IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 2614 of 2025

1. National Highways Authority of India; through its Chairman, having address at G-5 & 5 Sector 10, Dwarka, P.O. & P.S.-Dwarka Court Complex, Sector 10, Dwarka, District-New Delhi-110075;
2. The General Manager (HR/Admin)-II A, National Highways Authority of India, G-5 & 5 Sector 10, Dwarka, P.O. & P.S.-Dwarka Court Complex, Sector 10, Dwarka, District-New Delhi-110075;

   Both being represented by their duly authorized representative Mr. Ravi Chauhan, aged about 52 years, son of Late H.S.S. Chauhan, posted as Deputy General Manager (Administration), National Highways Authority of India, having address at G-5 and 6, Sector 10, Dwarka, P.O. & P.S.-Dwarka Court Complex, Sector 10, Dwarka, District-New Delhi-110075;
3. Project Director, National Highways Authority of India (NHAI), Project Implementation Unit, having office address at House No.293/C, Road No.1, Ashok Nagar, P.O.-Doranda, P.S.-Argora, District-Ranchi.

…….. Petitioners

Versus

1. Purna Chandra Kahili, son of Late Rasaraj Kahili, resident of At and P.O.-Mohulishole, P.S.-Dhalbhumgarh, District-East Singhbhum;

……. Respondent

2. Union of India, through the Secretary, Ministry of Road, Transport and Highways, having address at 1, Parliament Street, Transport Bhawan, P.O. & P.S. Parliament Street, District- New Delhi-110001.

…… Proforma Respondent

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioners: Mr Indrajit Sinha, Advocate
Mr Kartikeya Asthana, Advocate
Ms Ashwini Priya, Advocate
Mr Tushar Agrawal, Advocate

For the Respondent: Mr Ajit Kumar, Sr. Advocate
Mr Abhishek Abhi, Advocate
Ms Tanya, Advocate

Reserved on: 17.09.2026 **Pronounced on:25/09/2026**

***Per* M. S. Sonak, C.J.**

1. Heard learned counsel for the parties.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

3. The petitioner, National Highways Authority of India (NHAI), assails the judgment and order dated 06.02.2025 passed by the Central Administrative Tribunal, Patna, Circuit Bench at Ranchi (Tribunal), which allowed O.A. No. 051/00446/2024 instituted by the respondent herein.

4. By the impugned judgment and order, the Tribunal quashed the Memorandum dated 27.06.2024 by which the 1st respondent was reverted from the post of Deputy General Manager (Technical) to the post of Technical Assistant and directed his restoration to the post of Deputy General Manager (Technical), with all consequential benefits, including promotion and salary, with effect from 27.06.2024.

5. By order dated 06.08.2025, the Coordinate Bench of this Court declined the motion for an urgent hearing and further declined to stay the operation of the impugned judgment and order dated 06.02.2025 in O.A. No. 051/00446/2024.

6. The appellants challenged the order dated 06.08.2025 by preferring an S.L.P. against the said order. The Hon'ble Supreme Court disposed of the SLP by passing the following order on 19.08.2026:

1. The petitioner challenges the judgment/order dated 06.08.2025 in IA No. 6682 of 2025 in Writ Petition (S) No. 2614 of 2025 passed by the High Court of Jharkhand at Ranchi.

2. We have heard learned senior counsel/counsel appearing for the respective parties.

3. In the interest of justice, we dispose of the present Special Leave Petition with the following directions:

a) Let the matter pending before the High Court be decided expeditiously in accordance with law, for the reason that this Court has not passed any interim order and the main matter needs to be decided on an expeditious basis;

b) We request the <u>High Court to take up and decide the matter within a period of two months from the date the parties appear</u>;

c) The parties shall appear before the High Court on 31.08.2026; and

d) We only hope and expect that the respondent(s) shall not press the contempt petition(s) till such time the matter is decided by the High Court.

4. Pending application(s), if any, shall stand disposed of.

7. Pursuant to the above-mentioned direction of the Hon'ble Supreme Court, the matter was taken up out of turn, on an urgent basis, to ensure compliance with the direction of the Hon'ble Supreme Court.

8. The above-referred challenge arises in the context of the following facts and circumstances: -

a. The 1st respondent, i.e. the petitioner in O.A. No. 051/00446/2024, was initially appointed as a Draftsman with NHAI on 25.06.1997. The post of Draftsman was subsequently redesignated as "Technical Assistant".

b. While in service, and with NHAI's permission, the 1st respondent obtained a Diploma in Civil Engineering. Thereafter, the 1st respondent enrolled for the B. Tech course at Janardan Rai Nagar Rajasthan Vidyapeeth (JNR Rajasthan Vidyapeeth) for the academic years 2008-2011 and obtained a B. Tech Degree in Civil Engineering.

c. The record further reveals that in August 2011, NHAI issued an advertisement inviting applications to fill the post of Manager (Technical) on a deputation basis. The advertisement prescribed "*a degree in Civil Engineering from a reputed institute of technology or a recognised university*" as an essential educational qualification.

d. In addition, Condition No. 5 of the advertisement also permitted regular employees of NHAI who fulfilled the eligibility conditions prescribed for promotions to apply. It

further provided that if such regular employees of NHAI were to be selected, their appointment would be treated as a promotion in accordance with applicable guidelines.

