

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

O.A. NO. 595/2023 WITH O.A.NO. 380/2023

01. ORIGINAL APPLICATION NO. 595 OF 2023

DISTRICT:- AURANGABAD, JALNA

1. Bharat s/o Eknath Jadhav
Age:-39 years, Occ. Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Kannad,
Dist- Aurangabad,
R/o Flat No.5, Sumit Residency,
Rajesh Nagar, Beed by pass, Aurangabad.
2. Vijaysing s/o Sumersing Nikum,
Age:-46 years, Occ. Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Soygaon,
Dist-Aurangabad,
R/o Taluka Agri Office Soygaon,
Tq- Soygaon, Dist-Aurangabad.
3. Radheshyam s/o Aasaram Kolagane,
Age:-36 years, Occ. Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Mantha,
Dist- Jalna,
R/o At Sonna, Post. Mandakhali,
Tq. & Dist. Parbhani.
4. Sunil s/o Ramrao Jaybhave,
Age:-36 years, Occ. Service as a
Agriculture Assistant Presently
working at Taluka Agri Office Partur,
Dist-Jalna, R/o Sant Janabai Nagar,
Gangakhed, Tq-Gangakhed,
Dist. Parbhani.

... APPLICANTS

V E R S U S

1. The State of Maharashtra
Through, Principal Secretary
Agriculture Department,
Mantralaya, Mumbai-32

2. The Commissioner (Agriculture),
Commissioner Office of Agricultural,
Maharashtra State,
Pune Krushi Ayuktalay,
2nd Floor, Central Building,
Shivaji Nagar, Pune-411001
3. The Divisional Joint Director of Agriculture,
Aurangabad Division, Aurangabad,
Kranti Chowk, Kotla Colony,
Samta Nagar, Aurangabad-431005
4. Sachin s/o Dwarkadas Niware,
Age-38, Occu-Service as a Agriculture
Assistant Presently working
At Taluka Agri Office Khultabad,
R/o-Taluka Agriculture Office, Khultabad
Tq- Khultabad, Dist- Aurangabad.
5. Satish s/o Baliram Mitkari,
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Beed,
R/o-Taluka Agriculture Office Beed,
Tq- & Dist- Beed.
6. Archana Devising Barwal,
Age-Major, Occu-Service as a Agriculture
Assistant Presently working
At Taluka Agri Office Sillod,
R/o-Taluka Agriculture Office,
Sillod Tq- Sillod, Dist- Aurangabad
7. Balaji s/o Jarasandha Kesare,
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Ambajogai,
R/o-Taluka Agriculture Office Ambajogai
Tq- Ambajogai, Dist-Beed.
8. Keshav s/o Gopinathrao Joshi,
Age-Major, Occu-Service as a Agriculture
Assistant Presently working At
Taluka Agri Office Aurangabad,

R/o-Taluka Agriculture Office,
Aurangabad, Tq & Dist- Aurangabad. ..**RESPONDENTS**

W I T H

02. ORIGINAL APPLICATION NO. 380 OF 2023

**DISTRICT : PARBHANI/ NANDED/
LATUR/OSMANABAD**

1. Dinesh S/o Sadashivrao Londhe
Age:-37 years, Occ. Service as a
Agriculture Assistant Presently
working At Taluka Agri Office Bhoom,
R/o Shirurghat, Taluka Kaij, Dist. Beed
2. Vinaykumar S/o Ashokrao Pande
Age:-38 years, Occ. Service as a
Agriculture Assistant Presently
working At Taluka Agri Office Kinwat
R/o Gandhi Chowk, Bhokar,
Taluka- Bhokar, Dist. Nanded.
3. Shivaji S/o Vishwambharrao Kadam
Age:-40 years, Occ. Service as a
Agriculture Assistant Presently
working At Taluka Agri Office Renapur,
R/o At Andalgaon, Post. Shindhgaon,
Tq. Renapur, Dist. Latur.
4. Subodh S/o Bhagwanrao Jondhale,
Age:-32 years, Occ. Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Parbhani
R/o. At Janpriya Colony, Karegaon road,
Parbhani, Dist. Parbhani
5. Anil s/o kesharsinh Thakur,
Age-38 years, Oce. Service as a
Agriculture Assistant Presently
working At Taluka Agri Office Manwat
R/o At Taluka Agri Office Manwat,
Tq-Manwat, Dist. Parbhani

