

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 391 of 2022 (DB)
With C.A. No.169/2022

- (1) Sandip Bribhansingh Somwanshi,
Occ. Service, aged about 34 years,
Ganesh Nagar, Gondia.
- (2) Mukeshkumar Ruplal Rahangdale,
Occ. Service, aged about 37 years,
Shiv Nagar, Chhota Gondia,
Gondia-441 601.
- (3) Shivaji Trimbak Bade,
Occ. Service, aged about 40 years,
Vivekanand Colony, Gondia-441 601.

Applicants.

Versus

- 1) State of Maharashtra,
through its Additional Chief Secretary,
Mantralaya, Mumbai-400 032.
- 2) School Education and Sports Department through its
Secretary, Madam Kama Marge, Hutatma Rajguru Chaouk,
Mantralaya, Annexe, Mumbai-440 032.
- 3) Maharashtra Public Service Commission,
Bank of India Building, 3rd floor,
Mahatama Gandhi Marg, Hutatma Chowk,
Mumbai-440 001.

Respondents.

Shri R.B. Dhore, Advocate for the applicants.
Shri S.A. Deo, learned C.P.O. for respondents.

WITH

ORIGINAL APPLICATION No. 405 of 2022 (DB)

Bhaskar S/o Janraoji Pongade,
Aged about 41 years, Occ. Service,
Resident of Kangaon, Tq. Hinganghat,
District Wardha.

Applicant.

Versus

- 1) State of Maharashtra,
through its Additional Chief Secretary,
Mantralaya, Mumbai-400 032.

- 2) School Education and Sports Department through its Secretary, Madam Kama Marge, Hutatma Rajguru Chaouk, Mantralaya, Annexe, Mumbai-440 032.
- 3) Maharashtra Public Service Commission, Bank of India Building, 3rd floor, Mahatama Gandhi Marg, Hutatma Chowk, Mumbai-440 001.

Respondents.

**Shri R.B. Dhore, Advocate for the applicant.
Shri S.A. Deo, learned C.P.O. for respondents.**

WITH
ORIGINAL APPLICATION No. 406 of 2022 (DB)

- (1) Rohidas Shesharao Jadhao,
Occ. Service, aged about 36 years, at Manjarda,
Post Akola Bajar, Tahsil & District Yavatmal-445 109.
- (2) Hitesh Jaywantrao Rathod,
Occ. Service, aged about 38 years, Kinhala,
At post Metikheda, Tahsil Kalamb, District Yavatmal-445 323.
- (3) Bhagwan Keshao Dhone,
Occ. Service, aged about 35 years, Plot No.34, Ram Nagar,
Mahajanwadi, Wanadongri,
Hingna Road, Nagpur- 441 110.

Applicants.

Versus

- 1) State of Maharashtra,
through its Additional Chief Secretary,
Mantralaya, Mumbai-400 032.
- 2) School Education and Sports Department through its Secretary, Madam Kama Marge, Hutatma Rajguru Chaouk, Mantralaya, Annexe, Mumbai-440 032.
- 3) Maharashtra Public Service Commission, Bank of India Building, 3rd floor, Mahatama Gandhi Marg, Hutatma Chowk, Mumbai-440 001.

Respondents.

**Shri R.B. Dhore, Advocate for the applicants.
Shri S.A. Deo, learned C.P.O. for respondents.**

WITH**ORIGINAL APPLICATION No. 407 of 2022 (DB)**

Arunkumar Damodhar Khedekar,
Aged about years, Occ. Service,
Resident of Deulgaon Mahi, Tahsil Deulgaon Raja,
District Buldhana.

Applicant.**Versus**

- 1) State of Maharashtra,
through its Additional Chief Secretary,
Mantralaya, Mumbai-400 032.
- 2) School Education and Sports Department through its
Secretary, Madam Kama Marge, Hutatma Rajguru Chaouk,
Mantralaya, Annexe, Mumbai-440 032.
- 3) Maharashtra Public Service Commission,
Bank of India Building, 3rd floor,
Mahatama Gandhi Marg, Hutatma Chowk,
Mumbai-440 001.

Respondents.

Shri R.B. Dhore, Advocate for the applicant.
Shri S.A. Deo, learned C.P.O. for respondents.

