

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

(01) ORIGINAL APPLICATION NO. 1116 OF 2017
[MUMBAI]

WITH
MISC. APPLICATION NO. 93 OF 2018

DISTRICT: - PUNE, SATARA,
AURANGABAD, NAGPUR

- 1) Dr. Sadanand Shrinivas Deshpande,
Age : 49 years,
Working as Lecturer in Mechanical
Engineering (Selection Grade),
Residing at C-96, Sun Universe,
S.No.51, Nawale Bridge, Narhe,
Pune Bangalore Highway, Pune-411051.
- 2) Dr. Chandrakant Y. Seemikeri,
Age : 51 years,
Working as Lecturer in Mechanical
Engineering (Selection Grade),
Residing at Flat No.201, Wing-B,
Royal Palace, Somwar Peth, Karad,
District Satara – 415110.
- 3) Dr. Rajiv Ramchandra Saraf,
Age : 54 years,
Working as Lecturer in Mechanical
Engineering (Selection Grade),
Residing at Plot No.342, Lane No.12,
Mahatma Society, Kothrud, Pune-411038.
- 4) Dr. Rohit Rambhau Ramteke,
Age : 47 years,
Working as Lecturer in Applied Mechanics
(Selection Grade),
Residing at A-37, Montvert-2, Sus Road,
Pashan, Pune-411022.
- 5) Dr. Uday Vithalrao Pise,
Age : 49 years,
Working as Lecturer (Selection Grade),

Residing at C-107, Morya Society,
Katraj-Kondhwa Road, Pune-411046.

- 6) Dr. Anand Narsing Pawar,
Age : 52 years,
Working as Deputy Secretary,
Residing at 10, Hari Om Tower,
Opp. Govt. Engineering College, Aurangabad.
- 7) Dr. Dinesh Kumar Gupta,
Age : 52 years,
Working as Head of the Department,
Residing at C-604, Umang, Vasant Utsav,
Thakur Village, Kandi A-37, Montvert-2,
Sus Road, Pashan, Pune-411022.
- 8) Dr. Sunil Ruprao Adhau,
Age : 48 years,
Working as Lecturer in Mechanical
Engineering (Selection Grade),
Residing at Flat No.1003, Bldg. No.K5,
Katepuram Phase II, New Sangavi,
Pune-411061.
- 9) Dr. Vijay Harishchandra Mankar,
Age : 47 years,
Working as Head of the Department,
Residing at Flat No.26, Aradhana Co-op. Soc.,
Chintamani Nagari No.1, BESA Road,
Nagpur-440027.
- 10) Dr. Atul Raghunandan Phadke,
Age : 49 years,
Working as Associate Professor,
Residing at B-9, Narayan Complex,
Hingane Khurd, Pune. ...APPLICANTS

V E R S U S

1. State of Maharashtra,
Through Chief Secretary,
Mantralaya, Mumbai-400 032.
2. The Secretary,
Higher and Technical Education Department,

State of Maharashtra,
Mantralaya, Mumbai -400 032.

3. The Secretary,
Maharashtra Public Service Commission,
Bank of India Building,
3rd Floor, Fort,
Mumbai- 400 001.
4. The Chairman,
All India Council for Technical Education (AICTE)
All India Council for Technical Education,
Nelson Mandela Marg, Vasant Kunj,
New Delhi – 110070.
5. Dr. Manojkumar Bhauraoji Daigavane,
Age : 50 years, Occu. Service – Post
Principal, G.H. Rasoni Institute of
Engineering & Technology,
Nagpur 440 016.
R/o. - 406, Vedant Pearl, Sneh Nagar,
Gawande Lay Out, Nagpur-440015
6. Dr. Nitiket Nujanand Mhala,
Age : 48 years, Occ.: Service-
Engineering Professor,
B.D.C.E., Sevagram, Tq. & Dist.
Wardha. R/o. “Saiskha”,
Padmavatinagar,
Near Lahogad Apartment,
Alodi, Wardha – 442 001.
7. Dr. Rajendra Kashiram Patil,
Age : 43 years, Occ.: Service –
Prof. & Head, Modern College of
Engineering, Shivaji Nagar, Pune.
R/o-Flat No. 29, Shivprasad-B,
Near Chandani Chowk,
Near Kothrud Depot,
Pune 411 038.
8. Dr. Raju G. Wadekar,
Age : 48 years, Occ.: Service-HOD,
Electronics Engineering Department,
Govt. Polytechnic, Aurangabad.