.. APPLICANTS

V E R S U S

1. The State of Maharashtra
Through, Principal Secretary
Agriculture Department,
Mantralaya, Mumbai-32
2. The Commissioner (Agriculture),
Commissioner Office of Agricultural,
Maharashtra State,
Pune Krushi Ayuktalay,
2nd Floor, Central Building,
Shivaji Nagar, Pune-411001
3. The Divisional Joint Director of Agriculture,
Latur Division, Latur
Behind Old Collector Office,
Shivaji Chowk, Latur -413512
4. Vaibhav S/o Prabhakar Lenekar
Age-43, Occu-Service as a Agriculture
Assistant Presently working
At Taluka Agri Office Osmanabad,
R/o-Taluka Agriculture Office,
Osmanabad Tq- Osmanabad,
Dist-Osmanabad.
5. Gopal S/o Manikrao Dhage
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Pathri,
R/o-Taluka Agriculture Office Pathri,
Tq-Pathri, Dist-Parbhani.
6. Anil S/o Digambar Banne
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Dist Seed Certification Office,
R/o-District Seed Certification Office, Osmanabad
Tq & Dist. Osmanabad.
7. Ajit S/o Manikrao Rathod
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Renapur,

R/o-Taluka Agriculture Office Renapur
Tq- Renapur, Dist-Latur.

8. Shripad S/o Indrajit Ambesange
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Latur,
R/o-Taluka Agriculture Office,
Latur Tq & Dist- Latur.
9. Mahesh S/o Manikrao Fawade
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office AUSA
R/o-Taluka Agriculture Office,
AUSA Tq-AUSA, Dist- Latur.
10. Shrimant S/o Sitaram Bhatane
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Chakur,
R/o-Taluka Agriculture Office Chakur
Tq- Chakur, Dist- Latur.
11. Pramila Chandrakant Wadmare
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At District Soil Survey & Soil Testing Office,
Parbani, R/o District Soil Survey & Soil
Testing Office, Parbani.
12. Satish S/o Vinayakrao Karhale
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Hadgaon
R/o-Taluka Agriculture Office,
Hadgaon, Tq- Hadgaon, Dist- Nanded.
13. Gajanan S/ Dattarao Vaidya
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Manwat,
R/o-Taluka Agriculture Office,
Manwat Tq- Manwat, Dist-Parbhani.

14. Manoj S/o Omprakashrao Lokhande
Age-44 years, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Vasmat,
R/o-Taluka Agriculture Office Vasmat,
Parbhani road, Tq- Vasmat. Dist- Hingoli.
15. Balaji S/o Manoharrao Panchal
Age-43 years, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Phal Ropwatika office Vasmat,
R/o-Taluka Phal Roapwatika office
Vasmat, Parbhani Road, Vasmat,
Tq- Vasmat, Dist- Hingoli.
16. Pramod S/o Shivshankar Jangam
Age-41 years, Occu-Service as a
Agriculture Assistant Presently working
At Taluka AGri Office Hadgaon
R/o- Taluka Agriculture Office,
Hadgaon, Tq. Hadgaon,
Dist. Nanded.

.. RESPONDENTS.

APPEARANCE : Shri Vaibhav U. Pawar, learned counsel
for the applicants in both the OAs.

: Shri V.R. Bhumkar, learned Presenting
Officer for the respondent authorities in
both the OAs.

: Shri R.A. Joshi, learned counsel for
respondent Nos. 6 & 7 in O.A. No.
595/2023.

: Shri N.B. Narwade, learned counsel for
respondent Nos. 4 to 9 & 11 to 16 in O.A.
No. 380/2023.