WITH**ORIGINAL APPLICATION No. 411 of 2022 (DB)**

Arun Daulatrao Sable,
Aged about 39 years, Occ. Service,
Resident of Cotton Market Area, Dongaon,
Tahsil Mehekar, District Buldhana.

Applicant.**Versus**

- 1) State of Maharashtra,
through its Additional Chief Secretary,
Mantralaya, Mumbai-400 032.
- 2) School Education and Sports Department through its
Secretary, Madam Kama Marge, Hutatma Rajguru Chaouk,
Mantralaya, Annexe, Mumbai-440 032.

- 3) Maharashtra Public Service Commission,
Bank of India Building, 3rd floor,
Mahatama Gandhi Marg, Hutatma Chowk,
Mumbai-440 001.

Respondents.

**Shri R.B. Dhore, Advocate for the applicants.
Shri S.A. Deo, learned C.P.O. for respondents.**

WITH

ORIGINAL APPLICATION No. 514 of 2022 (DB)

- (1) Vinod Shriramji Kumbhare,
Aged about 38 years, Occ. Service,
Resident of House No.2506, Ward No.17,
Katre Layout, Jageshwari Puri, Hingna,
Tahsil Nagpur, District Nagpur.
- (2) Purushottam Yuwraj Meshram,
Aged about 48 years, Occ. Service,
resident of Vidhya Nagri, Vasant, Nandepera Road,
Wani, Tahsil & District yavatmal.

Applicants.

Versus

- 1) State of Maharashtra,
through its Additional Chief Secretary,
Mantralaya, Mumbai-400 032.
- 2) School Education and Sports Department through its
Secretary, Madam Kama Marge, Hutatma Rajguru Chaouk,
Mantralaya, Annexe, Mumbai-440 032.
- 3) Maharashtra Public Service Commission,
Bank of India Building, 3rd floor,
Mahatama Gandhi Marg, Hutatma Chowk,
Mumbai-440 001.

Respondents.

**Shri R.B. Dhore, Advocate for the applicants.
Shri S.A. Deo, learned C.P.O. for respondents.**

**Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman.
And
Hon'ble M.A. Lovekar, Member (J).**

Date of Reserving for Judgment : 13th July,2022

Date of Pronouncement of Judgment : 25th July,2022

COMMON JUDGMENT

Per : Member (J).

(Delivered on this 25th day of July, 2022)

These Original Applications are heard finally by consent of Shri R.B. Dhore, learned counsel for the applicants and Shri S.A. Deo, learned CPO for the respondents.

2. Common issue which falls for our determination in this batch of Original Applications is "Whether the applicants are entitled to get benefit of Judgment and order dated 04/10/2018 passed by this Tribunal (Principal Seat) in a batch of Original Applications (O.A.No.634/2017 and 24 others) by applying principle of parity. Therefore, this batch of six Original Applications is being decided by this common Judgment.

3. All the applicants are Primary Teachers in District Services (Class-III) (Sub Ordinate Education) working in various Schools run by Zilla Parishads. They are governed by the Maharashtra Zilla Parishad District Services Recruitment Rules,1967.

4. On 17/5/2017 Department of School Education and Sports, State of Maharashtra issued advertisement (Annex-E) for filling posts of Deputy Education Officer and other allied posts in Maharashtra Education Services, Group- B (Administrative Branch). In response to this advertisement all the applicants before us submitted applications online as they fulfilled eligibility criteria. However, by communication dated 19/5/2017 Deputy Director, Commissioner, Education, State of Maharashtra, Pune clarified that Primary Teachers will not be eligible to appear for limited competitive test to be held as per advertisement dated 17/5/2017. For quashing and setting aside this clarificatory communication several similarly placed Teachers approached various Benches of this Tribunal. Original Applications filed by them at various Benches were clubbed and heard by the Principal Bench. Out of these 25 Original Applications, O.A.No.634/2017 was taken up as a lead case for writing Judgment, and accordingly Judgment was delivered on 04/10/2018.

Clause B of operative part of this Judgment reads as under –

“(B) Primary Teachers who are serving in employment of Government of Maharashtra and whose qualification and eligibility corresponds / concurs with Col. 4 of Appendix IV Part-I of M.Z.P. (D.S) R. Rules, 1967 too are declared to be eligible to apply along with Primary Teachers for the post advertised through Advt. no.40/2017.”