9. Dr. Atul Bhaskarrao Borade,
Age : 42 years, Occ.: Service –
Professor & Head of Department,
Mechanical Engineering,
Jawaharlal Darda Institute of
Engineering & Technology,
Yevatmal – 445 001.
R/o – Rajendra Saw Mill, N.T. Market,
Gandhinagar, Amravati – 444 606.
10. Dr. Nitin Pandurang Sonaje,
Age : 46 years, Occ.: Service –
Deputy Registrar,
Shivaji University,
Kolhapur-416 004.
R/o. Flat No. 406, Sachi Residency
Phase – 2, Near Water Tank,
Rajendra Nagar,
Kolhapur – 416 004.
11. Dr. Ajay Madhukarrao Agarkar,
Age : 48 years, Occu.: Service –
Head of Department,
(Medical Electronics), Govt. Residential,
Womans Polytechnic, Latur 413 531,
R/o.- Flat No. 402, Suryaprakash
Residency, Wing-A, Near New Collectorate,
Near Hotel Vithoba, Barsi Road,
Latur – 413 531.
12. Dr. Sanjay Arjunsing Pardeshi,
Age : 48 years, Occ.: Service –
Professor & Head of Programme
Department of Electronics &
Telecommunication Engineering,
Sakhrale – 415 409.
R/o – Flat No. 207,
Shakambhari Apartment,
Near to Church, A.P. Islampur,
District Sangli – 415 409.
13. Dr. Suresh Abasaheb Patil,
Age : 47 years, Occu.: Service –
Professor & Head, Department of
Automobile & Mechanical &
Automation Engg. ADCET,

Ashta, Sangli 416 301,
R/o – Road 11, Krantishinha
Nana Patil Nagar, Ring Road,
New Bahe Naka, Islampur,
District Sangli – 415 409.

14. Dr. Nitin Shivappa Lingayat,
Age : 46 years, Occ.: Service –
Head, Electrical Engineering
Department, Institute of
Petrochemical Engineering,
Lonere, Raigad 402 103.
15. Dr. Goraksh Vithalrao Garje,
Age: 51 years, Occ. : Service – HOD,
Computer Engineering, Govt. Polytechnic,
Gondia, R/o-11, Chintamani Enclave -2,
Vitthalwadi, Sinhagad Road, Pune, -51.
16. Dr. Vijay Ranraoji Mankar,
Age: 53 years, Occ. : Service – Head of Department
(Electronic), Govt. Polytechnic,
Gadge Nagar, Amravati 444 603.
R/o- “Vijaydeep”, 17, Gulbbaba Colony,
Ram Mohan Nagar Chowk,
Near Pathya-Pustak Mandal,
Post, V.N.V.M. Amravati -444 604.
17. Dr. Mahendra Ramprasadji Chitlange,
Age: 54 years, Occ. : Service – Deputy Secretary,
Maharashtra State Board of Tech. Education,
Regional Office, 412/E, Bahirat Patil Chowk,
Shivaji Nagar, Pune-411 016,
R/o- Flat No. 10, Muley Classic,
Near M.S.E.B. Colony, Bhosale Nagar,
Rangehill Road, Shivajinagar, Pune – 411007.
18. Dr. Sunil Sukhdeo Bhamare,
Age: 48 years, Occ. : Service – Registrar,
Dr. Balasaheb Ambedkar Tech. University,
Lonere, Dist. Raigad,
R/o – 504, Harmony Homes,
Sharda Colony, Behind PCMC Garden,
Pimple Nilakh, Pune-27.
19. Dr. Sameer S. Prabhune,

Age: 45 years, Occ. : Service – HOD Computer Engg.,
Govt. Polytechnic, Khamgaon, Dist. Buldhana,
R/o -29, Utkarsha, Shukla Layout,
Khamgaon, Dist. Buldhana 444 302.

20. Dr. Aadesh Manikchand Jinturkar,
Age: 45 years, Occ. : Service – HOD Mech. Engg.,
Govt. Polytechnic, Washim,
R/o-Chaware Line, Karanja (Lad),
Dist. Washim 441 105.
21. Dr. Ashok Laxmishankar Upadhyay,
Age: 54 years, Occ. : Service – HOD Civil Engg.,
Govt. Polytechnic, Kolhapur,
R/o-603, Abhishek, VL Comple, .. RESPONDENTS
G.B. Road, Thane-400 615.