e. The 1st respondent, based *inter alia* on his B. Tech Degree in Civil Engineering from JRN Rajasthan Vidyapeeth, applied for appointment to the post of Manager (Technical) in response to NHAI's advertisement of August 2011.

f. The 1st respondent's candidature was considered, and he was appointed as Manager (Technical) vide office order dated 27.02.2015, with effect from 18.05.2012. The record also shows that the 1st respondent was subsequently promoted/posted as Deputy General Manager (Technical), with effect from 18.05.2016.

g. In the case of **Orissa Lift Irrigation Corpn. Ltd v. Rabi Shankar Patro, (2018) 1 SCC 468,** the Hon'ble Supreme Court declared that degrees obtained through distance education from colleges and deemed universities *"shall stand recalled and be treated as cancelled".* Further, the Hon'ble Supreme Court declared that "*any benefit a candidate secured as a result of such engineering degrees in the nature of promotion or career advancement shall also stand recalled"*. However, if the candidate derived any monetary benefit, the department or the employers

concerned would not recover the monetary benefit or advantage.

h. Such directions are contained in paragraphs 59 and 66.7, and therefore, the same are transcribed below for the convenience of reference:-

> ***"59.*** *As regards the students who were admitted after the ex post facto approval granted in favour of such deemed to be universities, in our view, there was no sanction whatsoever for their admission. The policy statements as well as warnings issued from time to time were absolutely clear. The students were admitted on the strength either of provisional recognition or on the strength of interim orders passed by the High Court.* ***We therefore, declare that in respect of students admitted after the academic sessions of 2001-2005, the degrees in Engineering awarded by the deemed to be universities concerned through distance education mode shall stand recalled and be treated as cancelled. Any benefit which a candidate has secured as a result of such degrees in Engineering in the nature of promotion or advancement in career shall also stand recalled.*** *However, if any monetary benefit was derived by such candidates that monetary benefit or advantage will not be recovered by the departments or employers concerned. We, further direct that the entire amount*

paid by such students to the deemed to be universities concerned towards tuition fee and all other expenditure for such courses through distance education learning shall be returned by the deemed to be universities concerned to the respective students. This direction shall be complied with by the deemed to be universities concerned scrupulously and the amounts shall be returned by 31-5-2018 and an appropriate affidavit to that extent shall be filed with UGC *within a week thereafter.*

66.7. As regards students who were admitted after the academic sessions 2001-2005, their degrees in Engineering awarded by the deemed to be universities concerned through distance education mode stand recalled and be treated as cancelled. All benefits secured by such candidates shall stand withdrawn as indicated in para 59 above*. However, the entire amount paid by such students to the deemed to be universities concerned towards tuition fees and other expenditure shall be returned by the deemed to be universities concerned by 31-5-2018, as indicated in para 59."*

i. By a subsequent order dated 22.01.2018, the Hon'ble Supreme Court modified the above declarations/directions and granted some dispensation to candidates admitted during the academic session 2001-2005, subject to their clearing a special exam. However, there is no dispute that the 1st respondent did not fall within the 2001-2005 window; therefore, the 1st respondent did not take the special exam, and the dispensation did not apply.

j. In pursuance of the above-referred declarations and directions of the Hon'ble Supreme Court, NHAI reverted the 1st respondent from the post of Deputy General Manager (Technical) to the post of Technical Assistant by order dated 01.03.2021.

k. The 1st respondent challenged the reversion order dated 01.03.2021 before the Tribunal by instituting O.A. No. 238 of 2021. The Tribunal dismissed this on 18.02.2022.

l. The 1st respondent then challenged the Tribunal's judgment and order dated 18.02.2022 and the reversion order dated 01.03.2021 before this Court by instituting W.P. (S) No. 1269 of 2022.

m. By judgment and order dated 8th September 2022, this Court allowed the 1st respondent's W.P. (S) No. 1269 of 2022, quashed the Tribunal's judgment and order dated 18.02.2022 and the reversion order dated 01.03.2021 on the ground that such a reversion order could not have been

made without minimum compliance with the principles of natural justice.

n. However, this Court, after observing that the empty formality or the useless formality did not apply in the present case since there appeared at least two plausible interpretations of the NHAI (Recruitment, Seniority and Promotion) Regulations, 1996 (1996 Regulations), directed the NHAI to take a fresh decision after issuing a show cause to the 1st respondent.

o. The NHAI challenged this Court's judgment and order dated 08.09.2022 in W.P. (S) No. 1269 of 2022 before the Hon'ble Supreme Court by instituting S.L.P. (C) No. 9775/2023. However, the Hon'ble Supreme Court dismissed the said SLP on 08.05.2023.

p. Accordingly, NHAI restored the 1st respondent to the post of Deputy General Manager (Technical) vide order dated 22.05.2023 and issued a fresh show cause notice dated 17.07.2023, requiring him to show cause as to why he should not be reverted.

q. The 1st respondent filed a detailed response on 04.08.2023, and after considering it, NHAI, vide memorandum dated 27.06.2024, once again reverted the 1st respondent from the post of Deputy General Manager (Technical) to the post of Technical Assistant.

r. The 1st respondent then challenged the NHAI's memorandum dated 27.06.2024 before the Tribunal by instituting O.A. No. 051/00446/2024. By the impugned judgment and order dated 06.02.2025, the Tribunal allowed the 1st respondent's O.A. and quashed the NHAI's memorandum dated 27.06.2024.

s. Aggrieved by the Tribunal's impugned judgment and order dated 06.02.2025 allowing the 1st respondent's O.A. No. 051/00446/2024, the NHAI has instituted the present petition challenging the same.