**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN
AND
: SHRI VINAY KARGAONKAR, MEMBER (A)**

RESERVED ON : 15.07.2024

PRONOUNCED ON : 01.08.2024

COMMON ORDER

[Per : Shri Vinay Kargaonkar, Member (A)]

Heard Shri Vaibhav U. Pawar, learned counsel for the applicants in both the OAs, Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities in both the OAs, Shri R.A. Joshi, learned counsel for respondent Nos. 6 & 7 in O.A. No. 595/2023 and Shri N.B. Narwade, learned counsel for respondent Nos. 4 to 9 & 11 to 16 in O.A. No. 380/2023.

2. Since in both the OAs the facts involved are one and the same, the same are taken up for final disposal by this common order.

3. By this Original Application the applicants are challenging the final selection merit list published on 19.05.2023 to the extent of respondent Nos. 4 to 8 for selection to the post of Agriculture Supervisor, Group-C. The applicants are also seeking directions to the respondent authorities not to issue appointment orders in favour of respondent Nos. 4 to 8 as they have not secured minimum 45% marks in both paper-1 and paper-2 as it is compulsory condition prescribed under Government Resolution dated 04.05.2022 issued by the State

Government as part of combined guidelines for filling up the posts of Group-C and Group-D.

4. **Pleadings and arguments by the applicants: -**

(i) Respondent No. 3 issued an advertisement dated 13.01.2023 for filling up total 99 posts of Agriculture Supervisor, Group-C through Limited Departmental Competitive Examination (for short 'LDC Examination). The applicants submitted application form from Aurangabad Division and appeared for the LDC Examination for the post of Agriculture Supervisor, Group-C. General merit list of 447 candidates was published on 20.04.2023. Thereafter, the provisional select list and waiting list of 87 candidates was published on 02.05.2023. Eighty Seven candidates were called for document verification for 696 posts of Agriculture Supervisor, Group-C. In the provisional selection list names of the applicant Nos. 1, 2, 3 & 4 appeared at Sr. Nos. 78, 79, 74 & 72 respectively in the waiting category. Final selection list of 67 candidates was published on 19.03.2023. In the said list name of respondent Nos. 4 to 8 are at Sr. Nos. 25, 30, 31, 47 and 54, although they have not secured minimum 45% marks in both the papers as mentioned in G.R. dated 04.05.2022. As per G.R. dated 04.05.2022 respondent Nos. 4 to 8 should have secured minimum 45% marks in both the papers and, therefore, they should not have been considered for selection in the merit list. Clause 8(a) of the said G.R. states that candidate has to secure minimum 45% marks

to qualify in the examination. Under clause 8 (c) it is specifically mentioned that, for inclusion in the merit list, the candidate has to secure minimum 45% marks. Therefore, the final selection list dated 19.05.2023 issued by respondent No. 3 is bad in law and requires to be quashed and set aside to the extent of respondent Nos. 4 to 8.

(ii) As far as the present applicants are concerned they have secured 45% marks in both the papers and, therefore, they should have been included in the provisional selection list. This act of the respondent authorities is discriminatory and it amounts to violation of principle of natural justice. Therefore, the final selection list prepared by respondent No. 3 needs to be quashed and set aside.

(iii) The applicants further submitted that, it is settled canon of law that the rules of game cannot be changed after commencement of the game. Here, the respondent authorities have illegally considered the names of respondent Nos. 4 to 8 while publishing the final selection list dated 09.05.2023 by ignoring the provisions mentioned in the Government Resolution dated 04.05.2023. The act of respondent No. 3 while effecting the promotions for the post of Agriculture Supervisor, Group-C is not in tune with existing policy of department and not as per the basic criteria of qualification mentioned in the Government Resolution dated 04.05.2022.