W I T H

**(02) ORIGINAL APPLICATION NO. 964/2017 [MUMBAI]
WITH
MISC. APPLICATION NO. 67/2018**

**DISTRICT : PUNE/KOLHAPUR/
NAGPUR**

1. Dr. Sunil Rauprao Adhau,
Age: 48 years,
Working as Lecturer in Mechanical
Engineering, (Selection Grade),
Residing at Flat No. 1003, Bldg. No. K 5,
Katepuram Phase II, New Sangavi,
Pune – 411 061.
2. Dr. Rajendra Laxman Doiphode,
Age: 45 years,
Working as Lecturer in Mechanical Engineering
(Selection Grade), Residing at Ujalawadi,
Kolhapur-416 004.
3. Dr. Vijay Harishchandra Mankar,
Age: 47 years,
Working as Head of Department,
Residing at Flat No. 26, Aradhana Co-Op. Soc.,
Chintamani Nagari No. 1, BESA Road,
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VERSUS

1. State of Maharashtra,
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Bank of India Building,
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Mumbai- 400 001.
4. The Chairman,
All India Council for Technical Education (AICTE)
All India Council for Technical Education,
Nelson Mandela Marg, Vasant Kunj,
New Delhi – 110070.
5. Dr. Manojkumar Bhauraoji Daigavane,
Age : 50 years, Occu. Service – Post
Principal, G.H. Rasoni Institute of
Engineering & Technology,
Nagpur 440 015.
R/o. – 406, Vedant Pearl, Sneh Nagar,
Gawande Lay out, Nagpur 440 015
6. Dr. Nitiket Nujanand Mhala,
Age : 48 years, Occ.: Service-
Engineering Professor,
B.D.C.E., Sevagram, Tq. & Dist.
Wardha. R/o. “Saiskha”,
Padmavatinagar,
Near Lahogad Apartment,
Alodi, Wardha – 442 001.
7. Dr. Rajendra Kashiram Patil,
Age : 43 years, Occ.: Service –
Prof. & Head, Modern College of
Engineering, Shivaji Nagar, Pune.

R/o-Flat No. 29, Shivprasad-B,
Near Chandani Chowk,
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Age : 48 years, Occ.: Service-HOD,
Electronics Engineering Department,
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9. Dr. Atul Bhaskarrao Borade,
Age : 42 years, Occ.: Service –
Professor & Head of Department,
Mechanical Engineering,
Jawaharlal Darda Institute of
Engineering & Technology,
Yevatmal – 445 001.
R/o – Rajendra Saw Mill, N.T. Market,
Gandhinagar, Amravati – 444 606.
10. Dr. Nitin Pandurang Sonaje,
Age : 46 years, Occ.: Service –
Deputy Registrar,
Shivaji University,
Kolhapur-416 004.
R/o. Flat No. 406, Sachi Residency
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Rajendra Nagar,
Kolhapur – 416 004.
11. Dr. Ajay Madhukarrao Agarkar,
Age : 48 years, Occu.: Service –
Head of Department,
(Medical Electronics), Govt. Residential,
Woman's Polytechics, Latur 413531
R/o- Flat no. 402, Suryaprakash Residency
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Near Hotel Vithoba, Barsi Road,
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12. Dr. Sanjay Arjunsing Pardeshi,
Age : 48 years, Occ.: Service –
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14. Dr. Nitin Shivappa Lingayat,
Age : 46 years, Occ.: Service –
Head, Electrical Engineering
Department, Institute of
Petrochemical Engineering,
Lonere, Raigad 402 103.
15. Dr. Goraksh Vithalrao Garje,
Age: 51 years, Occ. : Service – HOD,
Compute Engineering, Govt. Polytechnic, Gondia,
R/o-11, Chintamani Enclave -2,
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18. Dr. Sunil Sukhdeo Bhamare,
Age: 48 years, Occ. : Service – Registrar,
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Age: 45 years, Occ. : Service – HOD Computer Engg.,
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21. Dr. Ashok Laxmishankar Upadhyay,
Age: 54 years, Occ. : Service – HOD Civil Engg.,
Govt. Polytechnic, Kolhapur,
R/o-603, Abhishek, VL Complex,
G.B. Road, Thane-400 615. .. RESPONDENTS

W I T H

(03) ORIGINAL APPLICATION NO. 945 OF 2015

[MUMBAI]

WITH

MISC. APPLICATION NO. 66 OF 2018

DISTRICT: - MUMBAI.

Mr. Vasudev B. Jaware,
Age : 45 years, Permanent resident
of Flat No. 13, Building No. R,
Dhruva Darshan, Near Akurdi
Railway Station, Pimpri,
Pune 411 044.

.. APPLICANT

V E R S U S

1. The State of Maharashtra
Through the Secretary,
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Department, Mantralaya,
Mumbai.