9. Mr Indrajit Sinha, the learned counsel for the petitioner-NHAI, submitted that the Tribunal has committed an error apparent on the face of record in holding that this Court's judgment and order dated 08.09.2022 had already concluded that the essential educational qualifications of a degree prescribed under Column -7 in the Schedule to the 1996 Regulations would not apply in the case of promotion to the post of Manager Technical) because Column-7 & 8 had to be read and construed independently.

10. Mr Sinha submitted that this Court, in terms, left this issue open, and the Tribunal, based on a misreading and misconstruction, held itself bound by observations that do not even appear in this Court's judgment and order dated 08.09.2022. He submitted that, for this error apparent on the face of the record, the Tribunal's impugned judgment and order deserve to be set aside.

11. Mr Indrajit Sinha submitted that the positions of the Manager (Technical) and Deputy General Manager (Technical) were high-ranking posts in the technical section. He submitted that on a holistic and correct interpretation of the 1996 Regulations, it was apparent that the possession of a degree in civil engineering was an essential qualification for these posts. He submitted that the advertisement of August 2011 had specified that this was an essential qualification. Even the 1st respondent applied on the premise that he fulfilled this essential qualification.

12. Mr Sinha therefore submitted that neither the 1st respondent nor the CAT was justified in holding that a degree in civil engineering was not an essential qualification after the 1st respondent's degree from the JRN Rajasthan Vidyapeeth was recalled and cancelled under the orders of the Hon'ble Supreme Court and directions were issued to divest candidates like the 1st respondent of the benefits obtained by them based upon such degrees. He submitted that such approbation and reprobation cannot be allowed and the CAT has failed to appreciate these crucial aspects; the impugned judgment and order warrants interference.

13. Mr Indrajit Sinha submitted that the August 2011 advertisement was essentially an invitation to apply for appointment as Manager (Technical) on deputation, not for transfer on deputation. Relying on **Ashok Kumar Ratilal Patel v. Union of India,** reported in **(2012) 7 SCC 757,** Mr Indrajit Sinha contended that the essential qualifications prescribed in the advertisement would apply

uniformly to in-house and out-house candidates. He submitted that applying differential qualifications would infringe Articles 14 and 16 of the Constitution.

14. Mr Indrajit Sinha submitted that the 1996 Regulations nowhere provide for filling up the post of Manager (Technical) by promotion. He submitted that even if the 1st respondent's case to the contrary is accepted, then the feeder category would be the post of Assistant Manager (Technical). He submitted that even this alleged feeder-category post requires a degree in civil engineering as an essential qualification. Therefore, he submitted that an absurd situation would arise if, for a feeder-category post, a degree in civil engineering was essential, but such a degree was construed as non-essential for the next higher post of Manager (Technical). He submitted that the interpretation which led to such absurd and startling results should not be approved by this Court.

15. Mr Indrajit Sinha submitted that no amount of experience can substitute for the essential qualifications prescribed under the Rules. The Tribunal's view to the contrary, therefore, was flawed, as errors were apparent on the face of the record, and was further contrary to the law laid down in the **State of M.P. v. Dharam Bir**, (1998) 6 SCC 165.

16. Mr Indrajit Sinha submitted that the appellant had no option but to withdraw the benefits secured by the 1st respondent based on the engineering degree which was recalled and treated as cancelled under the orders of the Hon'ble Supreme Court. He submitted that

the impugned judgment and order virtually requires the appellant to act in defiance of the order of the Hon'ble Supreme Court in the case of **Orissa Lift Irrigation Corpn. Ltd.** (Supra). He submitted that this is yet another ground warranting interference with the impugned judgment and order made by the Tribunal.

17. Finally, Mr Indrajit Sinha submitted that the posts of Manager (Technical) and Deputy General Manager (Technical) were senior technical posts. He submitted that, even if any ambiguity existed in the 1996 Regulations, it had to be resolved by holding that a degree in civil engineering was an essential qualification, and not otherwise. He submitted that allowing a person to hold such a senior post without even a basic degree in civil engineering would severely compromise public faith and endanger public safety in the engineering projects undertaken by NHAI on a routine basis.

18. For all these reasons, Mr Indrajit Sinha submitted that the Tribunal's impugned judgment and order may be quashed and set aside.

19. Mr Ajit Kumar, the learned Senior Advocate appearing for the 1st respondent, defended the Tribunal's impugned judgment and order based on the reasoning reflected therein. He submitted that since this Court was not sitting in appeal over the Tribunal's judgment and order, in the absence of any error apparent on the face of record or perversity, this Court ought not to interfere with the Tribunal's impugned judgment and order.

20. Mr Ajit Kumar, after taking us to the 1996 Regulations, first submitted that Regulation 5, when read with Column 6, 7 & 8 of the Schedule, makes it evident that the post of Manager (Technical) was also a post capable of being filled by promotion. He submitted that nothing in the 1996 Regulations indicates that a degree in Engineering was an essential qualification even for filling the post by promotion, as the Tribunal correctly held in the impugned judgment and order. He submitted that since the Tribunal's view was a correct one or, in any event, the most plausible one, this Court ought not to interfere with the Tribunal's well-reasoned judgment and order.

