

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.1204 OF 2016

DISTRICT : PUNE

1. Shri Yogiraj Ramu Angle,)
Age 64 years, Retired Junior Engineer in the)
office of Executive Engineer, PWD Division, Pune))
R/o Survey No.82, Adarsha Nagar, New Sangvi,)
Pune-61)

2. Shri Tulshiram Vishnu Thite,)
Age 54 years, Junior Engineer,)
Yerawada Central Prison, Pune-6)
R/o Padmachaya CHS Ltd., Raghavendra Nagar,))
Plot No.26, Chandan Nagar, Kharadi Road,)
Pune-14)

3. Shri Keshav Baburao Thorve,)
Age 58 years, Junior Engineer, office of)
Assistant Engineer, Grade-I, Building)
Construction, Sub Division No.2, Pune-1)
R/o Gurukrupa Niwas, S. No.38/6,)
Prakash Pathare Nagar, Bholenath Floor Mill,)
Kharadi Road, Kharadi, Pune-14)

4. Shri Suresh Jijaba Dube,)
Age 60 years, Retired Sectional Engineer,)
R/o Suvarna Vya Colony, Javalkar Nagar,)
Pimple Gurav, Pune-61)..Applicants

Versus

1. The State of Maharashtra,)
Through Principal Secretary,)
Public Works Department,)
Mantralaya, Mumbai 400032)
2. The Principal Secretary,)
Higher & Technical Education Department,)
Mantralaya, Mumbai 400032)..Respondents

Shri B.A. Bandiwadekar – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson

Smt. Medha Gadgil, Member (A)

RESERVED ON : 19th October, 2023

PRONOUNCED ON: 31st October, 2023

PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. Heard Shri B.A. Bandiwadekar, learned Advocate for the Applicants and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. All the four applicants who were working as Junior Engineer challenge the order dated 23.12.2016 passed by respondents under which all the applicants were denied status of Sectional Engineer on completion of 7 years as Junior Engineer as against 10 years service on the ground that Industrial Training Institute (ITI), Aundh, Pune is not in the list of

institutions contained in the notification dated 24.9.1975 amended as on 3.5.1985. All four applicants have the qualification of SSC with two years diploma of Surveyor from ITI, Aundh, Pune. They joined Government service as Surveyors and Sub-Overseers. They were subsequently promoted as Junior Engineers.

3. Ld. Advocate for the applicant prays that the applicants be given the status of so after 7 years and not after 10 years. However, it is the policy of the State that the Surveyor Course which is completed by the Applicants from ITI, Aundh, Pune is not equivalent to the qualification of Diploma in Civil Engineering and therefore they cannot be given status of Sectional Engineer after 7 years, but their case can be considered after 10 years. It is mentioned that the said ITI, Aundh, Pune is not excluded in the recognized institutes where such courses are to be done and therefore their case was rejected for giving them status of Sectional Engineer after 7 years. He further prays that the respondent State is to be directed to forthwith implement the decision dated 9.12.2013 rendered by Maharashtra State Technical Education Council at Mumbai where the Surveyor course done in ITI, Aundh is held as equivalent to Diploma in Civil Engineering.

4. Ld. Advocate for the applicants submits that thrice the competent authority i.e. Director, Technical Education has treated Sub-Overseer course of Polytechnic, Nagpur and Amravati as equivalent to the Surveyors course of ITI, Kolhapur and two years course of Osmania University (Ex-Hyderabad State). The applicants have completed Surveyor's course from ITI, Aundh, Pune. (page 49)

5. Ld. Advocate for the applicant relies on letter dated 28.7.1972 wherein the Director of Technical Education, Mumbai has sent letter to

the Secretary to Government, Mumbai It is useful to reproduce relevant portion of the said letter, which reads as under:

“I am to state that the syllabi of 1 ½ years course of Sub-Overseers run at the Government Polytechnic, Nagpur and Amravati (Ex-Madhya Pradesh) and the 1 ½ years course of surveyors from Industrial Training Institute (ex-Bombay) state and also 2 years course of Latur, Aurangabad, Osmania University (Ex-Hyderabad state) have been compared and the Directorate is of the opinion that the syllabi of the course run at Government Polytechnic Nagpur/Amravati is in every way of a higher standard than that 1 ½ years course run at Latur and also superior to Industrial Training Course. It is therefore opined that the 1 ½ years course of sub-overseer at Government Polytechnic Nagpur/Amravati can be considered for recognition on par with the 1 ½ years course of Surveyor at Industrial Training Institute and 2 years course of Latur/Aurangabad, Osmania University.”

6. He then refers to letter dated 26.6.1998 wherein the Director, Technical Education, Mumbai has addressed a letter to the Hon'ble Minister of PWD. Relevant portion reads as under;

“सब ओव्हरसिअरचा अभ्यासक्रम” आणि तसेच लातूर, औरंगाबाद, उस्मानिया विद्यापीठ (पुर्वीचे हैद्राबाद राज्य) येथील २ वर्षाचा अभ्यासक्रम हा औद्योगिक प्रशिक्षण संस्था (आय.टी.आय) (पुर्वीचे बॉम्बे) येथील दीड वर्षाच्या “सर्व्हरअरच्या अभ्यासक्रमाशी” समकक्ष आहे म्हणून गृहित धरण्यात यावे.”