According to the applicants who are before us, benefit of aforesaid declaration as granted by Principal Bench (in Clause B of operative part of the Judgment) should be extended to them by applying principle of parity.

5. On 4/1/2019 State filed Review Application No.21/2018 (Annex-G) for review of order dated 4/10/2018. While dismissing this Review Application by order dated 1/2/2019, the Principal Bench clarified in para-2 that the application was filed seeking review of common Judgment and order in O.A.No. 634/2017 and others (emphasis supplied).

6. Thereafter the applicants (in O.A.No.634/2017) moved an application in which the Principal Bench passed the following order on 9/4/2019 –

“ (1) *Heard Shri C.T. Chandratre, the learned Advocate for the applicants and Smt. K.S. Gaikwad, the learned P.O. for the respondents.*

(2) *By consent words “**Primary Teachers who are serving in employment of Government of Maharashtra and**” seen in order clause B of paragraph 35 of Judgment of this Tribunal dated 04/10/2018 be deleted and words “**The applicants**” be added.”*

7. Claim of parity with the applicants before the Principal Bench, raised by the applicants before us is based on what is held in the above referred Judgment dated 04/10/2018 by the Principal

Bench. The respondents do not dispute that the applicants before us and the applicants before the Principal Bench are similarly placed. Therefore, it would be appropriate to reproduce the questions for determination framed by the Principal Bench, followed by discussion and operative part of the order. The same are as follows –

“22. In view of rival contentions, limited question which arises for consideration are as follows:-

(i) Which is the class of employees serving under the State Government and under the Zilla Parishad who are falling within the compass of eligibility as contemplated by Rule 3 of Deputy Education Officer-I, Group-B (Administrative Branch) (Gazetted) Maharashtra Education Service, (Recruitment) Rules, 2016.

(ii) Whether exclusion of Primary Teachers by failure to mention ‘Primary Teachers having graduation and Bachelor’s Degree in Education or equivalent’ in education is a conscious omission.

DISCUSSION

23. The job left before this Tribunal is very simple, namely, to read the Recruitment Rules and apply the stipulation as those stand and examine effect and applicability thereof.

24. Admittedly, Primary Teachers with higher qualification (Graduation and Bachelor’s degree in education or equivalent), are not ipso facto, and barely due to possession of said qualification, and even by virtue of fact of equal scale of pay to that of pay of Assistant Secondary School Teachers, are not transferable as Assistant Secondary School Teacher.

25. There does not exist any ambiguity that District Technical Service Grade ‘C’ as referred to in M.E.S, Dy. E (A) Recruitment Rules, 2016 mean by D.T.S. (Class-III) (Educational) which is quoted in foregoing paragraph no.13, i.e. Assistant Secondary School Teacher.

26. Now this Tribunal has to examine the compass of the class of Zilla Parishad employees who fall within the eligibility clause, i.e. 2(e) of M.E.S, Recruitment

Rules of 2016. Clause (e) of Rule 2 thereof which is already quoted in foregoing para no. 9 is once again and for ready reference quoted as follows:-

“2(a).....
 (b).....
 (e) ‘District Technical Service Group-C’ means the District Technical Service, Group-C under the control of Zilla Parishad and it includes the posts mentioned in Part-II of Schedule B appended to these rules.”

(Quoted from page 31 of O.A 634/2017)

27. As is evident from the text quoted in foregoing paragraph 13, Part-II of Appendix IV entry 5 relates to the services in education department titled as ‘District Technical Service, (Class-III) which is Secondary School Assistant Teacher’ and clause (e) of Rule 3 above quoted states that it would include the posts mentioned in Para II of Schedule ‘B’ thereof.

28. Now this Tribunal has to see as to which is/are the post described in Schedule ‘B’ of M.Z.P (D.S) R.R 1967, referable to in clause (e) of Rule 2 supra. It is seen that the District Technical Service, Class- III Grade II as prescribed in M.Z.P (D.S) R. Rules 1967, (referred to in Rule 2(e) of M.E.S, Recruitment Rules, 2016) is reproduced below:-

**“APPENDIX IV
 Part-I
 See Rule 5**

Rules laying down the qualifications of candidates for and methods of appointment to posts included in the District Technical Service (Class III) (Educational) and District Service (Class III) (Subordinate Educational).

