MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 822 OF 2023

DISTRICT:- BEED

1. Shashikant S/o. Balbhim Morale,
    Age: 28 years, Occu. Staff Nurse,
    R/o Dahiphal Wadmauli,
    Tq. & Dist. Beed.

2. Rameshwar S/o. Namdeo Morale,
    Age : 30, Occu. Staff Nurse,
    R/o. Dahiphal Wadmauli,
    Tq. & Dist. Beed.

3. Sairaj S/o. Satish Thombre,
    Age : 25 years, Occu. Staff Nurse,
    R/o. Dahiphal Wadmauli,
    Tq. & Dist. Beed.

4. Samyak Anil Jamdhade,
    Age : 25 years, Occu. Staff Nurse,
    R/o. Plot No. 22, Kirti Housing
    Society, Azad Chowk, Cidco N-8,
    Aurangabad.   ..   **APPLICANTS**

V E R S U S

1. The State of Maharashtra,
    Through: its Principal Secretary,
    Medical Education & Drugs Deptt;,
    Mantralaya, Mumbai-400 032.

2. Director of Medical Education &
    Research, 4th Floor, Govt. Dental
    College Building, St. George's
    Hospital Compound, Near
    Chhatrapati Shivaji Maharaj
    Terminus (CSMT),
    Mumbai – 400 001.   ..   **RESPONDENTS**

APPEARANCE   :   Shri S.S. Thombre, learned counsel
                   for the applicants.

:   Shri M.S. Mahajan, learned Chief
Presenting Officer for the respondent
authorities.

CORAM   : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN

DATE   : 27.09.2023

O R A L - O R D E R

1.   Though the present matter falls within the jurisdiction of Division Bench of this Tribunal, with consent of both the parties the matter is finally heard by me sitting singly and is being disposed of finally with the following reasons.

2.   Heard Shri S.S. Thombre, learned counsel for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities.

3.   The applicants have preferred the present Original Application praying for setting aside the decision taken by the respondents of adopting normalization method in awarding the marks to the candidates in online test-2023 for appointment to the post of Staff Nurse. Further, the applicants have sought direction against the respondents to publish the merit list of the candidates as per the actual marks secured by them in online test and carry out the further recruitment process on the basis of the marks actually received by the applicants.

4.   Few facts, which are relevant to be stated before adverting to the objections as are raised by the applicants: -

(i)   The Medical Education and Research Department had published advertisement No. 4/2023 on 10.05.2023, inviting online applications for appointment on various posts by conducting online competitive examination. Pursuant to the said advertisement, the applicants submitted their online applications for the post of Staff Nurse. The applicants appeared for Online Competitive Test, which was conducted on 20.06.2023. The photo copy of the answer-sheet with answer key was made available to the applicants. Respondent No. 2 declared the result of the said Online Competitive Test on 25.08.2023.

(ii)   It is the contention of the applicants that after declaration of the result by respondent No. 2 the applicants came to know that the normalization method has been adopted and accordingly the marks are given to the applicants which are in-variance to the actual marks received by the applicants. Aggrieved by the method so adopted by respondent No. 2 the applicants have approached this Tribunal.

(iii)   It is the contention of the applicants that in the advertisement published, in pursuance of which they applied for the post online, it was not disclosed that the normalization method will be adopted. It is the contention of the applicants that respondents do not possess any right or authority to cause change in the marks earned by the candidate in the written examination. It is the

grievance of the applicants that as because the normalization method has been adopted by respondent No. 2, the candidates who had secured less marks have been given or shown to have been achieved more marks in the normalization method. The applicants have, therefore, made a grievance that the grave prejudice has been caused to the meritorious applicants and similarly situated several other candidates who were otherwise liable to be selected and placed at a higher position in the merit list who have been placed much below because of the normalization method adopted by the respondents.

