating to enhance the upper age limit for recruitment and to withdraw the requisition for appointment of direct recruitment. The noting also referred to the objection raised by the GPSC by its letter dated 29.11.2023 and the Government decided to continue maintaining the status quo. However, upon due deliberation, the decision is arrived that in the view of the anticipated legal issues, the advertisement shall be recalled and a fresh advertisement shall be issued as and when the fresh Rules are published. The noting placed before us

collectively also include a note from the office of the Hon'ble Chief Minister dated 01.03.2023, which specifically records thus:

“NOTE

The ongoing process of recruitment for the posts of Junior Scale Officer of Goa Police Service has been subject matter of several complaints and criticism which has also been raised in media, especially due to upper age limit prescribed for being eligible to apply for the posts. It is brought to my notice that posts have been advertised prescribing 30 years as upper age limit for the General category, whereas for same level posts in the Civil service the upper age limit prescribed is 40 years of age: I have also received numerous representations to increase the upper age limit considering the fact that the posts have not been filled on direct recruitment basis for last more than 25 years. This being the fact I feel it appropriate that the upper age limit for Junior Scale of Goa Police Service needs to be reviewed and enhanced. Hence the ongoing process of recruitment and advertisement may be withdrawn immediately.”

5. On perusal of the aforesaid noting we could see that the Department adopted the procedure before it took a decision to recall the process and it was in the wake of the circumstances which are set out in the noting that representations being received from various corners requesting for enhancement of the age and since this issue was under consideration, the Government decided to recall the process. The GPSC had objected to this proposed action on the count that process has moved ahead but the Government remained consistent in its stand of reconsidering the enhancing the maximum age limit for recruiting the persons to the posts of Junior Scale Officer (Deputy Superintendent of Police). Ultimately, it is only on 19.09.2025, by invoking the power

conferred under the proviso to Article 309 of the Constitution, the Government of Goa has amended the Goa Police Service Rules, 2022, and has prescribed the maximum age limit years to be 40 years as on the last date of receipt of the application.

6. The aforesaid exercise is subject to severe criticism by Mr Diniz on the ground that it was not permissible for the Government to recall the process as the petitioners had a legitimate expectation of consideration of their candidature pursuant to the advertisement being issued and since they stood a chance for getting selected meeting the educational and other criteria, and particularly when they had crossed three stages of selection. It is worth to note that and in fact the decision relied upon by Mr Diniz in the case of *N.T. Devin Katti & Ors.* (supra) itself has reiterated the well settled position that no doubt the candidate has a right to be considered in accordance with the terms and conditions of the advertisement but definitely he does not acquire any vested right of selection but if he is eligible and otherwise qualified in accordance with the relevant Rules and the terms contained in the advertisement he acquires a right of being considered for selection. It is a trite position in law that even if the name of the candidate features in the select list, he cannot claim it as a right to be appointed.

7. In *N.T. Devin Katti & Ors.* (supra), the Apex Court in paragraph no.11 has reiterated this position and the meaningful reading of the observation of the Apex Court reads to the following effect:

“11. There is yet another aspect of the question. Where advertisement is issued inviting applications for direct recruitment to a category of posts, and the advertisement expressly states that selection shall be made in accordance with the existing rules or government orders, and if it further indicates the extent of reservations in favour of various categories, the selection of candidates in such a case must be made in accordance with the then existing rules and government orders. Candidates who apply, and undergo written or viva voce test acquire vested right for being considered for selection in accordance with the terms and conditions contained in the advertisement, unless the advertisement itself indicates a contrary intention. Generally, a candidate has right to be considered in accordance with the terms and conditions set out in the advertisement as his right crystallises on the date of publication of advertisement, however he has no absolute right in the matter. If the recruitment Rules are amended retrospectively during the pendency of selection, in that event selection must be held in accordance with the amended Rules. Whether the Rules have retrospective effect or not, primarily depends upon the language of the Rules and its construction to ascertain the legislative intent. The legislative intent is ascertained either by express provision or by necessary implication; if the amended Rules are not retrospective in nature the selection must be regulated in accordance with the rules and orders which were in force on the date of advertisement. Determination of this question largely depends on the facts of each case having regard to the terms and conditions set out in the advertisement and the relevant rules and orders. Lest there be any confusion, we would like to make it clear that a candidate on making application for a post pursuant to an advertisement does not acquire any vested right of selection, but if he is eligible and is otherwise qualified in accordance with the relevant rules and the terms contained in the advertisement, he does acquire a vested right of being considered for selection in accordance with the rules as they existed on the date of advertisement. He cannot be deprived of

that limited right on the amendment of rules during the pendency of selection unless the amended rules are retrospective in nature.”

A meaningful reading of this observation, in fact confirms the settled legal position that when a candidate is to be considered for appointment pursuant to an advertisement being issued his consideration shall be strictly in accordance with the stipulations set out in the advertisement, which may be based upon the recruitment rules or any conditions governing the appointment to the said post. If such Rules are amended and unless and until they are amended retrospectively, in that event, the selection must be held in accordance with the amended rules. Everything would ultimately depend upon whether the rules will have a retrospective applicability or not.

8. The reliance placed by the learned Senior Counsel in case of *Tej Prakash Pathak* (supra), which has focused its attention on the doctrine prescribing change of rules midway through recruitment process or after recruitment process, being predicated on the rule against arbitrariness enshrined under Article 14 of the Constitution, in our opinion, is not applicable to the present case as here we do not find that the rules of the game have been changed but since the State Government decided to enhance the maximum age limit for the candidates to qualify themselves for the said post, the State Government deemed it appropriate to cancel the whole process, as it would be seen that if it would have brought the said Rules in the midway while the process was on, the candidates who

had already applied would have been put to disadvantageous situation as there would have been some other candidates, who would have found a way into the recruitment process but in any case to avoid this legal complicity the State Government deemed it appropriate to call of the process till the rules are amended and after due deliberation and in the wake of the powers conferred on the State Government by virtue of Article 309 prescribing the conditions of service, the Goa Police Service Rules themselves are amended to prescribe a higher age limit.

9. In our considered opinion, the petitioners do not have a vested right to be appointed to a post merely because they have participated in the selection process and this is not a case where we find that the rules of the game have been changed midway. In fact, we find that the game itself has been cancelled to pave the way for the new game to begin pursuant to an advertisement being issued incorporating the new conditions as contemplated by the Notification dated 19.09.2025.

Finding no merit and substance in the petition, we dismiss the same.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.