1	2	3	4
Sr No	Service and Cadre	Post	Qualifications for and methods of appointment
	<i>District Technical Service(Class III)(Educational) Grade-II</i>	<i>(i) Extension Officer(Education). (ii)Assistant Education Officer. (iii) Senior Assistant Deputy Educational Inspector.</i>	<i>1. Appointment shall be made by:- (a) Promotion of persons in District Technical Service (Class III) (Education),Grade III who have completed not less than 5 years of continuous service in that grade OR (b) temporary transfer of suitable</i>

		<p><i>persons from among <u>Assistant Teachers in District Technical Service (Class III) (Educational) and from amongst Primary School Teachers and Masters in District Service (Class III) (Subordinate Educational) who</u></i></p>
		<p><i>(i) possess at least 3 years of post B. Ed. (or equivalent qualification) teaching experience in Primary Secondary Schools, or a Junior College of Education</i></p> <p><i>Or</i></p> <p><i>(ii) possess at least 3 years of post B. Ed. (or equivalent qualification) experience of inspection of Primary Secondary Schools, or</i></p> <p><i>(ii) possess 5 years teaching experience after pass in S.S.C examination and acquiring qualification</i></p> <p><i>OR</i></p> <p><i>(c) nomination from amongst candidates who :-</i></p> <p><i>(i) unless already in the service of the Zilla Parishad not more than 35 years of age,</i></p> <p><i>(ii) are graduates of a recognized University, and</i></p> <p><i>(iii) (a) possess at least 3 years of post B. Ed equivalent qualification) teaching experience Primary or Secondary Schools, or Junior College Education; or</i></p> <p><i>(b) possess at least 3 years of post B. Ed. Equivalent qualification) experience of inspection Primary or Secondary Schools, or (c) possess 5 years teaching experience after passing of the S.S.C Examination and acquiring teaching training qualification.]</i></p> <p><i>Provided that the age limit may be relaxed in the case of candidate possessing good qualifications and / or</i></p>

			<p><i>experience.</i></p> <p><i>[Provided further that nothing in these rules shall affect appointments already made by the Appointing Authority by way of transfer/temporary transfer of the Assistant Teachers in District Technical Service (Class III) (Educational) or the Primary School Teachers in District Service (Class III) (Subordinate Education) if such Assistant Teachers of the Primary School Teachers continued to hold the post of Extension Officer (Education), Grade II or Senior Assistant Deputy Educational Inspector for more than one year on the 1st January 1976]</i></p> <p><i>2. Not less than 75 per cent of the posts shall be filled in by nomination and transfer.</i></p> <p><i>3. Persons appointed to this post may be required to undergo training course for Social Education. Such of them who are selected to undergo this training shall execute an agreement bond in the</i></p> <p style="text-align: right;"><i>Appended From 'A'</i></p>
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(Quoted from page 100 to 102 of O.A.)

29. It is once again necessary to have a quick look at the procedure of recruitment to the post titled District Technical Service, Class-III, Education, Group-II, quoted herein before in foregoing para. It would be useful to refer to the quotation of said entry, which is quoted in foregoing paragraph no.27. Relevant entry is contained in column No.4, entry (b).

30. Item no. 1, clause (a) of column no. 4 quoted in foregoing paragraph no.28 (and it is underlined in said column) reveals that Primary Teachers are included in the class of cadres which are transferable on completion of certain conditions which are incorporated in column (4) and these conditions are as regards age and experience.

31. It is evident and unambiguously mentioned in said prescription that Primary School Teachers and Masters in District Service,(Class-III)(Subordinate Education) who possess prescribed qualification and experience (or are already

transferred to the post of Grade-II) are eligible for being appointed by transfer in the cadre of District Service, Class-III (Educational) Grade-II.

32. It is thus conclusive that District Technical Service, Class-III, can be filled in by:- temporary transfer of suitable person in the District Technical Service (Class III) Educational,(Subordinate Education), i.e. Primary Teacher subject to fulfilling condition laid down in rules, apart from Teachers in Junior Colleges attached to Secondary Schools.

33. Thus, the post of Primary Teachers holding prescribed qualification, experience etc. is a feeder cadre for appointment by transfer to the post of District Technical Service, Class-III (Educational),Grade-II, and this post [TTS-Class III (Educational) Grade II]is a feeding cadre for appointment by temporary transfer to the post of District Technical Service, Class-III (Educational).

