

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 526/2023 (S.B.)

Vandana W/o Dilip Shende
@ Vandana Shankarrao Raut,
Aged about 54 years,
Occ. Service, R/o Kapilwastu Nagar,
Near Novem School, Azad Colony,
Behind S.T. Workshop,
Akola.

Applicant.

Versus

- 1) State of Maharashtra,
Through it's Principal Secretary,
Water Resources Department,
Mantralaya, Mumbai- 400 032.
- 2) Superintendent Engineer,
Akola Irrigation Circle,
B & C Compound,
Near Collectorate,
Akola - 444 602.
- 3) Executive Engineer,
Akola Irrigation Division,
Murtizapur Road,
Akola- 444 001.

Respondents

Shri R.M.Fating, Id. Advocate for the applicant.

Shri A.P.Potnis, Id. P.O. for the respondents 1 & 2.

Smt. U.A.Patil, Id. counsel for the respondent no. 3.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 07th March, 2024.

Judgment is pronounced on 13th March, 2024.

Heard Shri R.M.Fating, ld. counsel for the applicant, Shri A.P.Potnis, ld. P.O. for the respondents 1 & 2 and Smt. U.A.Patil, ld. counsel for the respondent no. 3.

2. Case of the applicant is as follows. The applicant was appointed as Skilled Labourer on daily wages on 27.09.1989 (A-1). In 1987 she had completed course of Draftsman (Civil) (A-2). She underwent apprenticeship from 27.09.1988 to 27.09.1989 conducted by the Directorate of Vocational Education and Training, Bombay (A-3). By G.R. dated 31.01.1989 (A-4) new cadre of Civil Engineering Assistant was created to absorb employees working on different posts in the department. By G.Rs. dated 10.12.1993 (A-5) and 28.10.1994 (A-6) clarifications in respect of absorption in new cadre were issued. As per the policy of rationalisation of posts the applicant who was eligible and qualified as on 27.09.1994 i.e. the date of regularisation on Converted into Regular in Temporary Establishment (C.R.T.E.), ought to have been absorbed on the post of Civil Engineering Assistant. Instead, by Order/Corrigendum dated 25.10.2005 (A-7) her services were

regularized as C.R.T.E. on the post of Clerk. She made representations (A-8) seeking redressal of her grievance but to no avail. She completed training of six months of Civil Engineering Assistant during the period from 02.05.2008 to 30.09.2008 (A-9). By order dated 21.02.2015 (A-10) she was absorbed as Civil Engineering Assistant. She submitted representation dated 14.03.2017 (A-11) for deemed date of absorption i.e. 27.09.1994 on the post of Civil Engineering Assistant. Correspondence between respondents 2 & 3 (A-12 & A-13) too, was of no avail. On 13.04.2023 she made a representation (A-14) to respondent no. 2 for redressal of her grievance. Her grievance was not redressed. Hence, this Original Application seeking deemed date of absorption i.e. 27.09.1994 as Civil Engineering Assistant, with consequential benefits.

3. Respondents 2 & 3 raised preliminary objections of laches and non-joinder of concerned authority who, according to these respondents, was a necessary party. There is no merit in both these submissions. The cause of action set up by the applicant is a continuing one. It is apparent that necessary parties have been impleaded.

4. Specific submissions of respondents 2 & 3 are as follows:-

The applicant has completed 2 years training course before her appointment. She has accepted appointment as a daily skilled labourer. As per G.R. dated 31.01.1989 guidelines are issued to absorb the

employees working in cadre as mentioned in the G.R. in the categories of Civil Engineering Assistant. Thereafter vide G.R. dated 28.10.1994 employees working on the post of Karkoon having eligibility are directed to be absorbed on the post of Civil Engineering Assistant. The applicant was working as skilled labourer upto 25.10.2015. The applicant has not brought it to the notice that she was eligible for absorption on the post of Civil Engineering Assistant to the office of the Respondents. The applicant has stated that, she has submitted application putting her grievance on 19.10.2007. But this application is not received by the Respondents. The application dated 14.03.2017 is made by the applicant which was forwarded to proper authority. After completing 5 months training by the applicant, she was absorbed on the post of Karkoon as per the provision of G.R. dated 31.01.1989. Thereafter vide corrigendum dated 25.10.2005 she was absorbed and brought on CRTE on the post of Karkoon and notionally placed on the same post from 27.09.1994. The applicant is not entitled for the relief, she has claimed, the O.A. is liable to be dismissed since it has no merits.