(iv) The applicants further submitted that respondent authorities are relying on Government Resolution dated 04.05.2022, however, all the clauses of the said G.R. are applicable to the direct recruitment of non-gazetted post i.e. Group-B, Group-C and Group-D and it is not applicable to all the limited internal departmental examination for the post of Agriculture Supervisor, Group-C. Criteria mentioned in G.R. dated 31.3.2021 is applicable in the present case and the said G.R. specifically mentions that 50% marks in each subject is required to qualify the internal departmental examination. The applicants further submitted that the Directorate of Municipal Council Administration has issued corrigendum dated 11.07.2023, wherein it is specifically stated in clause 6.6.2 that minimum 45% marks in each subject i.e. paper-1 and paper-2 is required to qualify in examination but here in the present matter the respondent authorities have conveniently ignored the conditions mentioned in the G.R. dated 31.03.2021 and set the eligibility criteria as per G.R. dated 04.05.2022, which is not in consonance with the policy of internal departmental examinations.

5. Pleadings and arguments by respondents

(i) The Government Resolution dated 04.05.2022 issued by General Administration Department gives the details of passing criteria/standard required by the candidates appearing for the said examination. As per clause 8 (b) of the said G.R. select list of candidates securing minimum of 45% of the total marks is prepared and from that merit list, candidates are selected for the

post. The final select list is prepared as per total marks secured in the examination and candidates including respondent Nos. 4 to 8 have been selected as per merit list.

(ii) The Government Resolution dated 31.03.2021 of G.A.D. is applicable to the employees for continuing on same post or to become eligible for next higher post and is not applicable for selection of candidates through limited competitive examination. Para 6 of the advertisement dated 13.01.2023 specifically mentions that criteria mentioned in G.R. dated 04.05.2022 shall be followed for preparing the merit list.

(iii) The Government of Maharashtra issued notification dated 29.01.2018 framing recruitment rules for appointment to the post of Agriculture Supervisor by suppressing earlier recruitment rules. The Government by notification dated 28.11.2018 framed rules for conducting limited departmental examination for the post of Agriculture Officer, Group-C. As per directions of this Tribunal in O.A. No. 260/2021 respondent No. 3 issued advertisement for selection for the post of Agriculture Supervisor through limited departmental competitive examination.

(iv) The General Administration Department of the Government of Maharashtra has issued Government Resolution dated 04.05.2022 for direct recruitment to the post of Group-B, C and Group-D. As per para 8(b) and (e)

of the said G.R. it is necessary to secure minimum 45% of total marks for qualification of candidates and final selection from these qualified candidates is done as per merit based on total marks.

(v) Respondent No. 3 published advertisement on 13.01.2023 for recruitment to 69 posts of Agriculture Supervisor through limited departmental examination. In that advertisement it is clarified in para 6 that selection criteria as per G.R. dated 04.05.2022 will be applicable. General merit list, provisional selection list and waiting list was published as per merit list based on total marks secured in the examination. The entire procedure was conducted as per the Government guidelines.

(vi) The respondents further submitted that, applicants' contention that, as per G.R. dated 04.05.2022 the candidate is required to secure 45% marks in each subject is not true. Para 8(b) of the said G.R. clearly states that total 45% marks out of 200 marks is the criteria for getting qualified and thereafter final selection list as per merit based on total marks is prepared. In para 8(e) of the said G.R. dated 04.05.2022 again it is clarified that 45% marks out of total marks are required for inclusion of name in merit list. Therefore, the contention of the applicant that 45% marks in each subject is required is not true and is misconceived.

(vii) The applicants have also secured more than 45% of total marks and their names are also included in provisional selection list, but they are lower in rank in

merit list. Last candidate selected as per merit list in final selection list has secured 105 marks out of 200 marks, whereas all the applicants have secured less than 105 marks. Therefore, as per the provisions of G.R. dated 04.05.2022 these candidates could not get place in the final select list.

(viii) The present Original Application filed by the applicants is devoid of merits and needs to be dismissed with costs.

