

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 326 OF 2010

DIST.: PARBHANI

Shri Govind Dattopant Tarkase,
Age: 52 Years, Occu: Service as
Assistant Engineer Grade II,
In P.W. Sub-Division, Jintoor,
Under P.W. Division, Parbhani,
R/o Rangnath Maharaj Nagar, Parbhani.

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APPLICANT

VERSUS

1. The State of Maharashtra,
Through P.O. M.A.T.,
Aurangabad.
2. The Secretary,
Public Works Department,
Mantralaya, Mumbai-400 032.
3. The Secretary,
Water Resources Department,
Mantralaya, Mumbai -400 032.

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RESPONDENTS

APPEARANCE : Shri Ajay Deshpande, Learned Advocate
for the Applicant.

: Shri M.S. Mahajan, Learned Chief
Presenting Officer for the Respondents.

CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)
AND
HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 17.02.2017.

ORDER

[Per- Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)]

1. Heard Learned Advocate Shri Ajay Deshpande, for the Applicant and Shri M.S. Mahajane, learned Chief Presenting Officer for the Respondents.
2. In this O.A. the Applicant has challenged Rule 8 of the Assistant Engineer (Civil) Grade II in Maharashtra Service of Engineers, Group-B (Recruitment) Rules, 1997 as amended by notification dated 8.7.2009. The Applicant claims that his seniority has been fixed below more than 400 candidates appointed by nomination through M.P.S.C., which is required to be corrected.
3. Learned Chief Presenting Officer (C.P.O.) argued on behalf of the Respondents that the issues raised in this O.A. have been fully decided by the Principal Seat of this Tribunal by judgment dated 21.07.2016 in O.A. Nos. 735/2015 and 214/2016. The issue regarding validity of Rule 8 as amended in 2009 was considered by the Tribunal and based on the judgment of Hon'ble High Court dated

17.3.2010 in W.P. No. 7415 of 2013 etc., it has held that this Rule is valid.

4. We find that in paragraph no. 13 of the judgment dated 21.07.2016, this Tribunal (Mumbai Bench) has observed as follows:-

“13. From the aforesaid judgment of the Hon’ble High Court, it is clear that liberty to approach this Tribunal was given to ‘direct recruits’, if they were shown junior to the engineers to be absorbed in terms of clause (d), (e) & (f) of Rule 8. Obviously, the present Applicants are not covered by that liberty. The claim of the Applicants that they have filed present O.As. by virtue of the liberty granted to them is not correct. It is also clear that Hon’ble High Court has held that those engineers, whose services are regularized under clauses (d), (e) and (f) of Rule 8 (as amended in 2009) will be junior to the direct recruits, who were recruited in 2001 through M.P.S.C.”

5. The present Applicant is a person similarly situated as the Applicants in O.A. Nos. 735/2015 and 214/2016 before Mumbai Bench.

6. As the issues raised by the Applicant in the present O.A. are fully decided by Mumbai Bench of this Tribunal by aforesaid judgment, we do not find any merit in the present O.A.

7. Having regard to the aforesaid facts and circumstances of this case, this O.A. is dismissed with no order as to costs.

MEMBER (J)

Kpb/DB OA No 326 of 2010 RA 2017

VICE CHAIRMAN (A)