



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3068 OF 2024

1. Vishvjeet Vasanttrao Kulkarni
Age : 30 years, Occ : Nil,
R/o Tornagad Nagar, 13th Cidco Scheme,
House No. R-37/2, Aurangabad,
Tq. & Dist. Aurangabad.
2. Sushant U. Sasane
Age : 21 years, Occ : Nil,
R/o Mhada Colony, Bansilal Nagar,
Aurangabad.

... PETITIONERS

...VERSUS...

1. The State of Maharashtra,
Through it's Principal Secretary,
Public Works Department,
Mantralaya, Mumbai
2. Chief Engineer and State Coordination Committee,
Public Works Divisional Office, Mumbai,
Public Works Building,
4th Floor, 25 Mazban Path,
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3. Milind Shantilal Rathod
Age : 34 years, Occ : Nil,
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4. Prasad Dnyaneshwar Jadhav
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5. Prakash Dashrath Nagargoje
Age : 30 years, Occ : Nil,
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6. Vishal Motial Rathod
Age : 27 years, Occ : Nil,
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All C/o Adv. Sangharsh V. Waghmare
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... RESPONDENTS

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- Ms. Preeti Wankhade, Advocate for Petitioners
 - Mr. S.R. Wakle, AGP for Respondent/State
 - Mr. S.V. Waghmare, Advocate for respondent nos.3 to 6
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CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL – JADHAV, JJ.

DATED : MARCH 12, 2026

J U D G M E N T [Per Vaishali Patil – Jadhav, J.] :

. Rule. Rule made returnable forthwith. Heard finally with the consent of learned advocates for the parties.

2. By way of the present petition, under Article 226 of the Constitution of India, the petitioners are challenging the judgment and order dated 13.03.2024 passed by the Maharashtra Administrative Tribunal, Mumbai bench at Aurangabad (hereinafter referred to as

"Tribunal") in Original Application No.979/2023 and consequential Government order dated 13.03.2024.

3. Brief facts leading to the filing of this petition are that :-

Advertisement No.1/2023 was issued on 10.10.2023 by Respondent No.2, inviting applications to fill up 532 posts for Junior Engineer (Civil) (Group-B) (Non-Gazetted) (hereinafter referred to as 'the subject post'). In the advertisement, following qualifications were prescribed for the subject post, based on Public Works Department and the Irrigation Department (Recruitment) Rules, 1998 :-

- (i) that the candidate must have passed the 10th examination,
- (ii) that the candidate must possess 03 years' Diploma in Civil Engineering recognized by the Government or any other qualification as equivalent thereto,

The last date for submitting the applications was 05.11.2023. In the meanwhile, the Government introduced the revised Recruitment Rules for the subject post named as Junior Engineer (Civil), Group-B, Non-Gazetted (Recruitment) Rules, 2023 (for short, Rules of 2023). The said Recruitment Rules were notified in the official gazette on 26.10.2023. The said rules came into force on the date of publication of said rules in the Government Gazette. On the next day i.e. on

27.10.2023 following addendum was issued by the respondents to the advertisement published on 10.10.2023.

In the Rules of 2023 the educational qualification is provided in clause 3(b)(ii) of the said rules as under:-

“3(b)(ii) Minimum educational qualification – a person holding a minimum Diploma or Degree or higher educational qualification in Civil Engineering.”

4. The petitioner challenged the clause 3(b)(ii) on the ground that once the recruitment process had commenced, it was impermissible for the Government to change the criteria of educational qualification, by filing Original Application. The Tribunal has dismissed the Original Application on 13.03.2024. Hence, the petition.

5. Learned Advocate Ms. Preeti Wankhede would submit that once the recruitment process had commenced, it was impermissible for the Government to change the criteria of educational qualification. The Degree and Diploma in Civil Engineering are not comparable qualifications. The Degree is a higher qualification than a Diploma and, as such, the respondents cannot subject the Diploma holders in Civil Engineering to compete with Degree holders in Civil Engineering or those having higher qualifications in Civil Engineering, as it would

amount to treating unequals as equals. The Diploma holders are not having any other opportunity of recruitment in the Government except for the post of Junior Engineer (Civil) (Group-B) (Non-Gazetted), whereas the Degree holders can apply for many other posts. She would further submit that by issuing addendum, the rules of the game have been changed, which is impermissible, and to demonstrate the same, the learned Advocate relied on the judgments in the cases of *N.T.Devin Katti & Ors. V/s. Karnataka Public Service Commission & Ors. [(1990) 3 SCC 157]*, *P.M. Latha & Anr. V/s. State of Kerala & Ors. [(2003) 3 SCC 541]*, *Secretary, A.P Public Service Commission V/s. B. Swapna & Ors. [(2005) 4 SCC 154]*, *K. Manjusree V/s. State of Andhra Pradesh & Anr. [(2008) 3 SCC 512]*, *Prakash Chand Meena & Ors. V/s. State of Rajasthan & Ors. [(2015) 8 SCC 484]* and *Sushil Kumar Pandey & Ors. V/s. The High Court of Jharkhand & Anr. in Writ Petition (C) No.753/2023*.