21. Mr Ajit Kumar submitted that Regulation-5, read with Columns 6, 7 & 8 of the Schedule to the 1996 Regulations, was unambiguous. Therefore, he submitted that there was no good reason to depart from the Rule of literal interpretation as was held by the Hon'ble Supreme Court in the cases of **CCI v. SAIL**, (2010) 10 SCC 744, **Hardeep Singh v. State of Punjab**, (2014) 3 SCC 92, **CCE v. Universal Ferro & Allied Chemicals Ltd.,** (2020) 5 SCC 332, **Lifestyle Equities C.V. & Anr v. Amazon Technologies Inc**, 2025 INSC 1190, and **Gopal Krishan v. Daulat Ram**, (2025) 2 SCC 804.

22. Mr Ajit Kumar also submitted that the word "or" in Column-8 of the Schedule to the 1996 Regulations must be read as "or" and not be read as "and" in the facts and circumstances of the present case. He submitted that the use of the word "or" in Column 8 clearly

distinguishes the eligibility criteria with respect to the different modes of recruitment for the post of Manager (Technical). He relied on **LIC v. D.J. Bahadur**, (1981) 1 SCC 315, to support his contention.

23. Mr Ajit Kumar also submitted that the 1996 Regulations provide for three modes of recruitment to the post of Manager (Technical). He submitted that, for all three modes, the criteria and eligibility conditions cannot be the same. He submitted that the eligibility conditions in Columns 6 and 7 applied only to direct recruitment and not to promotions, deputation or transfer. He pointed out that several alternatives were provided in Column 8 and were separated by the expression "or". On that basis, Mr Ajit Kumar submitted that the Tribunal's impugned judgment and order was correct and warranted no interference.

24. Mr Ajit Kumar submitted that the 1st respondent had already obtained a diploma in engineering besides working for several years in the technical section of NHAI. He submitted that after all these years, it was too much to contend that the 1st respondent did not possess the essential requirement even for promotion to the post of Manager (Technical) or Deputy General Manager (Technical) with the NHAI.

25. Mr Ajit Kumar submitted that NHAI constituted a committee to determine whether a degree in civil engineering was a necessary qualification for appointment to the post of Manager (Technical) or Deputy General Manager (Technical). One member agreed with

the 1st respondent's contention, but the other two members did not properly examine whether a degree in civil engineering was indeed necessary. Accordingly, he submitted that the impugned reversion was without proper consideration and interpretation of the 1996 Regulations and other relevant factors. Accordingly, he submitted that the Tribunal correctly interfered with the reversion order, and that the Tribunal's impugned judgment and order require no interference.

26. Mr Ajit Kumar submitted that wherever the qualification degree in civil engineering was deemed essential, the 1996 Regulations have said so in clear and unambiguous terms. However, insofar as promotion is concerned, the 1996 Regulations state no such requirement. Therefore, by any mode of interpretation or construction, such a requirement would not be read into the 1996 Regulations for promotion to the post of Manager (Technical). He submitted that such a construction would be contrary to all the settled principles of statute.

27. Mr Ajit Kumar finally submitted that the Regulations were amended in 2022 and that the Tribunal properly considered the impact of such amendments in its impugned judgment and order. He submitted that the appellant's arguments overlook the impact of the 2022 amendments and therefore ought not to be accepted.

28. Finally, Mr Ajit Kumar submitted that if the appellant's interpretations were to be accepted, then that would leave a Technical Assistant with no promotional avenues. Such an

interpretation would be contrary to the law laid down by the Hon'ble Supreme Court in the case of **Council of Scientific and Industrial Research v. K.G.S. Bhatt**, (1989) 4 SCC 635, and in **O.Z. Hussain (Dr) (Ms) v. Union of India**, 1990 Supp SCC 688.

29. For these reasons, Mr Ajit Kumar submitted that this petition should be dismissed.

30. The rival contentions now fall for our determination.

31. Much of the controversy in this matter centres on the interpretation of Regulations 4 and 5, and of columns 5, 6, 7 and 8 of the schedules, insofar as they relate to appointment to the post of Manager (Technical) with the NHAI. We have no doubt considered these provisions in juxtaposition with the others in the 1996 Regulations.

32. Therefore, it is only appropriate that we transcribe the above-referred provisions, insofar as they concern appointment to the post of Manager (Technical): -

4	*5*	*6*	*7*	*8*
4500 - 5700	*Transfer on deputation/promotion/ direct recruitment*	*40 years*	*Educational Qualification Essential (i) Degree in Civil Engineering from a reputed Institution of Technology or a recognised University.* *Desirable* *Post Graduate Degree in Civil Engineering in the fields relating to Highway Engineering and/or Post Graduate Degree in Management/MBA from*	*By deputation/transfer from candidates already on the panel of Under Secy. in the Govt. of India and possessing the Educational qualifications stipulated in Col. 7 or from candidates holding analogous post in a Central/State*

			an Institute of repute. *Experience* *Should, have put in at least 3 years service in a responsible senior position in a Govt. Deptt./Public Sector Undertaking/Commercial Organisation of repute and should be working in a analogous post or the post next below or equivalent for at least 3 years.* *Desirable* *Should be well versed in the field of Highway/Bridge Engineering dealing with Planning, Pre-qualification of Consultants and Contractors; Financial Appraisal of Projects; Detailed Designing, Techno-financial reviews; Evaluation of Tenders Contract Management; Monitoring Liaison with major construction agencies/Govt., Bodies; Performance Appraisal of Major Highways/Bridge Projects.*	*Govt. Deptt./ Autonomous Body/Public Sector Undertaking or with 3 years regular service in the scale of Rs. 2200-4000 or 6 years in the scale of Rs. 2000-3500.*

