

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.695 OF 2018**

1. Mr. Ninad Kishna Chavan,)
Age : 48 years, Occ. Govt.)
Service, R/o. B-1/250,)
Jeevdani Co. Op. Hsg. Society,)
Arunodya Nagar, Veer Sawarkar)
Marg, Mulund East, Mumbai 400 081)
2. Mr. Manoj Vitthalrao Sangale,)
Age : 48 years, Occ. Govt. Service,)
R/o. Plot No.23, Kalanagar Lane,)
Opp. Reliance Petrol Pump, Dindori)
Road, Nashik 422 004)
3. Mr. Niteen Ramchandra Shinde,)
Age : 47 years, Occ. Govt. Service,)
R/o. C-10, Arvind Complex, Hinge)
Pune- Sinhgad Road, Pune 411 051)
4. Mr. Ravishankar Marutirao)
Suryavanshi, Age : 50 years,)
Occ. Govt. Service R/o. Annashri)
Niwas, Behind Ajanta Diesel,)
Konya Road, Latur 413 512)

5. Mr. Pramod Prabhakar Kulkarni,)
 Age : 40 years, Occ. Govt. Service,)
 R/o. Shivaji Nagar, Old Awsa Road,)
 Backside of the Driver Colony,)
 Latur 413 531)

...Applicants.

Versus

1. State of Maharashtra,)
 Through Secretary, Public Works)
 Department, Mantralaya,)
 Mumbai 400 032)
2. The Chief Engineer (Electrical))
 PWD Maharashtra State,)
 Bandhkam Bhavan, 3rd floor,)
 Marzban Road, Mumbai 400 001)
3. The Secretary,)
 General Administration Department,))
 Maharashtra State, Mantralaya,)
 Mumbai 400 032)

...Respondents

Ms. Punam Mahajan, learned Advocate for Applicant.

Ms. S.P. Manchekar, learned Chief Presenting Officer for Respondents.

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
 Smt. Medha Gadgil, Member (A)

RESERVED ON : 13th February, 2023

PRONOUNCED ON : 8th March, 2023

PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. In this matter the applicants are challenging impugned letter dated 28.10.2015 issued by respondent no.1 thereby rejecting request of the applicants to award the benefit of GR dated 29.11.1984. They pray to grant the benefit of GR dated 29.11.1984 without waiting for framing or amending the Rules i.e. to count the 3/8th of the service rendered by the applicants as Diploma Holder Junior Engineer/Sectional Engineer by granting suitable deemed date of absorption in the cadre of Assistant Engineer (Electrical), Grade-II, Group B and they further pray to grant the consequential benefits of seniority and to consider further promotion of Deputy Engineer (Electrical) (Degree Holder).

2. All the five Applicants are at present working as Junior Engineer (Electrical) in the office of Public Works Department. Learned Advocate for the Applicants rely on the communication dated 28.10.2015. He further relies on G.R. dated 29.11.1984 issued by the Irrigation Department and submits that applicants are entitled to get the benefit of 3/8th past service in the cadre of Assistant Engineer, Grade-II. The said G.R. pertains to the Junior Engineers who acquire qualification of passing the Associate Member of the Institution of Engineers (AMIE) Examination.

3. It is to be considered as 3/8th of his total period of service as put in as Engineer Degree Holder. By this letter dated 28.10.2015 it is informed that the benefit of this G.R. dated 29.11.1984 is not applicable to the applicants. The applicants are from Electrical Wing of PWD. Recruitment Rules for the post of Assistant Engineer (Electrical) Public Works Department Wing were published on 16.05.2009. By communication dated 28.10.2015 the PWD has informed that the G.R. of 29.11.1984 is not applicable to the Junior Engineers, PWD (Electrical) Wing as the period of

3/8th of the service is not mentioned in the Recruitment Rules of 13.03.2013 as well as 16.05.2009. As per the Recruitment Rules viz. the Assistant Engineers (Electrical and Mechanical) Grade II in Maharashtra Engineering Services Group 'B' (Gazetted) (Recruitment) Rules, 2013, framed by the Water Resources Department provide that Diploma Holder Junior Engineers, who have obtained AMIE degree (equivalent to B.E. Degree) or B.E. degree while in service, are to be given benefit of 3/8th of service rendered as Junior Engineer during the period from 01.04.1981 to 31.12.1996 as per Government Resolution dated 29.11.1984 in the cadre of Assistant Engineers Grade-II.