2. The Secretary,
Maharashtra Public Service
Commission, Cooperage Telephone
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Cuffparade Mumbai
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Age: 54 years, Occ. : Service – HOD Civil Engg.,
Govt. Polytechnic, Kolhapur,
R/o-603, Abhishek, VL Complex,
G.B. Road, Thane-400 615. .. RESPONDENTS

APPEARANCE : Smt. Poonam Mahajan, Advocate for
the applicants in all these cases

: Shri M.S. Mahajan – learned Chief
Presenting Officer for the respondent
Nos. 1 & 2 in O.A.NO. 945/2017 &
for Res. Nos. 1 to 4 in O.A. Nos. 1116
& 964 both of 2017.

: Shri Ajay Deshpande, learned
Advocate for respondent Nos. 3 to 19
in O.A. No. 945/2017 and for
respondent Nos. 5 to 21 in O.A. Nos.
1116 & 964 both of 2017.

CORAM : **JUSTICE M.T. JOSHI, V.C.**
AND
ATUL RAJ CHADA, MEMBER (A)

DATE : **18TH JULY, 2018**

J U D G M E N T

[Per : Atul Raj Chadha, Member (A)]

1. Three Original Applications no 1116 of 2017, 964 of 2017
and 945 of 2017 were filed by the Applicants against
Government of Maharashtra, Secretary Higher Education,

MPSC and Chairman AICTE. The MPSC have advertised the posts of Principals of Government Polytechnics and candidature of the Applicants were rejected by the Respondent no 3 i.e. MPSC as they were not having requisite “administrative experience” of three years. Certain interventions were made in all the three OA’s which were allowed by the order of this Tribunal dated 28th March 2018 and prayer for vacation of interim relief was kept open. All the three Original Applications and Miscellaneous Applications are disposed of by this common order:-

2. Brief submissions of the Applicants are:

a) The Applicants are the State Government Employees working in Higher & Technical Education Department as Lecturers (Selection Grade). The post of Lecturer in Selection Grade was re-designated as Associate Professors in Degree Level Institutions.

b) The Applicants have applied for the post of Principal in Government Polytechnics with reference to the advertisement no 73/2015 (page 114 Anex A3) and 9/2016 (Anex A8 page no 137) . The candidature of the Applicants were rejected by the Respondent no 3 i.e. MPSC (Anex A 22 page no 208-218) at the time of interview as per clause 4.3 of the advertisements regarding Educational Qualification and Experience which reads as under:

“Bachelor’s Degree and Masters’ Degree of appropriate branch of Engineering/ Technology with First Class or equivalent at Bachelor’s or Master level.

OR

A Bachelor’s Degree and Masters’ Degree of appropriate branch of Engineering/ Technology with First Class or equivalent at Bachelor’s or Master level. And Ph.D or equivalent in appropriate discipline in Engineering/ Technology.

AND

Minimum of ten years’ experience in teaching/ research/industry out of which at least three years shall be at Head of Department or equivalent”

Note 1-3****

4. For the post of Principal flair for management and leadership is essential as deemed fit by expert members of the Selection Committee.”

(Page 73)

c) The main contention is the three years administrative experience as HOD or equivalent.

- e) The Applicants relied on Government Resolutions dated 26.5.1992, 18.12.99 ,27.02.2003 & AICTE dated 30.12.99 (Anex A1) that as the pay scales, responsibilities of HoD and Lecturer (Selection Grade)/ Associate Professors are same, there candidature should not have been rejected.
- f) The Applicants also relied on Recruitment Rules dated 10th September,2012 (Anex A4-page 111) for the post of Principle, Head of Department, Lecturer etc for the Maharashtra Polytechnic Service, Group A in Government Polytechnics and equivalent Institutions. In fact, in the said recruitment rules there is no post of Lecturer (Selection Grade). As this scale is a time bound promotion under Assured Career Progressive Scheme by which a Lecturer in Senior Scale is granted Selection Scale after completion of 8 years of service, completion of two refresher courses / summer institute with each one of 2-3 weeks duration or engaged in other appropriate continuing education programmes of comparable quality as recognised by AICTE and satisfactory Performance Appraisal Reports.
- g) The Applicants emphasised on the clarification issued by AICTE 4th January, 2016 on certain issues/ Anomalies pertaining to Qualification, Pay Scales/ Career Advancement Schemes for Teachers and Other Academic Staff of Technical Education. The Applicants relied on

para 60 & 62, which are reproduced herein below (AnexA-6 page no 127):

60	<p>Higher qualification has been attached to the post of Lecturer (Selection Grade) vide AICTE Regulations, 2012 in comparison to those prescribed for the post of HOD under faculty norms in AICTE Regulations, 2010.</p> <p>Clarity needed for the qualifications prescribed for the post of Head of Department in AICTE Regulations, 2010 (Diploma) for direct recruitment as well as through Departmental promotion.</p>	Academic qualification for the post of HOD in Diploma Institutions shall not be lower than that prescribed for the post of Lecturer (Selection Grade).
62	To consider experience in “Educational administration” for the purpose of appointment of Principal / Director in Technical Institutions (Faculty norms) AICTE Regulations, 2010).	Yes.