33. On a prima facie construction of the above rules, the Coordinate Bench of this Court, in its judgment and order dated 08.09.2022 in W.P(S) No. 1269 of 2022, instituted by the 1st Respondent in the earlier round of litigation, observed that 1996 Regulations were capable of at least two interpretations and therefore, by resorting to empty formality theory or the useless formality theory, the

principles of natural justice could not have been dispensed with by the NHAI, before ordering the 1st Respondent's reversion.

34. The Coordinate Bench of this Court, in its judgment and order dated 08.09.2022, therefore set aside the reversion order but remanded the matter to the 1st Respondent to issue a show-cause notice and then dispose of it after considering the cause that the 1st Respondent might show in the matter. The Coordinate Bench specifically observed that it was "***consciously refraining from expressing any final opinion on the interpretation of Column 8 in Schedule to 1996 Regulations relating to the promotion to the post of Manager (Technical) with the NHAI".***

35. The above position is quite clear on perusal of paragraphs 32 and 33 of the Coordinate Bench's judgment and order dated 08.09.2022, which are now transcribed below for the convenience of reference: -

> *"32. Learned counsel for the respondents has also placed reliance upon the case of* ***Md. Sartaj and another versus State of U.P. and others*** *reported in* ***(2006) 2 SCC 315****, Para 14 to 20, in support of the proposition that when the incumbent lacks requisite qualification there was no requirement of hearing as no prejudice would be caused to the employee.* ***This ratio of the instant case would not come to the aid of the respondents as there appears to be two plausible interpretation of column 8 of the recruitment rules 1996 relating to reading of the essential***

educational qualification prescribed under column 7 with that of the in-service candidates classified under Column 8 or that of the deputationist categorically specified in Column 8. *In the case of Md. Sartaj the Apex Court has relied upon the judgment of the celebrated decision in the case of* ***S.L. Kapoor vs. Jagmohan*** *reported in* ***(1980) 4 SCC 379****, at para 14, which reads as under:*

> *"14. However, in S.L. Kapoor v. Jagmohan [(1980) 4 SCC 379] this Court has also observed as under: (SCC p. 395, para 24)*
>
> *"In our view the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The nonobservance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced. As we said earlier where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because courts do not issue futile writs."*

33. The Apex Court had opined that the principles of natural justice know of no exclusionary rules dependent on whether it would have made any difference if natural justice have been observed. It was also held that non observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced. However, the Apex Court went on to further observe that where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible the court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because courts do not issue futile writs. However, taking a cue therefrom in the facts of the present case it cannot be stated without risk that the position as propounded by the respondents is admitted or an indisputable position in law. ***There can be two interpretations of the recruitment rules and it cannot be said that only one conclusion or one interpretation is possible. As such, granting an opportunity to show cause to the petitioner to defend his position would be in consonance with the principles of natural justice when the action of the respondents were going to adversely***

affect the petitioner. *Not doing so may lead to miscarriage of justice.* ***Granting an opportunity to the petitioner before reverting him would have accorded the competent authority to take into consideration the other plausible interpretation of the relevant recruitment rules. The competent authority would have had the benefit of both the interpretations while taking an informed decision on the question of reversion of the petitioner.*** *In case it was found after hearing the petitioner that his promotion was not dependent upon the educational qualification of B. Tech, there would have been no occasion to withdraw such benefit, if any, relying upon the directions of the Apex Court in the case of* ***Orissa Lift Irrigation Corporation Limited*** *(supra) paragraph 66.7****. We, however, consciously refrain from observing any final opinion on the interpretation of column 8 of the recruitment Rules relating to promotion to the post of Manager (Technical) under the N.H.A.I.*** *However, since the order of reversion has entailed serious adverse civil consequences upon the petitioner without any opportunity to show cause or furnish his explanation, we are unable to uphold the judgment of the learned C.A.T., whereby the challenge to the order of reversion passed by the N.H.A.I. has been rejected.*

36. Despite these clear and categorical observations, the Tribunal, in its impugned judgment and order, held that the Coordinate Bench's judgment and order dated 08.09.2022 held that a degree in Civil Engineering was not an essential qualification for promotion to the post of Manager (Technical). This was not the position taken by the Coordinate Bench in its judgment and order dated 08.09.2022.

37. The Coordinate Bench, while consciously refraining from expressing any opinion on the interpretation of the 1996 Regulations, merely observed that those Regulations were capable of at least two interpretations. Even this observation was made to reject the NHAI's contention that observance of the principles of natural justice would have made no difference in this matter and would have amounted to a useless formality.

38. Thus, based upon the complete misreading and misconstruction of the Coordinate Bench's judgment and order dated 08.09.2022, the Tribunal was not justified in concluding that the 1996 Regulation clearly held that there was no requirement of a degree of Civil Engineering for promotion to the post of Manager (Technical) and Deputy General Manager (Technical) for the regular employees. The Tribunal, by grossly misreading the Coordinate Bench's judgment and order dated 08.09.2022, or by reading something that finds no place in the judgment, or by confusing a contention with a conclusion, held itself bound by a finding never rendered. This constitutes an error apparent on the face of record, and the

Tribunal's impugned judgment and order deserve to be quashed and set aside on this ground.