6. **Reasoning and Conclusions:**

The primary issue raised by the applicants in this Original Application (OA) concerns the violations of the provisions of the Government Resolution (GR) dated 04/05/2022 by the respondents. The learned counsel for the applicants argued that the candidates who secured a minimum of 45% marks in each subject should have been included in the select list, rather than those who secured less than 45% in one subject but achieved an aggregate of 45%. Relevant part of the advertisement dated 13/01/2023 is reproduced below:

“६. निवडीचे निकष : कृषि पर्यवेक्षक (गट-क) या संवर्गातील पदावरील मर्यादित विभागीय परीक्षेद्वारे करावयाच्या नियुक्त्या या सदरच्या परीक्षेच्या आधारे तयार केलेल्या गुणवत्ता यादीच्या आधारे निवड करून, करण्यात येतील. परीक्षेद्वारे निवडीसाठी आवश्यक किमान गुण व परीक्षेमध्ये उमेदवारांना समान गुण मिळाल्यास गुणवत्ता

यादीतील प्राधान्यक्रम शासन निर्णय, सामान्य प्रशासन विभाग क. प्रा.निमं १२२२/प्र.क.

५४/का. १३-अ, दि. ४ मे, २०२२ मधील तरतुदीनुसार राहिल.”

7. As mentioned in the advertisement, criterion for selection will be as per provisions in the GR dated 04/05/2022.

Relevant part of the GR dated 04/05/2022 is reproduced below:

“परीक्षेचे स्वरूप:-

अ) कंपनीमार्फत ऑनलाईन पद्धतीने (Computer Based Teat) परीक्षा वस्तुनिष्ठ बहुपर्यरी स्वरूपात आयोजित करावी, प्रत्येक प्रश्नास एकूण (१०० प्रश्न) जास्तीत जास्त २ गुण ठेवण्यात यावेत.

ब) ज्या पदांसाठी शारीरिक व व्यावसायिक चाचणी आवश्यक नाही अशा गट-ब (अराजपत्रित), गट-क व गट-ड मधील अन्य सर्व पदांकरीता उमेदवारांची निवड करतांना मराठी, इंग्रजी, सामान्य ज्ञान व बौद्धिक चाचणी या विषयांवरील प्रश्नांकरिता प्रत्येकी ५० गुण ठेवून एकूण २०० गुणांची परीक्षा घेण्यात यावी. अशा परीक्षेमध्ये उमेदवारांनी प्राप्त केलेल्या गुणांच्या आधारे एकूण गुणांच्या किमान ४५% गुण मिळवणाऱ्या उमेदवारांमधून निवडसूची तयार करून निवडसूचीतील पात्र उमेदवारांची गुणवत्तेनुसार शिफारस करण्यात यावी.

क) ज्या पदांसाठी शारीरिक चाचणी (Physical Test) किंवा व्यावसायिक चाचणी (Proficiency Test) घेणे आवश्यक असेल, अशा पदांसाठी मराठी, इंग्रजी, सामान्य ज्ञान व बौद्धिक चाचणी या विषयांवरील प्रश्नांकरिता प्रत्येकी ३० गुण ठेवून एकूण १२० गुणांची (एकूण ६० प्रश्न) परीक्षा व ८० गुणांची शारीरिक चाचणी/व्यावसायिक चाचणी घेण्यात यावी. तथापि, जे उमेदवार परीक्षेत किमान ४५% गुण प्राप्त करतील, अशा उमेदवारांनाच शारीरिक चाचणी/व्यावसायिक चाचणी देता येईल. परीक्षा व शारीरिक चाचणी/व्यावसायिक चाचणी यांमध्ये उमेदवारांनी प्राप्त केलेल्या गुणांच्या आधारे निवडसूची तयार करून निवडसूचीतील पात्र उमेदवारांची गुणवत्तेनुसार शिफारस करण्यात यावी.