34. The aspect of feeder cadre and eligibility described in foregoing paras is totally lost sight by the State Government as well as by the M.P.S.C, and therefore stance of opposing even to consider applicant's candidature is totally erroneous being based on incomplete reading of Rules. Result thereof is denial of opportunity of being a candidate and hence violative of Constitutional guarantee of fairness and guarantee against arbitrariness. It results in denial of equal opportunity in the matter of employment. Impugned rejection of applicants' candidature deserves to be set aside.

35. Hence, Original Applications succeed and following order is passed:-

(A) Impugned decision of M.P.S.C in rejecting applicants' candidature for recruitment furtherance to Advertisement No. 40/2017 is quashed and set aside.

(B) Primary Teachers who are serving in employment of Government of Maharashtra and whose qualification and eligibility corresponds/concurs with Col. 4 of Appendix IV Part-I of M.Z.P(D.S) R. Rules, 1967 too are declared to be eligible to apply alongwith Primary Teachers for the post advertised through Advt. no.40/2017.

(C) Result of written test undergone by applicants be declared and its validity shall be subject to applicants' eligibility as is laid down by joint reading of M.Z.P (D.S) R. Rules 1967 and the Deputy Education Officer in the Maharashtra Education Service, Group-B(Administrative Branch) (Gazetted) (Recruitment) Rules,2016.

(D) M.P.S.C and State Government shall keep in mind M.Z.P (D.S) R. Rules 1967 referred to in foregoing para no 28, while scrutinizing and examining eligibility of applicants' candidature.

(E) Those applicants who withstand eligibility shall be permitted to pursue their candidature for recruitment subject matter.

(F) Parties are directed to bear own costs.”

8. We have already reproduced Clause B of operative part of the order dated 4/10/2018 as it reads presently by virtue of order dated 9/4/2019.

9. It was submitted by Advocate Shri R.B. Dhore that only in O.A. No. 634/2017 operative part of the order was modified, in rest of the 24 O.As., the operative part of the order remained as it was (on 4/10/2018) and from this circumstance it can be concluded that only the Judgment in O.A.No. 634/2017 was a Judgment in personam whereas Judgments in rest of the connected O.As. were Judgments in rem and hence benefit of parity should be extended to the applicants since they and the applicants in rest of the proceedings before the Principal Bench are similarly situated.

10. For the sake of clarity it would be beneficial to reproduce Clause B of operative part of the order dated 4/10/2018 as it stood before and after modification dated 9/4/2019 –

“(B) Primary Teachers who are serving in employment of Government of Maharashtra and whose qualification and eligibility corresponds / concurs with Col. 4 of Appendix IV Part-I of M.Z.P. (D.S) R. Rules, 1967 too are

declared to be eligible to apply along with Primary Teachers for the post advertised through Advt. no.40/2017.”

“(B) The applicants whose qualification and eligibility corresponds / concurs with Col. 4 of Appendix IV Part-I of M.Z.P. (D.S) R. Rules, 1967 too are declared to be eligible to apply along with Primary Teachers for the post advertised through Advt. no.40/2017.”

11. In reply, it was submitted by C.P.O. Shri S.A. Deo that by Judgment dated 4/10/2018 not only O.A. No. 634/2017, but all 25 O.As. were decided by the Principal Bench, it was, in fact, a common Judgment and hence, modification carried out in Clause B of operative part of the order can be treated to have been carried out in rest of the matters as well.

12. If aforesaid submission made by Advocate Shri R.B. Dhore is accepted that modification in Clause B of operative part of the Judgment and order was carried out only in O.A.No. 634/2017 and not in rest of the O.As., the effect would be only the Judgment in O.A.No. 634/2017 will have to be treated as a Judgment in personam and rest of the Judgments in the batch would be Judgments in rem and then the applicants before this Court would be eligible to get benefit of parity. If, on the other hand, submission of CPO is accepted that Judgment dated 4/10/2018 was a common Judgment whereby the entire batch of 25 O.As. was decided, said Judgment will have to be treated as a Judgment in personam and in that case the applicants

before us will succeed only if they show that neither laches nor acquiescence can be attributed to them.