39. The record shows that the 2011 Advertisement was issued by the NHAI to invite applications from officers under the Central/State Government Department/Autonomous Body/Public Sector Undertakings for '*appointment on deputation basis'* to the post of Manager (Technical). The advertisement clearly stated that, in case of any discrepancies in the eligibility/experience criteria, the recruitment rules under the NHAI Regulations shall prevail. The advertisement also prescribes the eligibility conditions, and one essential qualification was a degree in Civil Engineering from a reputed Institution of Technology or a recognised University.

40. The 2011 Advertisement also provided for an application format for the post of Manager (Technical) on deputation. Clause 11 of this format requires the applicant to state whether educational and other qualifications required for the post were satisfied. Further, if any qualification was treated equivalent to the one prescribed in the rules, the applicant was required to state the authority for the same.

41. The advertisement also prescribes *"other conditions (Deputation)".* Clause 5 of the other conditions, based upon which the 1st Respondent applied under the 2011 advertisement, reads as follows:

> *"5. Regular employees of NHAI, who fulfill the eligibility conditions prescribed for promotion to any*

of the above-mentioned posts, as on the last date for receipt of applications, may also apply. In case they are selected, their appointment will be on promotion basis as per the guidelines on the subject."

42. The above-referred Clause 5, which was the window under which the 1st Respondent applied for the post of Manager (Technical), the 1st Respondent had to establish that the post of Manager (Technical) was indeed a post capable of being filled by promotion and further, the 1st Respondent fulfilled the eligibility condition prescribed for promotion, as on the last date for receipt of application.

43. Apart from Column 5 of the 1996 Regulations, which, incidentally, in respect of almost all the posts provides that they could be filled by deputation/transfer/promotion/direct recruitment, there is nothing to indicate that the post of Manager (Technical) was indeed a post capable of being filled by promotion. The 1st respondent applied pursuant to the 2011 advertisement on the premise that he possessed a valid engineering degree.

44. In applying in the prescribed format, the 1st respondent even declared that he possessed the essential qualification of a degree in engineering. However, after the Hon'ble Supreme Court recalled and cancelled his degree, the 1st respondent began contending that the post of Manager (Tech) could be filled only through promotion because column 5 of the 1996 Regulations referred to this mode, among others.

45. If such approbation and reprobation by the 1st respondent is overlooked on a demurrer, and even if column 5 of the Schedule to the 1996 Regulations is construed most liberally or broadly, there is nothing in column 8 to indicate that the post of the Manager (Technical) was even capable of being filled in by promotion or the grade or feeder category from which such post should be filled in by promotion. Therefore, if the 1st Respondent's insistence upon the literal interpretation rule is to be followed, then we must say that the 1996 Regulations do not even contemplate filling up the post of Manager (Technical) by way of promotion.

46. However, even if we were to only focus on column 5, which, along with all other modes, also refers to promotion, practically in respect of all the posts in the Schedule, still, the question would remain as to what would be the feeder category or the grade from which the promotions are to be made for the post of Manager (Technical).

47. Mr Ajit Kumar and the Tribunal have relied upon column 8 of the Schedule to the 1996 Regulations and contended that since 'or' must be read disjunctively, it is sufficient if the candidates fulfil even one of the alternate eligibility requirements prescribed in column 8 and further, there was no necessity of even referring to essential education qualifications prescribed in column 7.

48. Though it is difficult to accept Mr Ajit Kumar's or the Tribunal's reasoning, column 8, with which we are concerned, refers to at least three alternatives: -

(a) By deputation/transfer from candidates already on the panel of Under Secretary in the Government of India and possessing the educational qualifications stipulated in column 7; or

(b) From candidates holding analogous post in Central / State Government Department / Autonomous Body / Public Sector Undertakings; or

(c) With three years regular service in the scale of Rs 2200-4000 or six years in the scale of Rs 2000-3500.

49. Admittedly, column 8, on which Mr Ajit Kumar and the Tribunal relied so heavily, makes no reference whatsoever to 'promotion' or the 'grades' from which promotions are to be made to the post of Manager (Technical). Therefore, the Tribunal was not justified in referring to column 8 for determining the feeder cadre or the grades, if any, from which promotions could be made to the post of Manager (Technical). The so-called three alternatives relate to the grades or categories from which the appointments are to be made on deputation/transfer and have no nexus with promotion.

50. In any event, the 1st Respondent was admittedly not a candidate on the panel of Under Secretary in the Government of India possessing the educational qualification stipulated in column 7. Further, the 1st Respondent was also not a candidate holding an analogous post in a Central/State Government Department/Autonomous Body/Public Sector Undertaking. Now, with respect, holding that, because the 1st Respondent might have had three years of regular service in the scale of Rs. 2200-4000 or

six years in the scale of Rs. 2000-3500, the 1st Respondent would be eligible to be considered for the post of Manager (Technical) would be too absurd a proposition.