5.   The respondents have filed the affidavit in reply, thereby opposing the contentions raised in the O.A., as well as, prayers made therein. It is contended that in the Government Resolution dated 4th May, 2022 issued by the General Administration Department, it has been clarified that if online examination is required to be taken in more than one shift / session it would be mandatory to adopt the normalization method. The respondents have further contended that on website of respondent No. 2, on 6.6.2023 i.e. much before the date of the examination it was disclosed that the normalization method would be adopted. It is further contended that Hon'ble Bombay High Court in PIL No. 94/2008 has held that normalization or equalization of percentage of marks secured by the students from the different Boards is not violative of Article

14 of the Constitution of India. Reliance is also placed on the judgment of the Hon'ble Apex Court in the case of **State of Uttar Pradesh & Ors. Vs. Atul Kumar Dwivedi & Ors., Civil Appeal No. 228/2022 (@ Special Leave Petition (Civil) No. 29972/2019)**.

6.   It is further contended that no prejudice has been caused because of adoption of such method to any of the applicants. It is further contended that the normalization method was adopted even prior to the present online test in several other recruitments. It is contended that since number of candidates who applied for the post was voluminous, online test was required to be conducted in shifts and in such circumstances use of normalization method was inevitable. The respondents on the aforesaid grounds have prayed for dismissal of the O.A.

7.   Shri S.S. Thombre, learned counsel appearing for the applicants assailed the adoption of normalization method by the respondents on several grounds. Learned counsel submitted that the recruitment process has to be carried out strictly in accordance with the rules or norms and these norms required to be made known to the candidates participating in the selection process. Learned counsel further submitted that once recruitment process is set in motion until and unless it is

completed in accordance with rules and procedure laid down therefor, no new method can be introduced in the interregnum. Learned counsel submitted that in the advertisement dated 10.05.2023 nothing has been mentioned as about the adoption of normalization method for grant of marks.

8.   Learned counsel further submitted that in the information brochure published by the Directorate of Medical Education and Research in respect of recruitment of Nursing, Technical and Non-Technical posts by Competitive Online Test-2023, rules and procedure for new recruitment are included. Learned counsel submitted that in the said brochure it is nowhere provided that normalization method would be adopted for grant of marks secured by the candidate. Learned counsel submitted that on the contrary in clause-7 of the said Rules, it is specifically provided that the competent authority will prepare a Provisional State Merit List indicating Merit List Number, Name, Category Merit Number and Marks secured by the candidate. Learned counsel further submitted that in sub-clause-3 of Clause-7 it has been further clarified that Provisional State Merit List shall be prepared on the basis of marks secured by the candidate in descending order. Learned counsel submitted that in clause 7.4 it has been again

reiterated that the Final Merit List will be prepared on the basis of marks secured in the examination. Learned counsel submitted that respondents could not have deviated from the provisions made in the aforesaid rules.

9.   Learned counsel, further submitted that because of adoption of normalization method, the marks secured by all the candidates including the applicants have been varied / changed. Learned counsel further submitted that in the normalization method the marks have been increased of the candidates, who have secured less marks in the online test and *vice-versa* the marks are reduced of the candidates, who have secured more marks in the online test.   Learned counsel alleged that by adopting the normalization method, respondent No. 2 has created an anomalous situation and it has caused serious hardships to the candidates, who have participated in the recruitment process. Learned counsel submitted that the normalization method adopted by the respondents in award of marks is unjust and arbitrary, since it makes variations and alteration in marks secured by the candidates in online test. According to the learned counsel in such circumstances, the decision of the respondents of adopting normalization method deserves to be quashed and set aside.

10.   Learned counsel for the applicants relying on judgment of the Hon'ble Apex Court in the case of **K. Manjusree Vs. The State of Andhra Pradesh & Ors., Civil Appeal No. 1313/2008 (Arising out of SLP [C] No. 18330/2006),** submitted that once the mode of written examination and the allied norms are declared, the entire recruitment process has to be in accordance with the said method and no change can be introduced therein in the midst of the recruitment process. Learned counsel also relied upon the another judgment of the Hon'ble Apex Court in the case of **Hemani Malhotra Vs. High Court of Delhi, Writ Petition (Civil) No. 490/2007,** to buttress his contention that the norms or the mode which are not prescribed before commencement of selection process, the authority concerned cannot during the selection process prescribe or incorporate any new norm or new method. Learned counsel, for the aforesaid reasons, prayed for allowing the Original Application.