- h) The Applicants also submit that one Shri Vitthal Shriram Bandal who was physically handicapped, working as Associate Professor was selected by the respondent No. 3 i.e. M.P.S.C. for the post of Principal by the order dated 15.2.2016 (Annex A7-page139) and one other person Shri Satish R. Bulghate working as Lecturer (Selection Grande) was selected for the post of Principal, but could not

be given appointment as no post was available (page 136) .

- i) Applicants submit that details of screening test was pronounced on 30.5.2016 and as there were large number of applicants, a corrigendum was accordingly issued by the MPSC that only candidates holding Ph.D would be considered as per AICTE clarification dated 4.1.2016 (A- 6). MPSC further notified on 5.7.2017 (Page 155 & 149) that in accordance to the order of State Government dated 2.12.2016 that out of ten years' experience, minimum of three years should be at the level of HOD or equivalent.

- j) MPSC declared the result of screening test of both the advertisements. In the short listing all the applicants were shortlisted (page 156 & 157}. But there candidature was rejected at the time of interview on the ground that out of 10 years' experience 3 years' experience at HOD was not with them (Anex A3).

3. The Tribunal granted interim relief vide order dated 22.12.2017 restraining respondent No. 2 from making any appointment and MPSC was also directed to conduct interviews of the applicants on suitable date by notifying to all the applicants.

4. Respondent no 3 i.e. MPSC has opposed the OA in a detailed affidavit dated 17.11.2017(page 381) justifying the selection procedure in view of Govt. Clarification dated 4.7.2016 and 2.11.2016 (page 397 & 399) that the teaching experience cannot be considered as administrative experience and the Applicants were not having requisite administrative experience. The MPSC also admitted that one physically handicapped person was selected with reference to advertisement NO. 74/2015 on 15.2.2016, but could not be appointed in view of subsequent clarifications issued by Govt. of Maharashtra regarding administrative experience. (para 43- page 393).

5. Respondent nos. 1 & 2 i.e. the State Government has opposed the OAs and filed a detailed affidavit (Page 224 to 311). Main ground is that the Applicants were not have requisite administrative experience of three years, hence, they were rightly rejected by the MPSC. The Respondents have drawn the attention to the clarification issued by AICTE date 4.01.2016 (Page 273) for the issue no 48 which is reproduced here in below:

“Issue no. 48

Whether a faculty of Engineering & Technology with minimum of ten years relevant experience in teaching

/research out of which three years in the same grade pay (i.e. Rs 9000) at par with HOD is eligible for the post of Principal in Polytechnics.

“Clarification issued by AICTE

Yes, provided the person also has an administrative experience of at least three years”

It is pertinent to note the Applicants have relied only on Issue no 60 & 62 of the same clarification issued by AICTE and were silent about clarification given for issue No. 48..

5.1. According to State Government the post of Lecturer in Selection Grade is of teaching only, whereas, of HOD is both of teaching and administrative nature.

5.2 Attention was also drawn by the Respondents State to the Govt. Resolutions no 22nd November 1993 (Page 284) and clarification dated 30.09.1994 and subsequent clarifications given to MPSC dated 4th July 2016 etc. In fact Government of Maharashtra revised the pay scales vide GR dated 26.05.1992 for the Teachers in Government / Non-Government / Engineering Technology/ Architect/ Pharmacy Polytechnics with effect from 01.01.1986 who full fill the required qualification laid down by AICTE with retrospective effect from 1.1.1987.

5.3 Further, the AICTE vide letter noF-47-3-aicte/5765 dated 10.10.93 have forwarded revised guidelines for the implementation of scheme for Career Advancement by providing Senior and Selection Scale for Lecturers for all

teaching staff. Accordingly, Government of Maharashtra extended the revised pay scales vide order dated 22.11.1993 (page 284) to all the teaching staff as Principals, Head of the Department, Lecturers, Selection Scale, Senior Scale Lecturers & who were appointed by competent authorities prior to 20th September, 1989, as well as, exempting them from acquiring revised educational qualification. However, those appointed after 20th September 1989 have to acquire revised educational qualification to become eligible for granting revised pay scales.