7. Ld. Advocate refers to letter dated 20.12.2013 written by Joint Director, Higher & Technical Education to Principal Secretary, Higher & Technical Education.

8. Ld. Advocate refers to letter dated 9.12.2013 written by Director, Maharashtra State Board of Technical Education (MSBTE) to Director,

Higher and Technical Education. In this letter request of the applicant who has retired in 2013 and he has prayed that he is to be given the status of Sectional Engineer and Deputy Engineer after 7 years instead of 10 years.

9. Ld. Advocate also relied on Section 34(6) of the MSBTE Act, 1997 wherein it is stated that the Board can grant equivalence for the purpose of employment to any recognized institute on the basis of scrutiny of curriculum.

10. Per contra Ld. PO opposes the submissions of Ld. Advocate for the applicant and states that similar matter has been decided on 18.10.2016 by Aurangabad Bench of this Tribunal in OA No.626/2011 (Kishan P. Padole & Ors. Vs. The State of Maharashtra & Ors.) wherein this Tribunal has referred to the order dated 2.3.2016 passed in W.P. No.8030 of 2015 by Bombay High Court Bench at Aurangabad and wherein it is held as under:

“5. In the light of discussion in the foregoing paragraphs and the ratio laid down by Hon’ble Supreme Court in the case of State of Rajasthan and others Vs. Lata Arun (cited supra) and other judgments referred hereinabove it is not for the Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.”

11. Ld. PO then relied on the judgment and order dated 15.2.2017 passed by the Aurangabad Bench of this Tribunal in OA No.279/2011 The Association of Subordinate Service of Engineers Vs. The State of Maharashtra & Ors. wherein it is held as under:

“6. The applicant’s members are claiming that the certificate course of Surveyors and Draftsman Civil are equivalent to the Upper Subordinate course of Osmania University. As per Rules of 1975, these courses are not recognized as equivalent to the Upper Subordinate certificate course of Osmania University. The courses, which are recognized as equivalent to the Upper Subordinate course of Osmania University are mentioned in para 4 above. This issue was examined in detail by this Tribunal in OA No.626/2011. In the judgment dated 18.10.2016 in the aforementioned OA no course except what is mentioned in para 4 above is held to be equivalent to Upper Subordinate Course of Osmania University. It was also held that Courts cannot decide above the equivalence. If the relevant rules do not recognize equivalence, we are unable to give any direction in this regard.”

12. We have considered submissions of both the sides. It is an established fact that the appropriate authority for deciding equivalence is Higher & Technical Education Department of Government of Maharashtra. We have perused the affidavit in reply dated 10.10.2023 filed by Satish J. Tidke, Dy. Secretary, Higher & Technical Education Department, para 6 wherein reads as under:

“6. I say and submit that the MSBTE conducts 3 years duration fulltime Diploma Course in Civil Engineering approved by All India Council for Technical Education (AICTE), however, the course completed by Mr. Angle is of 2 years duration, which is not equivalent to 3 year the full time Diploma course in Civil Engineering of MSBTE.”

13. We have also perused the affidavit dated 6.9.2023 filed by Sanjay Dagdu Dashpute, Secretary (Buildings), Public Works Department, Mantralaya, Mumbai wherein para 5 reads as under:

“5. Therefore, considering the provisions of 1985, Government notification dated 3.5.1985, Surveyor Course cannot be considered as equivalent to Diploma in Civil Engineering. Also, the issue of equivalence under Section 34 of the Maharashtra State Technical Education Examination Board Act, 1977 is related to the Maharashtra State Technical Education Examination Board, Mumbai and is under the authority of the Department of Higher and Technical Education, Mantralaya, Mumbai.”

14. We have examined the Govt. notification dated 3.5.1985, relevant portion of which reads as under:

“2. In rule 2 of the Maharashtra Service of Engineers Class II (Recruitment by Promotion of certain Junior Engineers as Sub Divisional Officers) Rules, 1975, for class (b) the following shall be substituted, namely:-

‘(b) who has passed (i) the two years’ course of Purmal Lahoti Smarak Technical College, Latur, or of the Government Polytechnic, Aurangabad; or (ii) one and half year Sub-Overseers’ course of Government Polytechnic, Nagpur or Amravati, or of Government Engineering College Jabalpur.’”

15. It is not within the jurisdiction of this Tribunal to examine the equivalence.

16. We also refer to and rely on the ratio laid down by the Hon’ble Supreme Court in **State of Rajasthan & Ors. Vs. Lata Arun, AIR 2002 SC 2642 : (2002) 6 SCC 252** wherein it is stated that it is not for the

Courts to decide equivalence in educational qualification. Relevant para 13 reads as under:

“13. From the ratio of the decisions noted above it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.”

17. In this case the appropriate authority for deciding equivalence is the Higher and Technical Education Department of Government of Maharashtra. The affidavit in reply dated 10.10.2023 filed by Satish J. Tidke, Dy. Secretary, Higher & Technical Education Department unequivocally states that course completed by the applicants is of two years which is not equivalent to 3 years Full Time Diploma in Civil Engineering of MSBTE.

18. For the aforesaid reasons, we are unable to grant the reliefs prayed for by the applicants in this OA and the OA deserves to be dismissed.

19. The Original Application is dismissed. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
31.10.2023

Sd/-

(Mridula Bhatkar, J.)
Chairperson
31.10.2023

Dictation taken by: S.G. Jawalkar.