

3. The applicant was appointed vide order dated 3.2.2005 as Junior Engineer (Electrical) and was posted in the office of Superintending Engineer (Electrical), Aurangabad. When the applicant was appointed as Junior Engineer, he was holding the Diploma in Electrical Engineering. While in service, the applicant secured degree of B.Tech. in Electrical Engineering from Janardan Rai Nagar Rajashtan Vidhyapeeth University, Udaipur (Rajsthan) India. It is the case of the applicant that since he secured graduation while in service he is entitled to get the benefit under G.R. dated 29.11.1984 issued by the Irrigation Department. He, therefore, made the representations with the respondent and since he did not get any positive response, has approached the Tribunal with the relief as aforementioned.

4. The prayer made in the O.A. is resisted by the respondent by filing affidavit in reply. It is the contention of the respondent that after coming into force of the "Assistant Engineer (Electrical), Grade-II, and Sectional Engineer (Electrical), Group-B (Gazetted) in the electrical organization under the Public Works Department (Recruitment) Rules, 2009 (for short 'Recruitment Rules of 2009')", the Government Resolution dated 29.11.1984 has been impliedly superseded since in the said Recruitment Rules of 2009 no such benefit is given.

5. Learned counsel for the applicant has relied upon the judgment of this Tribunal in the case of **Shri Sanjay Ramchandra Devgekar Vs. the State of Maharashtra and Ors.**, in **O.A. No. 380/2015** decided on

16.6.2016. The learned counsel argued that till coming into force of Recruitment Rules of 2009, the G.R. dated 29.11.1984 was in force and the applicant is liable to get its benefit.

6. The learned C.P.O. has submitted that the services of the applicant are now governed by Recruitment Rules of 2009 and when there is no such provision in the said rules the applicant cannot be awarded the said benefit. He has, therefore, prayed for dismissal of the application.

7. After having considered the submissions advanced by the learned counsel appearing for the applicant and learned C.P.O. appearing for the respondent, it appears that the only issue which falls for our consideration is 'whether the applicant is entitled to the benefit under G.R. dated 29.11.1984'. Clause 1 of the aforesaid G.R. is material having regard to the grievance raised in the present O.A. We, therefore, deem it appropriate to reproduce the said clause 1 as it is in vernacular which reads thus,

“१. सेवेत असतांना जे पदविकाधारक कनिष्ठ अभियंते / शाखा अभियंते असोसिअट मेंबरशिप एक्झामिनेशन ऑफ दी इन्स्टिट्यूशन ऑफ इंजिनिअर्स (इंडिया) या संस्थेतून स्थापत्य, यांत्रिकी अथवा विद्युत अभियांत्रिकी विषयातील शाखा “अ” व “बी” दोन्ही उत्तीर्ण होतील अशांची ज्येष्ठता, त्यांना सहाय्यक अभियंता श्रेणी-२ समजून, ते ज्या दिवशी ही अर्हता प्राप्त करतील त्यापूर्वीच्या सेवेचा ३/८ सेवाकाल त्यांनी सहाय्यक अभियंता श्रेणी-२ म्हणून व्यतीत केला आहे असे गृहीत धरून त्यांची ज्येष्ठता सहाय्यक अभियंता श्रेणी-२ च्या ज्येष्ठतासूचीत निश्चित करावी. ही ज्येष्ठता उपविभागीय अभियंता / उप अभियंता या पदांवर पदोन्नतीसाठी जमेस धरावी. अशा प्रकारे निश्चित केलेली ज्येष्ठता दिनांक १.४.१९८१ व नंतरच्या वर्ग-२ च्या पदांवर पदोन्नतीसाठी तयार करण्यात येणा-या निवडसुचीसाठीच विचारात घ्यावी.”

It is not in dispute that the applicant was appointed as Junior Engineer (Electrical) in the year 2005 vide appointment order dated 3.2.2005.

There is further no dispute that at the relevant time the applicant was holding the qualification of Diploma in Electrical Engineering. The contention of the applicant that while in service he secured the degree of B.Tech. (Electrical) from Janardan Rai Nagar Rajasthan Vidhyapeeth University, Udaipur (Rajsthan) India has not been denied or disputed by the respondent. Though the applicant by way of abundant precaution has placed on record the relevant documents to show that degree awarded by the said University was approved by the State, as well as, UGC, since the contentions raised in that regard are not disputed by the respondent, we need not to make any discussion on the said undisputed factual matrix. As is revealing from the documents filed on record the applicant secured the degree of B.Tech. (Electrical) in February, 2009. The Recruitment Rules of 2009 were notified in the official Gazette on 16.5.2009. It is thus, evident that before coming into force of the aforesaid rules the applicant had become entitled for benefit under G.R. dated 29.11.1984 having secured the graduation in Electrical Engineering in the month of February, 2009 itself from the recognized University.

8. In the written notes of arguments filed on behalf of respondent it has been contended that provisions under G.R. dated 29.11.2004 were superseded with the publication of Recruitment Rules of Assistant Engineer, Grade-II (Civil) cadre on 16.6.1997. It is difficult to agree with the contention so raised. The similar arguments were advanced before this Tribunal in O.A. No. 380/2015 (cited supra). The Tribunal

has unambiguously held in the said matter that G.R. dated 29.11.1984 was in force and was applicable till the date of notification of Recruitment Rules of 2009 i.e. till 16.5.2009.

9. Since the applicant in the present matter secured the graduation while in service on 10.2.2009 he cannot be denied the benefit of G.R. dated 29.11.1984. We therefore direct the respondents to ensure that the benefit of the said G.R. and the consequential benefits are extended to the applicant within the period of 4 months from the date of this order. The O.A. thus stands allowed, however, without any order as to costs.

MEMBER (A)

VICE CHAIRMAN