5.4 Respondent State have also drawn attention to the Clarification was issued dated 30th September, 1994 (Page 290) for resolving difficulties in implementation of revised pay scales to the Polytechnic Teachers. Attention was drawn particularly to point Nos. 34 & 38 of the clarification, which reads as under:

“34. V (Q) Sr. No. 8 the post is mentioned as HOD and Lecturer (Selection Grade). Whether it is one post or two posts? If these are 2 posts, whether the post of Lecturer (Selection Grade) is to be filled in separately by selection or by promotion? The anomaly is to be clarified.

(C) The HOD and Lecturer (Selection Grade) are obviously separate items. The post of HOD is to be filled in by nomination as well as by promotion by following the usual procedure. The Lecturer (Sr. Scale) is not a separate post. It is a placement of Lecturer in the higher pay scale. Only for this purpose the concerned post is to be treated as upgraded. The duties and job responsibilities of Lecturer, Lecturer (Senior Scale), Lecturer (Selection Scale) and Head of the Department are quite

different and commensurate to their nomenclature. The Head of the Department is an academic post but it has to perform the administrative jobs of the Department in the institution. The Annexure VI of the G.R. dated 26.5.92 shall be modified.”

“38. VI (Q) At Sr. No. 3 job responsibilities of HOD and Lectures (Selection Grade) are stated to be one and the same. Does it mean that both the posts are identical so far as the job responsibilities are concerned and there are equal chances for the incumbents of both the posts for promotion to the post of Principal

(C) As said earlier the job responsibilities of the teachers are quite different and cannot be equated in such way. The Appendix – VI to the G.R. dated 26.6.92 shall be modified. Page 298)

5.5 In view of the above, Govt. has given clarification to the M.P.S.C. vide letter dated 4.7.2016 (Page 302)and 2.11.2016 Page 316) that for the post of Principal, experience on post having administrative work is essential and that the experience only of teaching cannot be considered for the post of Principal. Accordingly, M.P.S.C. has completed selection process in view of the Govt. G.R. dated 22.11.1983 and clarification issued dated 13.11.1994.

5.6 The revised Career Advancement of Lecturers in Polytechnics is as under (Page 288): -

Subject to fulfilment of other conditions i.e. refresher courses or engagement in other appropriate education programme of comparable nature as may be specified in by AICTE and constant satisfactory performance appraisal reports :-

a) A Lecturer will be accorded senior scale on completion of 8 years of service after regular appointment.

b) A Lecturer in senior scale will be eligible for promotion to the post of Lecturer (Selection Grade) after completion of 8 years' service in the senior scale.

The above Assured Career Progression Scheme was modified at the time of revision of Pay Scales as per the recommendation of Fifth and Sixth Pay Commission and linked with both the educational qualification and length of service. (Page 322 & 333).

6. That interveners and the private respondents have also relied on the stand taken by respondent Nos. 1 & 2 and to the Govt. Resolution dated 26.5.1992, also 22.11.1983 and 30.9.1994. The respondents further submitted that the interim relief granted by this Tribunal dated 22.12.2017 may kindly be set aside. (Page 314 to 366)

7 The matter was heard at length and was reserved for orders on 27.4.2018. However, on going through the record, in the meantime this Tribunal found that following points are necessary to be clarified by both the sides by order dated 3.5.2018 :

“(i) What are the recruitment rules of H.O.D. In case, the case of H.O.D. is by nomination, whether the applicants or any of them offered for the post and result thereof?

(ii) Duties and responsibilities of H.O.D.

(iii) Mechanism for writing confidential report, appraisal report for Lecturers / Senior Lecturers / Selection Grade Lecturer H.O.D. and Principal of Government of Polytechnic.

(iv) Benefits available to the selection Grade Lecturer if not appointed to the post of Principal under the Career Assured Progression Scheme or otherwise.

(v) Duties of teaching staff viz. Assistant Professor, Associate Professor etc. In degree colleges, provisions of ACP along with mechanism of writing annual confidentially report.”

8 Both the respondents and applicants have submitted submissions on the clarification sought by this Tribunal, which are dealt with herein after.

9. **Point No. 1.** Respondent Nos. 1 & 2 have drawn attention to recruitment rules meant for the appointment for the post of Head of the Department in Govt. Polytechnic and equivalent institutes, which shall be made by nomination on

the basis of strict selection on merit from amongst the candidates, who

- a) Not more than 50 years of age.
- b) Possess the qualification in the related branch of Engineering or technology and experience as prescribed by AICTE or relevant statutory body for the concerned post from time to time.