4. Learned Advocate states that the Recruitment Rules of 16.05.2009 are of PWD Department. The applicants have passed the Degree after 1997. Learned Advocate for the applicants relied on the following judgments :

(a) Shri Sanjay Ramchandra Devgekar Versus Chief Secretary & Ors. in O.A. No.380/2015 dated 16.06.2016.

(b) Nitin Dattatray Ingale Versus The Secretary, PWD in O.A. No.535/2019, dated 13.09.2022 (Aurangabad Bench).

5. Ld. CPO relies on the affidavit dated 15.1.2019 filed by Vikram Nivrutti Dhamal, Under Secretary, Public Works Department, Mantralaya, Mumbai on behalf of respondent no.1. In para 11 of the reply it is stated that the applicants are not entitled to get the benefits of GR dated 16.4.1984 on the ground that their appointment as Junior Engineer (Electrical) have not been made through Maharashtra Public Service Commission whereas their appointment have been made at the level of Chief Engineer (Electrical) after following proper procedure.

6. Learned C.P.O. relies on the Rule 4 of the Notification dated 16.05.2009 of the Public Works Department, Mantralaya which reads as below :

4. Appointment to the post of Sectional Engineer (Electrical), Group-B, in the Organization shall be made by selection on the basis of seniority, subject to fitness, from amongst the persons who –

(i) are holding the post of Junior Engineer (Electrical);

(ii) possess three years Diploma in Electrical Engineering or any other qualification declared by Government to be equivalent thereto; and

(iii) possess not less than five years regular service as Junior Engineer (Electrical) in the Department.

7. Ld. CPO argued that present applicants are not eligible to be considered for seniority in the cadre of Assistant Engineer, Grade-II. She therefore prays that the OA be dismissed.

8. The prayer made in the OA is resisted by the respondent by filing affidavit in reply. It is the contention of the respondents that after coming into force of the “Assistant Engineer (Electrical), Grade-II and Sectional Engineer (Electrical), Group (Gazetted) in the electrical organization under the Public Works Department (Recruitment) Rules, 2009” (for short ‘Recruitment Rules of 2009), the GR dated 29.11.1984 has been impliedly superseded since in the said Recruitment Rules of 2009 no such benefit is given.

9. A proposal for consideration of the names of the applicant for notional deemed date in the cadre of Assistant Engineer, Grade-II was submitted to the Government by Chief Engineer (Electrical) on 6.10.2005. However, the said proposal was rejected by Government letter dated

28.10.2015 as the applicants are entitled to get the benefit of the Recruitment Rules promulgated in the year 2009 and they were not entitled to get the benefit of GR dated 29.11.1984 for the reason that they have completed BE/AMIE Examination after 1997. Also considering the dates of appointment, length of service, date of passing the degree qualification, the present applicants do not fulfill the periodical criteria i.e. the deemed date before 16.6.1997.

10. We have considered pleadings of both the sides. In this case it is seen that applicants have acquired a degree in Electrical Engineering on the following dates:

Sr. No.	Name	Date of Appointment	Date of BE/AMIE completion
1	Ninad Krishna Chavan	27.6.2003	6.9.2010
2	Manoj Vitthalrao Sangale	8.10.1996	20.9.2002
3	Niteen Ramchandra Shinde	25.9.1996	26.3.2002
4	Ravishankar M. Suryavanshi	31.3.1998	22.7.2004
5	Pramod P. Kulkarni	7.8.2006	20.3.2015

11. The Recruitment Rules of 2009 were notified in the official gazette on 16.5.2009. It is thus evident that before coming into force of the aforesaid rules the applicants no.2, 3 & 4 had become entitled for benefit under GR dated 29.11.1984 having secured the graduation in Electrical Engineering before 16.5.2009. We rely on the ratio laid down by this Tribunal in OA No.380/2015 (supra). The Tribunal has unambiguously held in the said matter that GR dated 29.11.1984 was in force and was applicable till the date of notification of Recruitment Rules of 2009 i.e. 16.5.2009.

12. Original Application No.695 of 2018 is partly allowed. As far as Applicants No.2, 3 & 4 are concerned as they have secured graduation

while in service before 16.5.2009, they should be given the benefit of GR dated 29.11.1984. We therefore, direct the respondents to ensure that the benefit of the said GR and the consequential benefits are extended to Applicants No.2, 3 & 4 within a period of four months from the date of this order. However, Applicants No.1 & 5 are not entitled to the benefits of this GR dated 29.11.1984 as they have completed their graduation after Recruitment Rules of 2009 were notified in the official gazette on 16.5.2009. No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)
8.3.2023

Sd/-
(Mridula Bhatkar, J.)
Chairperson
8.3.2023

Dictation taken by: S.G. Jawalkar.