11.   Learned Chief Presenting Officer in his arguments resisted the contentions raised on behalf of the applicants. Learned C.P.O. submitted that in the information brochure published by the respondents in respect of the Competitive Online   Test-2023   for   the   recruitment   of

Nursing/Technical/Non-technical cadre in clause 8.10 it is stated that, "all information, Notifications and/or changes will be made available on the website www.med-edu.in, candidates are requested to check regarding updated information from time to time. Learned C.P.O. further submitted that in clause 8.11 it was further clarified that Notifications/Government decisions/Circulars/Orders etc. issued by the Government from time to time regarding recruitment/appointment will be applicable.   Learned C.P.O. further submitted that the Government Resolution dated 4.5.2022 issued by the General Administration Department of the State contains the consolidated guidelines in respect of the recruitment for Group-B (non-gazetted), Group-C and Group-D candidates by nomination/ direct recruitment. Learned C.P.O. invited my attention to clause 6(v) of the said resolution, which mandates that if the examination is required to be taken in more than one shift the adoption of normalization method would be necessary. Learned C.P.O. submitted that in the present matter the work of conducting online examination was outsourced to Tata Consultancy Services (TCS) and having regard to the huge number of candidates making applications for the advertised posts the written examination was required to be taken in six

shifts/sessions and consequently as provided in the G.R. dated 4.5.2022 the normalization method was adopted.

12.   Learned C.P.O. further submitted that as per their own contentions raised in the O.A. 3 out of 4 applicants have secured more marks in the normalization and, as such, in fact are benefited with the said system. Learned C.P.O. further submitted that in one Public Interest Litigation before the Hon'ble Bombay High Court the validity of the normalization method was under challenge and the Division Bench of the Hon'ble Bombay High Court turned down the said challenge vide its judgment in the said **PIL No. 94/2008 (Fransisco D. Luis Vs. State of Maharashtra & Ors.).** Learned C.P.O. submitted that normalization method is a time tested method and is being adopted in the recruitment processes.   Learned C.P.O. submitted that there is no substance in the allegation made by the applicants that they were not knowing that the normalization method will be adopted. Learned C.P.O. further submitted that the normalization method was published on the website of respondent No. 2 on 6.6.2023 i.e. much prior to the date of the examination and no one raised any objection against it including the applicants.

13.   Learned C.P.O. relied upon the judgment of the Hon'ble Bombay High Court in **PIL No. 94/2008** in the case of **Fransisco D. Luis Vs. State of Maharashtra & Ors.** He also relied upon the judgment of the Hon'ble Apex Court in the case of **State of Uttar Pradesh & Ors. Vs. Atul Kumar Dwivedi & Ors., AIR 2022 SC 973** in order to support his contentions. Learned C.P.O. submitted that validity of the normalization method is upheld by the Division Bench of the Hon'ble Bombay High Court and the Hon'ble Apex Court in the cited judgment has held that if the written examinations are held on different dates "scaling of marks" had to be adopted and that would always be the correct approach. Learned C.P.O. for all the aforesaid reasons prayed for dismissal of the O.A.

14.   I have duly considered the submissions made on behalf of the applicants as well as the respondents. I have also gone through the documents placed on record by the parties. Challenge of the applicants is to the normalization method adopted by respondents in granting marks to the applicants and the similarly situated others towards Competitive Online Test-2023 held on 20-06-2023 for the purpose of recruitment on the post of Staff Nurse. As has been contended in the O.A.

and as has been argued by the learned Counsel appearing for the applicants the challenge is raised on the following grounds:

[i]   That, it is unjust, arbitrary and illegal since it makes variations and alterations in marks secured by the candidates in Competitive Online Test-2023.