9.1 The Respondent State further submitted that most of the applicants had applied for the post of H.O.D. for which advertisements were published in last 3-5 years and after going through all procedure of selection through MPSC some of the applicants were selected naturally in various branches of Govt. Polytechnic institutes.

9.2 It is noteworthy to note the results furnished by the State Government which are tabulated herein below :

Sr. No	O.A. No.	Applicant No.	Category	Name	Result
1.	964	1	-	Dr. S.P. Adhau	His name not figured in list of candidates selected in the written examination. Either he has not applied or failed in the written examination.
2.	964	2	SC male	Dr. R.L. Doiphode	This applicant had applied for the post of HOD Mechanical Engineering and had secured 83 marks against cut off 102.
3.	964	3	Open male	Dr. V.H. Mankar	He was selected for the post of HOD in Electric Engineering.

Sr. No	O.A. No.	Applicant No.	Category	Name	Result
4.	945	1	NT-D	Dr. V.B. Jawre	He has applied for HOD Mechanical Engineering and was selected.
5.	1116	1	Open male	Dr. S. S. Deshpande	He has applied for the post of HOD in Mechanical Engineering and secured 90 marks against cut off 124.
6.	1116	2	Open male	Dr. A.R. Phadke	He has applied for HOD Electrical Engineering and secured 42 marks against cut off 57 marks.
7.	1116	3	Open male	Dr. C.Y. Seemikeri	He has applied for the post of HOD Mechanical and was selected.
8.	1116	4		Dr. R.R. Saraf	His name does not appear in the list of selected candidates in written examination. He has either not appeared or failed in the written test.
9.	1116	5	SC male	Dr. R.R. Ramteke	He has applied for HOD Civil Engineering and secured 74 marks against cut off 80 marks with reference to advertisement dated 27.9.2013, but selected with reference to advertisement No. 40/2016.
10	1116	6	Open male	Dr. U.V. Pise	He has applied for HOD in Mechanical Engineering and was selected.
11	1116	7	Open male	Dr. Dinesh Gupta	He has applied for HOD Civil Engineering and was selected.
12	1116	8		Dr. S.R. Adhav	His name does not appear in the list of candidates selected in the written test. Either he has not appeared or he has failed in the written test.

Sr. No	O.A. No.	Applicant No.	Category	Name	Result
13	1116	9	Open male	Dr. V.H.Mankar	He has applied for post of HOD in Electric Engineering and was selected.
14	1116	10	Open male	Dr. A.R. Phadke	Applied for the post of HOD Electric Engineering and secured 42 marks against cut off 57 marks in written examination.

The above information submitted by the Respondent State shows that all the applicants appeared for the post of HOD and either failed or not appeared in written examination or secured less marks than the cut off or were selected for the post of HOD Page433-438).

9.3. **Point No. 2.** Duties & responsibilities of HOD.

Duties & responsibilities of HOD as per MPSC advertisement no 37/2016 and 40/2016 date 29.07.2016 (page 619) are:

- Head of Department is answerable to the Principal of the polytechnic for all academic and administrative / personnel activities of the department.
- Academic and administrative management of the department.
- Assessing the requirements of the material, financial and human resources for effective implementation of prescribed curricula of program offered by the department.

- Planning, scheduling, coordinating and monitoring the curriculum implementation pertaining to the department.
- Responsible authority to perform academic, personnel and security functions and to maintain necessary records (like DSR) of the departmental assets in stipulated formats.

- To act as facilitator for the departmental faculty in laboratory development, laboratory set-up and laboratory maintenance.

- Provide motivation & guidance to faculty and other staff in the department.

- Participate, motivate, guide & facilitate professional development through continuing education, testing and consultancy & research.

- Identify and organize faculty and supporting staff development programs.

- To act as authority for coordinating and conducting examinations / test examinations.

- Maintaining students attendance record submitted by lecturers and students evaluation record.

- Development and implementation of short term and long term plan for department development and quality improvement.

- Preparation of timetable and mobilization of teaching-learning resources.

- Provide guidance & counselling and other students services at department level.

- Plan, organize and facilitate industry visits and expert lectures.

- To plan and implement the activities to take care of hygiene, safety and housekeeping in the department.

