

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMABI
BENCH AT AURANGABAD.

DIST.AURANGABAD.

ORIGINAL APPLICATION NO.279/2010.

The Association of Sub-ordinate
Service of Engineers (Maharashtra
State), through its President
Ramesh s/o Madhukar Jakatdar,
Age 59 years, Occ. Retired S.D.O.
r/o 105, Vidhyanagar Dhule.

-- **APPLICANT**

VERSUS

1. The State of Maharashtra
(Copy to be served on the
Chief Presenting Officer,
M.A.T. Aurangabad.)
2. The Secretary,
General Administration
Department, Maharashtra
State, Mumbai.
3. The Secretary,
Water Resources Department,
Maharashtra State,
Mantralaya< Mumbai 32.
4. The Secretary,
Public Works Department,
Maharashtra State,
Mantralaya, Mumbai 32.

-- **RESPONDENTS.**

APPEARANCE : Shri K. G. Salunke, learned Advocate for the Applicant.

: Shri M. P. Gude, learned Presenting Officer for the Respondents.

CORAM : **Hon'ble Shri Rajiv Agarwal, Vice Chairman(A)**
&
: **Hon'ble Shri JD Kulkarni, Member (J).**

DATE : 15.02.2017.

ORDER.

(Per : Hon'ble Shri Rajiv Agarwal, Vice Chairman)

1. Heard Learned Advocate Shri K. G. Salunke for the Applicant and Shri M. P. Gude, learned Presenting Officer for the Respondents.

2. In this O.A., the applicant is the Association of Sub-ordinate Service of Engineers (Maharashtra State), who represents the persons working as Surveyors, Sub-Overseers, Overseers and Civil Engineering Assistants.

3. Learned Counsel for the Applicant argued that its Members working as Surveyors and Sub-Overseers were appointed to these posts after completing either two years certificate course of Surveyor or two years course of 'Draftsman Civil' for the Industrial Training Institutes. These qualifications are as per the Recruitment Rules of

1970. These persons were eligible to be appointed as Junior Engineers. However, the Respondents have not upgraded such Junior Engineers to the post of 'Sectional Engineer'. Though the Director of Technical Education, M.S. by his letter dated 28.7.1972 has clarified that qualification of Diploma from Government Polutechnic Nagpur & Amravati and one and a half years Surveyor's course from I.T.I. and two years course at Latur, Aurangabad and Osmania University, Hyderabad are equivalent. Accordingly, the members of the Applicant who were initially appointed as Surveyor or Sub-Overseer in the basic of two years certificate course of I.T.I's are eligible to be appointed as Junior Engineer and also eligible for appointment as Sectional Engineer after 10 years of service as Junior Engineer.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that as per G.R. dated 19.12.1970, Sub Overseers or Surveyors who have completed 2 years' certificate course from ITI's are not treated as qualified Overseers. As per the Rules of 1975, certain courses are recognized as equivalent to the Upper Subordinate Certificate course conducted by Osmania University, Hyderabad. These courses are as follows :-

- (i) Two years course of Purnamal Lahoti Smarak Technical College, Latur or Government Polytechnic, Aurangabad.
- (ii) One and a half year Sub-Overseers Course at Government Polytechnic, Nagpur and Amravati.

5. Learned P.O. argued that Rules of 1975 do not recognize any other course as equivalent to Upper Subordinate Certificate Course of Osmania University. By amendment of 3.5.1985, one and a half years course of Government College of Engineer, Nagpur was added to the list. Though Director of Technical Education has given his opinion about some other courses as being equivalent to the Upper Subordinate Course of Osmania University, the Govt. has not accepted that opinion and rules were never amended. As per rules framed by G.R. dated 19.12.1970, only those holding diploma in Engineering or holding Upper Subordinate certificate from Osmania University were held eligible for promotion as Sub-Divisional Officer. Learned P.O. further argued that by G.R. dated 16.4.1984, the Junior Engineers were given Gazetted status in the following circumstances viz.

- (i) those have diploma of 3 years, after 5 years of service;
- (ii) those having 2 years diploma, after 7 years of service;
- (iii) Junior Engineers without qualification after 10 years of service

G.R. dated 19.12.1970 is not applicable for promotion to the post of Sectional Engineer. Learned P.O. contended that courses mentioned in para 6.2 of O.A. are not recognized as equivalent to Upper Subordinate certificate of Osmania University. Learned P.O. argued that the Applicant is not eligible for any relief. This issue has been decided by judgment of this Tribunal dated 18.10.2016 in O.A. No.626/2011.

6. The issue to be decided in this O.A. is whether those Subordinate staff like Surveyor or Sub-Overseers, having qualification of certificate course of two years duration, as and when promoted as Junior Engineers, can be promoted / designated as Sectional Engineers under G.R. dated 16.4.1984. The Applicant has referred to Recruitment Rules of 19.12.1970, which are applicable to the post of Deputy Engineers and above. The Applicants Members in this O.A. are not seeking promotion as S.D.O. but only as Sectional Engineer. A person promoted / appointed as Junior Engineer can be appointed as Sectional Engineer under G.R. dated 16.4.1984. The persons, who are seeking relief here are not holding diploma of 3 years or 2 years duration. The question is whether those holding other qualification are covered by G.R. dated 16.4.1984. Those having Upper Subordinate course of Osmania University can be

promoted as Junior Engineers but they are non-qualified Junior Engineers. The Applicant's members are claiming that, the certificate course of Surveyors and 'Draftsman Civil' are equivalent to the Upper Sub ordinate 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 O.A., 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 about the equivalence. If the relevant rules do not recognize equivalence, we are unable to give any direction in this regard.

7. There is no merit in this O.A. and it is dismissed with no order as to costs.

MEMBER (J)
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VICE CHAIRMAN