5. To appreciate rival contentions it would be necessary to refer to relevant G.Rs.. Heading of G.R. dated 31.01.1989 reads as under:-

तांत्रिक संवर्गाचे सुसूत्रीकरण पाटबंधारे विभागात स्थापत्य अभियांत्रिकी सहायक या नवीन संवर्गाची निर्मिती.

In Annexure A to this G.R., in column (AA) following posts are mentioned:-

१. तांत्रिक सहायक
२. मिस्त्री
३. हजेरी लिपीक
४. रोड कारकून
५. टंचाई सहायक
६. टाईम किपर
७. लॉगबुक किपर
८. प्रयोगशाळा सहायक
९. गेज कारकून

- १०. गेजींग सहायक
- ११. सहायक निरीक्षक
- १२. सहायक पर्यवेक्षक

6. Heading of G.R. dated 10.12.1993 reads as under:-

स्थापत्य अभियांत्रिकी सहाय्यक संदर्भात समाविष्ट होण्यास आवश्यक असणारी पर्यायी पात्रता.

This G.R. further states:-

शासन निर्णय :-

आता याबाबत शासन असे आदेश देत आहे की, शासन निर्णय पा.वि.क्रमतांक इएसटी १०८३/(४८०)/आ (तांत्रिक) दिनांक ३१.१.८९ मधील परिशिष्ट अ (आ) येथे नमुद केलेल्या विनिर्दिष्ट १२ संवर्गातील ज्या कर्मचा-यांनी :-

१) स्थापत्य अभियांत्रिकी पदाविका उत्तीर्ण केली आहे किंवा औद्योगिक प्रशिक्षण संस्थेचा दोन वर्षांचा आरेखक स्थापत्य किंवा सर्वेक्षक हा अभ्यासक्रम यशस्वीपणे पूर्ण केला आहे. त्यांचा स्थापत्य अभियांत्रिकी सहाय्यक संवर्गात विनाअट समावेश करण्यात यावा.

7. Heading of G.R. dated 28.10.1994 reads as under:-

स्थापत्य अभियांत्रिकी सहाय्यक संवर्ग
शासन आदेशातील तरतुदी व स्पष्टीकरण

This G.R. then frames points as follows which were required to be clarified:-

खात्याध्ये काम करणारे असे काही कर्मचारी आहेत की ज्यांनी स्थापत्य अभियांत्रिकी सहाय्यकाचा शासकिय तांत्रिक संख्या एक वर्षाचा अभ्यासक्रम उत्तीर्ण केला आहे. परंतु असे कर्मचारी रोजंदारी आस्थापनेवर कार्यरत आहेत तसेच असे काही कर्मचारी विहित १२ संवर्गाव्यतिरिक्त अन्य पदांवर कार्यरत आहेत. या कर्मचा-यानी विहित अभ्यासक्रम उत्तीर्ण केला आहे, हे लक्षात घेऊन त्यांना स्थापत्य अभियांत्रिकी सहाय्यक संवर्गात थेट समाविष्ट करावे काय ?

The G.R. issued the clarification as follows:-

दिनांक १.१.८९ रोजी शासन सेवेत कार्यरत असलेल्या व शासनाचे तांत्रिक संस्थेमार्फत (Govt. Technical Institute) देण्यात आलेल्या स्थापत्य अभियांत्रिकी सहाय्यकाचा एक वर्षाचा अभ्यासक्रम ज्यांनी उत्तीर्ण केला आहे अशा सर्व इच्छुक कर्मचा-यांची पद अथवा आस्थापनेचे स्वरूप विचारात न घेता खास बाब म्हणून त्यांना "स्थापत्य अभियांत्रिकी सहाय्यक" संवर्गात समाविष्ट करण्यात यावे.

Clarification contained in G.R. dated 28.10.1994 fully supports case of the applicant that she should have been absorbed as Civil Engineering Assistant w.e.f. 27.09.1994. It is not in dispute that she possessed requisite qualification for such absorption. Her initial appointment as Skilled Labourer was no bar to consider her eligible for such absorption. For all these reasons the O.A. is allowed. The respondents are directed to grant deemed date of absorption i.e. 27.09.1994 as Civil Engineering Assistant, to the applicant, with consequential benefits, excluding interest. Amount of accrued benefits shall be paid **within three months from today**. Issue of interest is kept open. No order as to costs.

Member (J)

Dated :-13/03/2024

aps

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 Member (J).

Judgment signed on : 13/03/2024
and pronounced on

Uploaded on : 14/03/2024