[ii]   That, neither in the advertisement published on 10-05-2023 nor at any subsequent stage the applicants and the similarly situated candidates were made known or given an understanding that while granting marks for the Online Test the normalization method would be adopted.

[iii]   That, since the normalization method was adopted after the recruitment process was set in motion, it amounts to changing rules of the game in the midst of the competition.

[iv]   That, adoption of the normalization method has resulted in causing loss to the candidates

[v]   That, the respondents do not have any right and/or authority to change the marks earned by the candidates in the Competitive Online Test-2023.

[vi]   That, because of adoption of the normalization method some candidates are given more marks than marks actually earned by them in the Competitive Online Test-2023, and as against it, some of the candidates have been given less marks though in the Online Test they have received higher marks. According to the applicants, thus, interest of the meritorious candidates has been prejudicially affected.

15.   As against the contentions raised by the applicants the respondents have come out with the following defense:

[i]   That, normalization method is in the interest of the candidates and not prejudicial to their interest.

[ii]   That, since Online Test was required to be conducted in 6 shifts/sessions, having regard to the large number of candidates and since the candidates in each shift were subjected to answer a different question paper with varying levels of difficulty, to equalize the different levels of papers in examinations held in 6 shifts, the method of normalization has been adopted. Normalization technics help in comparing the corresponding normalized values from 2 or more different data sets in a way that it

eliminates the effects of variation in the scale of the data sets. Normalized score is obtained by applying time tested scientific formula.

[iii]   That, no loss has been caused to the present applicants because of the normalization method. 3 out of 4 applicants have received higher marks due to normalization method.

[iv]   That, the Government of India Staff Selection Commission has decided to normalize the scores of candidates in the examinations which are conducted in multi-shifts to take into account any variation in the difficulty levels of the question papers across different shifts.

[v]   That, normalization is done based on the fundamental assumption that, "in all multi-shift examinations, the distribution of abilities of candidates is the same across all the shifts." This assumption is justified since number of candidates appearing in multiple shifts in the examinations conducted by respondents was large.

[vi]   That, in brochure published by respondent no.2 for the Competitive Online Test-2023 for recruitment of Nursing/Technical/Non-Technical cadre in paragraphs 8.10 and 8.11 thereof, it is expressly mentioned that Notification/Government Decisions/Circulars/Orders etc. issued by the Government from time to time would be applicable.   G.R. issued on 04-05-2022 specifically provides that if the examinations are required to be held in multiple shifts, the application of normalization method would be inevitable.

[vii] That, the General Administration Department's instructions are applicable and are of binding nature for all the other departments of the State. This G.R. is made available on the official website of the respondent no.2 on 02-06-2023, i.e. much before the date of Online Test was published on the website of respondent no.2.

[viii] That, the validity of the normalization method is upheld by the Division Bench of the Hon'ble Bombay High Court in PIL No.94/2008.

[ix]   That the Hon'ble Apex Court has also held that scaling of marks or normalization becomes inevitable when the examinations are held in multiple shifts.

16.   Before adverting to the rival contentions as have been raised by the parties, it is necessary to understand the concept of normalization. Normalization means adjusting the values measured by different scales to a notionally common scale. When the examinations are held in multi shifts with the different question papers with varying levels of difficulty, it becomes inevitable to normalize the marks of the candidates who appeared in different shift and solved the different papers. Normalization is the exercise of putting the marks which are the results of different scales adopted in different question papers in the different shifts/sessions onto a common scale so as to permit comparison of *inter se* merit. It is the recognized method of ensuring uniformity *inter se* among the candidates who have taken examinations on different dates with different question paper.

17.   In the present matter, it is undisputed that 48,000 candidates appeared for online test for the post of Nursing Staff, whereas 26,000 candidates appeared for the post of Pharmacist. It is further undisputed that online test was conducted in six

different shifts/sessions. There is further no dispute that the question paper for each shift/session was different. According to the respondents, in the aforesaid circumstances it became necessary for the respondents to adopt the normalization method.