6. Per contra, the learned AGP would submit that the judgment of Tribunal, being well reasoned, requires no interference at the hands of this Court. He would submit that the Rules of 2023 have not removed or changed the qualification of Diploma in Civil Engineering; on the contrary, they have widened the scope for applicants by inserting the qualification of Degree or higher

qualification with diploma in Civil Engineering. He would further submit that as the addendum was issued before the last date of submitting applications, there is no change in rules of the game, as the process was yet to begin. The Learned AGP, to support his contention, has placed reliance on the judgment in the case of ***Zonal Manager, Bank of India, Zonal Office Kochi & Ors. V/s. Aarya K. Babu & Anr. [(2019) 8 SCC 587]***.

7. We have heard learned Advocate for the petitioners and learned AGP for respondents at length. Perused the impugned judgment and order as well as the record.

8. At the outset, we are not inclined to entertain the challenge of the petitioner to clause 3(b)(ii) of the Rules of 2023 for want of pleadings and grounds. The petitioners are at liberty to file appropriate petition raising the said challenge.

9. The main question to be decided is that whether it was permissible for the respondents to amend the recruitment rules and more particularly the criteria of educational qualification after issuance of the advertisement on 10.10.2023. While considering this challenge, the Tribunal has made following observations :-

"33. The judgments of the Hon'ble Apex Court which we have discussed hereinabove thus lay down that :

(i) It is the prerogative of the State to determine and lay down the educational qualifications required for the posts in the Government service and to make changes therein as and when required;

(ii) Change in the eligibility conditions/educational qualifications for the purpose of recruitment is a policy decision to be taken by the State;

(iii) It is not impermissible to change the recruitment rules/educational qualifications even after commencement of the recruitment process;

(iv) The recruitment rules can be amended retrospectively; and

(v) If the rules are amended during pendency of the recruitment process but before completion of the said process and the employer/recruiting agency if seeks to adopt the change it would be incumbent on the employer to issue a addendum incorporating the change in the notification earlier published and invite the applications from those qualified as per the changed criteria and consider them along with the applicants who have applied in response to the initial notification and then the selection shall be made in accordance with the amended rules."

2024 SC 747], has observed that recruitment process begins with the issuance of the advertisement and ends with the filling up of the notified vacancies. It consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva-voce and preparation of list of successful candidates for appointment. The doctrine proscribing change of rules midway through the game, or after the game is played, is predicated on the rule against arbitrariness enshrined in Article 14 of the Constitution. Article 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words, Article 14 is the genus while Article 16 is a species. Article 16 gives effect to the concept of equality in all matters relating to public employment. These two articles strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid relevant principles alike to all similarly situate and not to be guided by any extraneous or irrelevant considerations. In all its actions, the State is bound to act fairly, in a transparent manner. This is an elementary requirement of the guarantee against arbitrary State action which Article 14 of the Constitution adopts. A deprivation of the entitlement of private citizens and private business must be proportional to a requirement grounded in public interest. Candidates participating in a

recruitment process have legitimate expectation that the process of selection will be fair and non-arbitrary. The basis of doctrine of legitimate expectation in public law is founded on the principles of fairness and non-arbitrariness in government dealings with individuals.

11. In the case of **Zonal Manager, Bank of India, Zonal Office, Kochi & Ors. Vs. Aarya K. Babu & Anr. (cited supra)**, the Hon'ble Supreme Court has held that if any change is made in the qualification criteria after notification is issued but before completion of the selection process and the employer/recruiting agency seeks to adopt the change for the ongoing selection process it would be incumbent on the employer to issue corrigendum incorporating the changes to the notification and to invite applications from those qualified as per the changed criteria and consider the same along with the applications received in response to initial notification. The aforesaid course has been adopted by the respondents in the present matters.

12. Applying the above-mentioned ratio to the facts of the present case, it is necessary to examine whether the act on the part of the respondent-State of notifying the amended Recruitment Rules during pendency of the recruitment process and to publish the

addendum to the advertisement dated 10.10.2023 on the basis of the changed educational qualification can be sustained.

Admittedly, the advertisement was issued on 10.10.2023. The revised Rules were notified in the Official Gazette on 26.10.2023, i.e. after 16 days from the issuance of the advertisement inviting applications for the subject posts. On 27.10.2023, an addendum was published declaring that the qualification clause provided in the advertisement dated 10.10.2023 shall be read as provided in the said addendum, i.e. the degree holders and persons possessing more higher qualifications in Civil Engineering will also be considered for appointment to the subject posts. The last date for submitting the applications was 05.11.2023.

13. The State can very well amend or revise the recruitment rules even after commencement of the recruitment process provided that, the recruitment process is not completed and in such case, the State owes an obligation to give wide publicity to the amendment or modification so made in the recruitment rules/ educational qualifications so that no one shall have an objection that though according to the changed qualification, he was eligible to apply for the subject post, he was deprived from making such applications as the change brought in the recruitment rules was not publicized.

14. The Tribunal has rightly observed that it is not impermissible to amend the recruitment rules and to notify the revised recruitment rules during the pendency of the recruitment process. Though on the date of advertisement only Diploma holders in Civil Engineering were eligible to be considered for appointment to the subject post, after the commencement of the recruitment process but before its completion, and more precisely even before the last date of submitting the applications in pursuance of the said advertisement, the recruitment rules were modified and accordingly, an addendum was published extending eligibility even to Degree holders in Civil Engineering or those possessing any other higher qualification in Civil Engineering to apply for the subject post.

15. For the aforestated reasons, we do not find any illegality or perversity in the impugned judgment and order of the Tribunal, which is a well reasoned order. No case is made out by the petitioners to interfere in the impugned judgment and order. There is no merit in the present petition, hence the petition is dismissed. Rule stands discharged, accordingly.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]