51. Because, by applying the literal interpretation rule so forcefully pressed on behalf of the 1st Respondent, any employee of the NHAI with regular service in the scale of Rs 2200-4000 or six years in the scale of Rs 2000-3500 would have to be considered, irrespective of whether or not such employee had any nexus with the Technical Section of the NHAI or having no qualification of engineering whatsoever. On a literal interpretation, even NHAI employees recruited with qualifications in subjects having absolutely no nexus with engineering would then claim eligibility merely because they may have had three years regular service in the scale of Rs. 2200-4000 or six years in the scale of Rs. 2000-3500. Such tortious interpretation of the regulation would result in an absurd consequence, which cannot be countenanced.

52. At least prima facie, the expression following the third 'or ', i.e. *'with three years regular service in the scale of Rs 2200-4000 or six years in the scale of Rs 2000-3500'*, applies only to the second alternative, which refers to the deputation/transfer from candidates holding analogous posts in a Central / State Government Department / Autonomous Body / Public Sector Undertakings or if they are not holding analogous posts, then, with three / six years regular service in the prescribed grades.

53. From the context, it is quite clear that, first, the categories in column 8 have nothing to do with filling the post of Manager (Technical) through promotion, and second, the regulation never intended to dispense with the requirement of a degree in Civil Engineering from a reputed Institution of Technology or a recognised University.

54. Therefore, the Tribunal's contrary finding is vitiated by perversity. The Tribunal's finding that the Coordinate Bench of this Court, in its judgment and order dated 08.09.2022, held that a degree is not an essential qualification for promotees is also vitiated by perversity, because the Coordinate Bench never said so in its judgment and order dated 08.09.2022. For both these reasons, the Tribunal's impugned judgment and order deserve to be set aside.

55. The Tribunal also suggests, or in any event it was argued on behalf of the 1st Respondent, that even though the 1st Respondent may not have possessed a valid degree in Civil Engineering, nevertheless, the 1st Respondent had substantial experience in the Technical Section and such experience must be regarded as a substitute for the absence of qualification. The Tribunal is somewhat ambiguous on this issue, but Mr Ajit Kumar contended that it was not open for the NHAI to ignore the 1st Respondent's experience in the Technical Section after he obtained a diploma in engineering.

56. However, upon due consideration of this contention and reasoning, we are unable to subscribe to it either on principle or on

the precedent in **State of M.P. and Another versus Dharam Bir (Supra).**

57. In principle, the eligibility conditions set out in an advertisement or in the rules cannot be diluted by holding that the absence of the prescribed educational qualifications can be made good by relying on experience. The 1996 regulations do not, either expressly or impliedly, permit such a construction. The advertisement under which the 1st respondent applied for and secured the post also does not permit such a construction.

58. The rules, regulations and even the advertisement are sacrosanct, in the sense that any deviation from their express terms, if at all permissible, cannot be made without amending the rules or the advertisement. Otherwise, the principle of equal opportunity enshrined in Article 16 would be rendered a casualty. Besides, the argument similar to that now raised by Mr Ajit Kumar was rejected by the Hon'ble Supreme Court in **State of M.P. v. Dharam Bir** (Supra).

59. In **State of M.P. v. Dharam Bir** (Supra), the Hon'ble Supreme Court was concerned with the position of Principal, Class I, and the contention was that the requirement of possessing a degree or Diploma in Engineering from a recognised university or Board, along with five years' experience of working in any Technical Institute or in any reputed business concern, applied only to direct recruits but not to promotees, was rejected. The Hon'ble Supreme

Court held that the requirement of possessing a degree or Diploma in Engineering applies to both direct recruits and promotees.

60. Further, the Hon'ble Supreme Court rejected the contention that, though the incumbent did not possess a degree or diploma in Engineering, since he had worked as Principal for a long time and had acquired sufficient experience in that post, he ought not to be reverted to Vice Principal. The Hon'ble Supreme Court held that the above-referred plea was without merit.

61. Further, the argument based on a 'human approach' was rejected on the ground that courts or tribunals have no power to override the mandatory provisions of the rules on the basis of a sympathetic consideration that a person, though not possessing an essential qualification, should be allowed to continue in the post merely on the basis of his experience. The Court observed that such an order would amount to altering or amending the statutory provisions made by the Government under Article 309 of the Constitution.

62. The Hon'ble Supreme Court further observed that the experience gained by the respondent from working in the post in question for over a decade cannot be equated with the educational qualifications required of a candidate as a condition for eligibility for promotion to higher posts. If the Government, in exercise of its executive powers, has created certain posts, it is for it to prescribe the mode of appointment, or the qualifications candidates must possess before appointment to those posts.

63. The Hon'ble Court further noted that the educational qualification of a degree or diploma in Engineering has a direct nexus with the nature of the post, i.e., Principal of a Technical Institute. The Court noted that the Principal may also have occasions to take classes and teach students. A person who does not hold either a degree or a diploma in Engineering cannot possibly teach the students of an industrial training institute the technicalities of the subject of Engineering and its various branches.

64. The Hon'ble Supreme Court noted that a compounder cannot, merely based on experience, claim a post made exclusively for persons with an MBBS or other higher degrees in Medicine or Surgery. The Court held that allowing such a plea would relax the rule relating to educational qualifications. Such power of relaxation cannot be usurped by a Court or Tribunal.

65. The argument based on literal interpretation, or on the circumstances in which 'or' must be read as 'or' rather than as 'and', is hardly relevant. This is because column 8, which refers to the expression 'or' at least three times, nowhere states that the alternate qualifications are for promotees. Rather, column 8 deals only with appointments to be made by deputation/transfer. Therefore, though the proposition relied upon by Mr Ajit Kumar admits of no doubt, it would not apply in the facts and circumstances of the present case.

