

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 38/2020 (D.B.)

1. Uttam Parshuram Pawar,
Aged about 53 years, Occ. Service,
Post Gunj, Tah.-Mahagaon,
District Yavatmal.
2. Dipak Nagorao Kambale,
Aged about 53 years, Occ. Service,
Patil Nagar, Umrekhed,
Tah. Umrekhed, Dist. Yavatmal.
3. Prashant Nilkantrao Wankhade,
Tilakwadi, Maide Chowk,
Near Bidkar Hospital,
Yavatmal-445 001.
4. Sudhir Motiram Ingle,
Aged about 47 years, ITI,
Akola.
5. Rajendra Omkarrao Uattarkhade,
Aged about 54 years, Occ. Service,
Post Pravin Nagar, Behind V.M.V.,
Amravati, Tah., Dist. Amravati-444 603.
6. Pruthviraj Bhimrao Chavan,
Aged about 36 years, Occ. Service,
R/o Plot No. 97, New Dyneshwar Nagar,
Manewada Road, Nagpur.
7. Laxman Manohar Jadhav,
Aged about 36 years, Occ. Service,
Post Palshi, B-11,
Tah. Khamgaon, Dist. Buldhana-444 303.

Applicants.

Versus

- 1) The State of Maharashtra,
Through its Chief Secretary,
Department of Skill Development and Entrepreneurship,
Maharashtra State, 2nd Floor,
Mantralaya, Madam Cama Road,
Hutatma Rajguru Chowk,
Mumbai-32.
- 2) Directorate of Vocational Education and Training,
Maharashtra State,
Through its Director,
3, Mahapalika Marg, PO Box No. 10036,
Mumbai-400 001.
- 3) Directorate of Vocational Education and Training,
Maharashtra State,
Through its Joint/Deputy Director
3, Mahapalika Marg, PO Box No. 10036,
Mumbai-400 001.
- 4) Joint Director, Regional Office Amravati,
Directorate of Vocational Education and Training,
Morshi Road,
Amravati-444 603.

Respondents

Smt. M.Chandurkar, Id. Advocate for the applicants.

Shri A.M.Ghogre, Id. P.O. for the respondents.

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

JUDGMENT

Judgment is reserved on 21st Dec., 2022.

Judgment is pronounced on 13th Jan., 2023.

(Per:-Member (J))

Heard Smt. M.Chandurkar, learned counsel for the applicants and Shri A.M.Ghogre, learned P.O. for the Respondents.

2. Case of the applicants is as follows. The applicants are working as Group-D employees in various Institutes falling within the jurisdiction of respondent no. 4. By G.R. dated 14.08.2019 (A-1) ratio of direct recruitment and promotion to Group-C posts was changed from 10:90 to 50:50 as one time measure. Respondent no. 4, by letters dated 17.10.2019 (A-2) and 06.11.2019 (A-3) had directed Heads of the Institutes to call details from eligible Group-D employees for promotion to Group-C posts. To these communications list of eligible employees was attached. Names of the applicants did feature either in A-2 or A-3. This shortlisting of eligible employees was based on the seniority list as on 01.01.2016 which was published on 07.10.2016 (A-5) by respondent no. 4. However, while preparing the impugned shortlist (A-6) dated 07.12.2019 candidates who were junior to the applicants were shortlisted and the applicants were excluded. Being aggrieved by their exclusion from this shortlist the applicants made representations (A-7 collectively). The applicants received information (A-8) that only the employees shortlisted in the impugned communication were to appear for written test scheduled to be held on 25.01.2020. Hence, this original application for following reliefs:-

“A. Direct the respondents to consider the claim of the applicants and publish a fresh list of the candidates who are eligible to appear for the promotion examination for the post of instructors as per the provisions of Government Resolution dated 14.08.2019.

B. Direct the respondent no. 4 to include the names of the applicants in the list of eligible/ selected candidates to appear for promotional examination for the post of Instructor.

C. Quash and set aside the impugned list of selected candidates dated 07.12.2019 published by respondent no. 4.

D. Quash and set aside the order 01.01.2020 obtained under the RTI on 20.01.2020 issued by respondents for conducting the examination scheduled on 25.01.2020.”

3. In their reply at PP. 62 to 69 respondents 1 to 4 have averred as follows. As per G.R. dated 14.08.2019 Notification/ Recruitment Rules dated 14.12.2012 (A-R-1 at PP. 75 to 78) were to govern the process of promoting employees of Group-D possessing requisite technical qualification to Group-C posts of Instructor. After receipt of information of employees who were initially shortlisted, respondent no. 4, by communication dated 14.11.2019 (A-R-2) set up a three members committee to prepare seniority list of employees of Group-D who could

be considered for promotion to Group-C posts. Based on the seniority list of Group-D employees for the year 2018 employees possessing technical qualification were held to be eligible, and shortlisted. The list dated 15.11.2019 (A-R-3) was forwarded by respondent no. 4 to respondent no. 2. By communication dated 06.12.2019 (A-R-4) syllabus for the written examination was published. By communication dated 01.01.2020 (A-R-5) it was informed that examination shall be held on 25.01.2020.

4. Specific contention of the respondents is that the applicants did not possess and produce certificate of experience needed for getting promoted to the post of Instructor as per Notification/Recruitment Rules dated 14.12.2012 and hence, they would not be entitled to get any relief.

5. For the post of Instructor Rule 3 (b) (iii) of Recruitment Rules of 2012 stipulates experience as under:-

“(iii) Possess practical experience in the relevant field of two years in case of diploma holder and three years in case of Higher Secondary Vocational Certificate holder and four years in case of National Trade Certificate or National Apprenticeship Certificate holder, in a responsible post in industry or in a Government Department or in an industrial undertaking or commercial concern or local authority or

Corporation or Board established by Government, after acquiring the qualification mentioned in sub-clause (b) (ii) of this rule:-

Provided that, if candidates with the prescribed period of experience are not available in sufficient number, the period of experience shall be relaxed by one year. ”

6. The applicants have not placed anything on record disputing positive assertion of the respondents which is clearly pleaded by them that they, the applicants, did not possess requisite experience stipulated by Recruitment Rules of 2012. Hence, we find no substance in the original application. **It is accordingly dismissed with no order as to costs.**

(M.A.Lovekar)
Member(J)

aps

Dated – 13/01/2023

(Shree Bhagwan)
Vice Chairman

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman
& Hon'ble Member (J).

Judgment signed : 13/01/2023.
on and pronounced on

Uploaded on : 16/01/2023.