- Take teaching load prescribed as per the norms issued time to time by state government.
- Evaluate the performance of the faculty and supporting staff.
- Create, maintain and motivate cordial relations and team spirit in the team working under him / her & provide impartial opportunities for contribution to faculty & staff.
- Promote, guide, facilitate and participate in professional activities through interaction with industries, consultancy, testing, continuing education and trainings, industry sponsored projects, entrepreneurship development.
- Assist Principal in institute level activities.
- Keep abreast of the newer knowledge skills and technology through self-up-gradation and dissemination of knowledge through articles, books, journalism and seminars etc.
- Self development through qualification improvement, experience enrichment, professional activities and interactions with professional bodies.
- Participate in non-formal mode of education for benefit of society / Community.
- Certify and recommend the vouchers / bills of department / related expenditures for further processing.
- To plan and implement the activities to take care of hygiene, safety and house keeping in the institute.
- To develop and maintain inter departmental relation for effective working in the institute.
- Motivator and facilitator for carrying co-curricular and extracurricular activities for developing overall personality of students.

10 **Point No. 3.** Mechanism for writing Annual Appraisal Report.

As per Government Resolution dated 25.3.1997 the Reporting Officer for the Lecturers, Lecturers in Senior & Selection Scale is the HOD and Reviewing Officer is the Head of Organisation, whereas, Reporting Officer for HOD is the Principal(Page 475 to Page486)

11 **Point No. IV**

Lecturer in an entry level and under ACP he becomes Lecturer in Senior Scale upon rendering 4 - 6 years of service. Thereafter, becomes Lecturer in Selection Scale upon rendering 5 – 6 years of service depending upon educational qualification etc. Lecturer in second ACP in Selection Scale does not get any further elevation except that the Pay Scales of Lecturer in Selection Scale is at par but after rendering 3 years of service as HOD, he can be eligible for the post of Principal.

12 **Point No. 5 & 6.**

The staffing pattern in Engineering College is as under :-

Principal

Professor

Associate Professor

Assistant Professor

The Associate Professor and Assistant Professors are purely academic posts. These posts do not carry any responsibility of administration as such. If Professor is not available, in that case Associate Professor or in extreme case Assistant Professor is given additional work of HOD. Although the post of HOD does not found place in Engineering Colleges, but AICTE contemplates the position as HOD, he is supposed to be liaising officer between Principal and other faculties including Assistant Professors, Associate Professors and Professors. HOD is an Administrative Head in so far as his particular department is concerned and everything in respect of his department is expected to be routed through HOD.

13. Various rejoinders were made both by the Applicants and Private Respondents and main contention is that as per AICTE notification the administrative experience is not required and experience of ten years in teaching be considered for the appointments for the post of Principals as the pay scale of Lecturer in the senior scale and of HOD are same. In the period from 1997 to 2010 appointments for HOD were not made. The Annexure VI on the issue of clarification dated 30th September 1994 no 34 & 38 stated to be modified were

actually not modified. Hence, there candidature should not be rejected. This averment is too late to be considered.

14. In view of above, we are of the view that though the pay scales are same, but the nature of post of Lecturer in Selection Scale and of HOD are distinctly different. In fact the HOD is a bridge between Lecturers, Lecturers in Senior Scale & in Selection Scale/ Professor or HOD in respective Departments of a Polytechnic/ Institution which is headed by Principal. He is supposed to do the work of teaching and administration. Further he is a reporting Officer of Lecturers, Lecturers in Senior Scale & Selection Scale/ or Professors or HOD in Degree Colleges. In 2013 either the Applicants appeared in the process of selection to the post of H. O. D. It may be true that the process of selection might have taken longer period and by then they were not having requisite experience of three years as HOD. But this cannot be a legal cause for overriding the qualification.

15. In the circumstances the following order.

ORDER

1. All the three Original Applications bearing Nos. 945, 964 & 1116 all of 2017 are hereby dismissed

without any orders as to costs. Interim relief granted vide order dated 22.12.2017 stands vacated.

2. Since Original Applications are dismissed today, nothing survives in the M.A. Nos. 66, 67 & 93 all of 2018 and the same are also disposed of.

(ATUL RAJ CHADHA)
MEMBER (A)

(M.T. JOSHI)
VICE CHAIRMAN

LATER ON

3. Today, after pronouncement of this order, learned Advocate Shri S.D. Joshi holding for Smt. Punam Mahajan, learned Advocate for the applicants, submits that the order of interim relief granted earlier in the present Original Applications may be continued for a period of two weeks'.

4. It is to be noted that the process of selection was already stalled due to interim relief granted by this Tribunal. The applicants can very well approach

the Hon'ble High Court at the earliest and get interim relief.

5. In the meantime, further steps can be continued by the respondent-MPSC. The prayer made on behalf of the applicants, therefore, is rejected.

(ATUL RAJ CHADHA)
MEMBER (A)

(M.T. JOSHI)
VICE CHAIRMAN

Place : Aurangabad
Date : 18TH JULY, 2018

SELF

File Name O.A.NO. 945-2017 (DB)-HDD-2018