13. In support of the aforesaid conclusion reliance may be placed on the following observations in **State of Uttar Pradesh and Others Vs. Arvind Kumar Srivastava and Others (2015) 1 SCC 347.**

“ (22) The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(22.1) The normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(22.2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(22.3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see K.C. Sharma & Ors. v. Union of India). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

14. To support the aforesaid contention of the applicants Advocate Shri R.B. Dhore invited our attention to Annex-F1 at page no.74/1. From perusal of this Annexure, it can be seen that application for modification of Judgment dated 4/10/2018 was moved only in O.A.No. 634/2017. In reply, CPO Shri S.A. Deo relied on the following pleading of respondent nos. 1 and 2.

“(9) A bare perusal of the Judgment dated 4/10/2018 passed by the Hon’ble Principal Bench of this Hon’ble Tribunal would reveal that all the original applications have been decided and disposed of by the common Judgment. In the opening para nos.1 and 2 of the said Judgment it has been made clear that all the original applications were heard on different dates and finally on 10/9/2018. In paragraph no.2 of the said Judgment it is specifically mentioned that, O.A.No.634/2017 is taken up as lead case for writing judgment. In that view of the matter it is crystal that all the aforesaid original applications were heard and decided by common judgment passed by the Hon’ble Principal Bench of this Hon’ble Tribunal on 4/10/2018.

(12) A bare perusal of the order and the correction made thereafter in the Original Judgment dated 4/10/2018 would reveal that the said order is restricted only to the applicants who have approached the Principal Bench of this Hon'ble Tribunal by filing various original applications. As such it can be clearly seen that the said Judgment has been restricted and can be called as the Judgment in personam and cannot be treated as Judgment in rem as contended by the applicants.”

Correctness of aforesaid pleading of respondent nos.1&2 is borne out by record. In para-2 of the Judgment dated 4/10/2018 the Principal Bench categorically stated that O.A. No. 634/2017 was taken up as a lead case for writing Judgment. In rest of the 24 O.As., para-2 of operative part of the Judgment begins with these words –

“ For the reason recorded separately in O.A.No. 634/2017, Original Applications succeed and following order is passed “.

This was followed by Clauses A to F of operative part of the Judgment.

15. As observed earlier, while dismissing Review Application No.21/2018 the Principal Bench in para-2 of the Judgment observed that Review was sought of common Judgment and order in O.A.No. 634/2017 and others. All these circumstances lead us to conclude that Judgment dated 4/10/2018 was a common Judgment delivered in the batch of 25 O.As. and by virtue of modification effected to Clause B in operative part of the Judgment the benefit extended thereunder was

confined to the applicants before the Principal Bench making it a Judgment in personam.

16. Now, in view of ratio laid down in the case of "*State of Uttar Pradesh and Others Vs. Arvind Kumar Srivastava (supra)*" it will have to be seen whether the applicants before us were diligent in approaching this Bench without loss of time or whether they were guilty of laches. Along with the applicants before the Principal Bench the applicants before us had also appeared for written test held pursuant to advertisement dated 17/5/2017. It appears that written test was scheduled and held on 13/8/2017. Because they were held to be ineligible by communication dated 19/05/2017 and thereafter their result was not declared, several aggrieved Primary Teachers approached various Benches of this Tribunal and by order dated 04/10/2018 they were declared to be eligible and M.P.S.C. was directed to declare their result subject to certain conditions. The applicants before us who are similarly placed could have, and should have, approached this Tribunal at that point of time. Now, an attempt is made by the applicants before us that cause of action to approach this Tribunal arose on 1/4/2022 when result was declared. This submission cannot be accepted. The cause of action had arisen for the applicants before us as well as the applicants who had approached various Benches of this Tribunal earlier in the year 2017

itself, at the same time. Thus, it is clear that the applicants before us are guilty of laches and hence, by applying principle of parity, benefit of what is held in the Judgment dated 4/10/2018 which is a Judgment in personam, cannot be extended to them. Therefore, all these O.As. will have to be dismissed, and the same are hereby dismissed, with no order as to costs. C.A. No. 169/2022 in O.A. 391/2022 is disposed of.

(M.A.Lovekar)
Member (J)

(Shree Bhagwan)
Vice Chairman

Dated :- 25/07/2022.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of V.C. and Hon'ble Member (J).

Judgment signed on : 25/07/2022

Uploaded on : 26/07/2022

ok