18.   The adoption of normalization method by the respondents is objected to by the applicants on two grounds; first that it has been used without giving an understanding to the candidates and contrary to the rules and procedure as prescribed in the information brochure; and second that by adopting the method of normalization an anomalous situation has been created amongst the candidates causing then serious hardship.   According to the applicants, adoption of normalization method has caused loss to the candidates who have appeared for the Competitive Online Test-2023.

19.   In premise of the facts, which have come on record, none of the objection can be sustained. As has been argued on behalf of the respondents, the information brochure and more particularly clause 8.11 thereof specifically provides that Notifications / Government decisions / Circulars / Orders etc. issued by the Government from time to time regarding recruitment / appointment will be applicable. Clause 8.10 of

the said brochure says that all the information or notification and/or changes will be made available on the website www.med-edu.in and the candidates are requested to check regarding updated information from time to time. As has been argued on behalf of the respondents and it is also the contention raised in their affidavit in reply, the Government Resolution dated 4.5.2022 was published on website of respondent No. 2.

20.   As provided under clause 8.11 referred to hereinabove the Government decisions are applicable for the recruitment of Nursing/Technical or Non-technical posts to be filled in by Competitive Online Test-2023. Even otherwise the decisions taken by the General Administration Department of the State or the resolutions issued by the said department are binding on all other departments of the State. The G.R. dated 4.5.2022 specifically provides that if the competitive examinations are required to be taken in more than one shift, it would be mandatory to adopt the normalization method. It, therefore, cannot be accepted that the candidates appearing for the online test were unaware of the possibility of adoption of normalization method. It has to be further noted that in clause

7.4 of the information brochure, there is a reference of the Government Resolution dated 4.5.2022.

21.   Clause 7 in the information brochure is titled as 'declaration of result and preparation of State merit list'. It is true that clause 7.1 provides that the competent authority shall conduct competitive online test, evaluate the answer-sheet and prepare the provisional State merit list. Further, clause 7.2 undisputedly envisages that merit list shall be prepared on the basis of the marks scored by the candidates in the online test. However, it has to be understood that all these provisions are made on an assumption that online test will be in one shift with one question paper, whereas the G.R. dated 4.5.2022 provides the course to be adopted if the online test is required to be conducted in more than one shift and accordingly, the course as envisaged in the said G.R. is adopted by the respondents. The provisions in the advertisement published on 10.5.2019 the provisions which contain in the information brochure and the G.R. dated 4.5.2022 all have to be read conjointly in consonance with each other. Further as has been contended in the affidavit in reply filed on behalf of the respondents the normalization method was published on the website of

respondent No. 2 on 6.6.2023 i.e. much before the date of examination. It was thus:

वेगवेगळ्या सत्रांमध्ये पार पडणाऱ्या तांत्रिक, अतांत्रिक व परिचर्या संवर्गातील विविध पदांसाठी घेण्यात येणा-या स्पर्धा परिक्षा -२०२३ मधील प्रश्नपत्रिका वेगवेगळ्या असतील. अशावेळी परीक्षार्थींची संख्या विचारात घेऊन परीक्षा एकापेक्षा अनेक सत्रांत पार पाडावयाची झाल्यास भिन्न प्रश्नपत्रिकांची काठिण्य पातळीचे समानीकरण (Normalization) करण्यात येईल व त्यासाठी पुढे नमुद केलेल्या Mean Standard Deviation Method या पध्दतीचा अवलंब करण्यात येईल.

Mean Standard Deviation Method

$$\hat{M}_{ij} = \frac{\bar{M}_t^g - M_q^g}{\bar{M}_{ti} - M_{iq}} \left(M_{ij} - M_{iq} \right) + M_q^{gm}$$

Where:

$\hat{M}_{ij}$ = Normalized marks of jth candidate in the ith shift.

$\bar{M}_t^g$ = is the average marks of the top 0.1% of the candidates considering all shifts (number of candidates will be rounded-up).