66. Even Mr Indrajit's contention that 'or' should be read as 'and' need not be decided in this matter, given the phraseology in

column 8 and the fact that this column does not prescribe any feeder grade or the grade from which promotions are to be effected for the post of Manager (Technical).

67. The argument based upon the 2022 Regulations or the 2022 Amendments to the existing Regulations also cannot be accepted. Admittedly, the 2022 Regulations/Amendments are not even remotely attracted in the present case. Merely because some creases may have been ironed out in the 2022 Amendments, there is no reason to hold that under the Regulations before such amendments, the essential qualifications of having a Degree in Civil Engineering did not even apply for promotion to the post of Manager (Technical). This assumes that the post of Manager (Technical) could be filled by promotion from Technical Assistants who were not even in the feeder grade or in the next lower post of Assistant Manager (Technical).

68. Granting relief to the 1st respondent would imply defiance of the express directions issued by the Hon'ble Supreme Court in the case of **Orissa Lift Irrigation Corpn. Ltd. (supra)**, because, in this case, the benefit of promotion obtained by the 1st respondent was based on his B. Tech Degree from the JRN Rajasthan Vidyapeeth through a distance education course.

69. The Hon'ble Supreme Court not only recalled and cancelled such degrees but also directed that all benefits, such as promotion, obtained by the candidates based on such degrees would stand recalled. Any inaction by the appellant in failing to give effect to

the Hon'ble Supreme Court's directions and in failing to recall the promotions secured by the 1st respondent would amount to disobedience of the express directions of the Hon'ble Supreme Court. Accordingly, this is yet another reason why the Tribunal was not justified in quashing the order reverting the 1st respondent from the post of Deputy General Manager (Technical) to that of Technical Assistant.

70. In this matter, we are conscious of the limits of judicial review. However, this is a case of complete misreading and misconstruction of the Coordinate Bench's judgment and order dated 08.09.2022 and the 1996 Regulations. If the Tribunal's view is allowed to prevail, it would amount not only to allowing the 1st Respondent to approbate and reprobate, but also to defying the directions issued by the Hon'ble Supreme Court in this case of **Orissa Lift Irrigation Corporation Limited (Supra).**

71. This is a case of errors apparent on the face of record in the Tribunal's impugned judgment and order. In such circumstances, following the law laid down by the Hon'ble Supreme Court in ***Union of India v. P. Gunasekaran*, [AIR 2015 SC 545]** and **Central Council for Research in Ayurvedic Science and Another versus Bikartan Das and Others [(2023) 16 SCC 462],** this Court would be obliged to interfere.

72. Neither the 1996 Regulations nor the advertisement demonstrated any feeder category or grade from which promotions were contemplated to the post of Manager (Technical). Normally, the

immediate lower post, i.e. Assistant Manager (Technical), would be the feeder grade if the post of Manager (Technical) was intended to be filled by promotion. For the post of Assistant Manager (Technical), a degree in Civil Engineering is prescribed as an essential qualification.

73. Therefore, if we were now to accept the Tribunal's reasoning in the impugned judgment and order, a degree in Civil Engineering would be an essential qualification for appointment to the post of Assistant Manager (Technical) but not for the post of Manager (Technical). In any event, if an Assistant Manager (Technical) already possessing a degree in Civil Engineering were the feeder grade, it may not have been necessary to provide for the same qualification again if the post of Manager (Technical) could be filled by promotion. Since that is clearly not the case, we are unable to uphold the Tribunal's reasoning. This reasoning rests on an obvious misinterpretation of the relevant statutory provisions and is based on reasons that are clearly wrong in law.

74. The decisions in **KGS Bhatt (Supra)** and **O. Z. Hussain (Supra)** will not apply to the facts of the present case. Firstly, the Respondents never challenged the regulations on the ground that no promotional avenues existed from the post of Technical Assistant. Secondly, even if we were to assume that a promotional channel was available, it could never have been from a Group-C post directly to a Group-A post, even if the 1st Respondent had possessed a basic degree in Civil Engineering.

75. The 1st Respondent, based upon the gross misinterpretation of regulation and a Civil Engineering Degree obtained by him from an unrecognised University or a Civil Engineering Degree which was later recalled and cancelled by the Hon'ble Supreme Court itself, having secured some position, cannot resist the directions issued by the Hon'ble Supreme Court for withdrawal of such benefits. The Hon'ble Supreme Court granted only limited protection against recovery of the financial benefits received.

76. The NHAI is not recovering any financial benefits, but it was not only justified but duty-bound to comply with the Hon'ble Supreme Court's specific directions to withdraw the benefits obtained by candidates based on engineering degrees that were liable to be recalled and cancelled.

77. For all the above reasons, we allow this petition, quash and set aside the Tribunal's impugned judgment and order dated 06.02.2025 and restore the Memorandum dated 27.06.2024 reverting the 1st respondent from the post of Deputy General Manager (Technical) to the post of Technical Assistant.

78. The Rule is made absolute in the above terms without any order for costs. IAs, if pending, will not survive and are disposed of.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

September 25, 2026
A.F.R.
Manoj//Sharrda/Ranjeet/Cp.2
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