M_q^g = is the sum of mean and standard deviation marks of the candidates in the examination considering all shifts.

$\bar{M}_{ti}$ = is the average marks of the top 0.1% of the candidates in the ith shift (number of candidates will be rounded-up).

M_{iq} = is the sum of mean marks and standard deviation of the ith shift.

M_{ij} = is the actual marks obtained by the jth candidate in i^{th} shift.

M_q^{gm} = is the sum of mean marks of candidates in the shift having maximum mean and standard deviation of marks of candidates in the examination considering all shifts.

Calculation of marks will be done up to 5 decimal places.

Applicants have not denied or disputed the aforesaid fact.

22.   In the circumstances, the contention raised on behalf of the applicants that no understanding was given to them about adoption of the normalization method is difficult to be accepted.

23.   Now it has to be examined whether normalization method adopted in the present matter caused any loss or prejudice to the applicants? The applicants themselves have disclosed in para-H of the O.A. that because of normalization method 3 marks are increased of applicant No. 1 and 10 marks are increased of applicant No. 2. The respondents have provided the information as about all four applicants, which demonstrate that raw score of applicant No. 1 Shri Shashikant B. Morale was 126 and in the normalization his score has been enhanced to 129.90929. Raw score of applicant No. 2 Rameshwar Namdeo Morale was 90, whereas his normalized score is recorded as 102.63055.   Raw score of applicant No. 3 Shriraj Satish Thombre is 98, whereas his normalized score is 92.04398 and raw score of applicant No. 4 Samyak Anil Jamdhde is 120 and his normalized score is 121.79530. It is thus evident that 3 out of 4 applicants have been benefited because of the adoption of normalization method. In the circumstances the allegation as has been made by the applicants that method of normalization for awarding marks has resulted in causing loss to the candidates apparently appears to be unsustainable.   The applicants in the O.A. have not provided any information or particulars as to how many candidates have suffered loss because of the normalization method. The applicants were

under an obligation to substantiate the aforesaid allegation by putting on record some concrete information; however, only vague submissions are made. Insofar as the applicants are concerned, as I noted hereinabove 3 out of 4 have not suffered any loss but have been benefited with the normalization of marks. The applicants have thus failed in substantiating the aforesaid allegation.

24.   Learned counsel for applicants was more persuasive in submitting that no one has any right or authority to change or alter marks secured by the candidate in the test/examination. Learned counsel in support of his contention has relied upon the judgment of the Hon'ble Apex Court in the case of **K. Manjusree Vs. The State of Andhra Pradesh & Ors.** (cited supra). In the advertisement published in the said matter there was no mention of minimum marks in written test and interview. However, the subcommittee adopted the course of minimum qualifying marks for the interview. The Hon'ble Apex Court set aside the said decision holding that the action of Full Court in revising the merit list by adopting a minimum percentage of marks for interviews was impermissible. The Hon'ble Apex Court has observed that the Full Court could not have introduced a new requirement of minimum marks in

interviews, which had the effect of eliminating candidates, who would otherwise be eligible and suitable for selection. In the circumstances, the Hon'ble Court held the action of Full Court in revising the merit list by adopting the criterion of minimum percentage of marks for interviews unsustainable. Another judgment, which is relied upon by the learned counsel for the applicants in the case of **Hemani Malhotra Vs. High Court of Delhi** (cited supra) is based on the law laid down in the case of **K. Manjusree Vs. The State of Andhra Pradesh & Ors.** (cited supra), I therefore, need not to make elaborate discussion in regard to the said judgment.

25.   In the instant matter, it is not the case of brining change in the criteria prescribed or laid down in the midst of the selection process. The issue involved in the present matter is quite different and distinguishable. In the present matter, having regard to the fact that the online test was required to be conducted in six different shifts / sessions with different set of papers with varying levels of difficulties, that the normalization process was adopted, whereby raw marks are adjusted to a common scale ensuing uniformity inter-se amongst the candidates, who have faced the examination in different shifts with different question papers. As has been argued on behalf of

respondents the method so adopted was not against the interest of the candidates but, was in their favour. Further, as has been argued on behalf of respondents, normalization is a time tested scientific method. The validity of the said method was challenged before the Division Bench of the Hon'ble Bombay High Court in PIL No. 94/2008 and as I noted hereinabove the Division Bench has held that "normalization or equalization of percentage of marks is not violative of Article 14 of the Constitution of India."

26.   In the case of **State of Uttar Pradesh & Ors. Vs. Atul Kumar Dwivedi & Ors.** (cited supra) similar question was for consideration of the Hon'ble Apex Court. In the said case, the candidates were tested on different dates over 12 days through different sets of question papers. As has been observed by the Hon'ble Apex Court, the Board could not possibly have gone ahead with examination for 29 different batches with the same type of questions as the subsequent batches would then have had advantage of having seen the pattern of questions put to the earlier batches. Thus, though the subjects were same, the question papers would necessarily be different in terms of quality and approach. In the circumstances in that situation the Hon'ble Apex Court held that "Scaling of Marks" in other words

"Normalization of Marks" had to be adopted and that would always be the correct approach.

27.   It has to be stated that the applicants have not raised any challenge to the method which has been adopted by the respondents for finalization of the marks. As has been argued on behalf of the respondents the method which has been used for equalization of marks is tested one and had been used in several other recruitment processes. The applicants have also not raised allegations of *mala fides* or absence of *bona fides* at any juncture of the recruitment process. After having considered the entire facts and circumstances involved in the matter, I have no hesitation in arriving at a conclusion that adopting the process of normalization was quite consistent with the requirement of law and the decision taken by the respondents to adopt the method of normalization was well within their jurisdiction.

28.   As has been observed by the Hon'ble Supreme Court in the case of **State of Uttar Pradesh & Ors. V/s. Atul Kumar Dwivedi & Ors.**, *cited supra*, the method devised by the experts should not be lightly interfere with unless instances of arbitrary and *mala fide* exercise of power are made out. As I have noted hereinabove, no such case is made out by the applicants. I,

therefore, see no reason for causing any interference in the recruitment process being conducted by the respondents. In the result, O.A. fails and is accordingly dismissed, however, without any order as to costs.

VICE CHAIRMAN

LATER ON :

29.   At this juncture, learned Counsel appearing for the applicants has prayed for continuing the effect of the order passed by this Tribunal on 15-09-2023 whereby the respondents were restrained from publishing the final select list of the candidates for next 2 weeks since the applicants intend to challenge the present order before the Hon'ble High Court.

30.   Request is opposed by the learned CPO. He submitted that the recruitment process is at the final stage and it, therefore, shall not be arrested any more. He has, therefore, prayed for rejecting the request.

31.   It has to be stated that the Tribunal was required to restrain the respondents from publishing final select list of the candidates vide order dated 15-09-2023 as the time was sought by the learned CPO for filing the affidavit in reply. On 06-09-2023, the learned CPO had assured for submitting affidavit in

reply at the earliest and had made a statement before the Tribunal that no effective steps were likely to be taken till the next date i.e. 15-09-2023. However, on 15-09-2023 also the reply was not filed and further time was sought by the learned CPO. In those circumstances, the above interim direction was given to the respondents without going into the merits of the case.

32.   After having disposed of the O.A. on merits, it may be unjust and improper to allow the recruitment process to be delayed further, and more particularly, when the normalization method is held to be valid and not against the interest of the candidates. I reiterate that, the applicants have failed in establishing that the equalization method in any way found to be against the interest of the candidates or has caused loss to the candidates. As I have noted earlier, 3 applicants out of 4 who have filed the present application are benefited because of the adoption of normalization method. In the circumstances, at the instance of the applicants the further process cannot be arrested any more. The request, therefore, stands rejected.

VICE CHAIRMAN

PLACE : Aurangabad.
DATE   : 27.09.2023

YUK, HDD, KPB DB O.A. No. 822 of 2023 PRB Selection Process