ड) शालांत परीक्षा उत्तीर्णपेक्षा की अर्हता आवश्यक असलेल्या उदा. सुतार, गवंडी इत्यादी संवर्गातील पदांसाठी व्यावसायिक चाचणी, आवश्यक तेथे शारीरिक क्षमतेची चाचणी घेणे आवश्यक असल्यामुळे अशा उमेदवारांची निवड करतांना ६० गुणांची व्यावसायिक चाचणी व आवश्यक तेथे ४० गुणांची शारीरिक क्षमतेची चाचणी घेऊन यांमध्ये उमेदवारांनी प्राप्त केलेल्या गुणांच्या आधारे निवडसूची तयार करून निवडसूचीतील पात्र उमेदवारांची गुणवत्तेनुसार शिफारस करण्यात यावी. ज्या पदांसाठी शारीरिक क्षमतेची चाचणी घेण्याची आवश्यकता नाही, अशा पदांसाठी १०० गुणांची व्यावसायिक चाचणी घेऊन यामध्ये उमेदवारांनी प्राप्त केलेल्या गुणांच्या आधारे निवडसूची तयार करून निवडसूचीतील पात्र उमेदवारांची गुणवत्तेनुसार शिफारस करण्यात यावी.

ई) वरील प्रमाणे कार्यवाही करताना गुणवत्ता यादीत अंतर्भाव करण्यासाठी उमेदवाराने एकूण गुणांच्या किमान ४५% गुण प्राप्त करणे आवश्यक राहिल.

फ) जिल्हास्तरीय पदांसाठी निवड होणाऱ्या उमेदवारांना संबंधित जिल्ह्याचा भूगोल, सामाजिक इतिहास, हवामान इ. स्थानिक बाबींची वैशिष्ट्यांची माहिती असणे आवश्यक आहे. यास्तव सामान्यज्ञान या विषयाची प्रश्नपत्रिका तयार करताना सदर बाब विचारात घेण्यात यावी.

ग) गट-ब (अराजपत्रित), गट-क व गट-ड मधील कोणत्याही पदासाठी उमेदवारांची निवड करताना मौखिक परीक्षा (मुलाखती) घेण्यात येऊ नये.

ह) परीक्षेतील प्रश्नांचा स्तर हा त्या त्या पदांच्या सेवाप्रवेश नियमांमध्ये विहित करण्यात आलेल्या किमान शैक्षणिक अर्हतेच्या दर्जापेक्षा निम्न नसावा.

ज) ज्या पदांकरिता पदवी ही कमीतकमी अर्हता आहे, अशा पदांकरिता परीक्षेचा दर्जा भारतातील मान्यताप्राप्त विद्यापीठांच्या पदवी परीक्षेच्या दर्जाच्या समान राहिल. परंतु त्यापैकी मराठी व इंग्रजी या विषयांच्या प्रश्नपत्रिकेचा दर्जा उच्च माध्यमिक शालांत परीक्षेच्या (इयत्ता १२ वी) दर्जाच्या समान राहिल.

8 Clause 8(b) of the Government Resolution (GR) dated 04/05/2022 states the criterion for preparing the select list. This clause clearly specifies that the select list will be prepared based on a minimum of 45% of the total (aggregate) marks secured by the candidates. Clause 8(b) does not require candidates to secure a minimum of 45% marks in each subject.

9. Furthermore, Clause 8(e) of the GR reiterates the cut-off marks for inclusion in the select list, confirming that a minimum of 45% of the total marks is required for a candidate to be included. Learned counsel for the applicants has argued that GR dated 31st March 2021 is also applicable for this

examination. Said GR states that minimum 50% marks are required in each subject for passing the departmental examination. Relevant part of GR is reproduced below:

“७) परीक्षा उत्तीर्ण होण्यासाठी परीक्षेतील किमान गुणांबाबतचे मानक - विभागीय परीक्षेच्या अभ्यासक्रमामध्ये नमूद केलेल्या प्रत्येक विषयामध्ये उत्तीर्ण होण्यासाठी, उमेदवारास प्रत्येक विषयात किमान ५० टक्के गुण प्राप्त करणे आवश्यक राहिल.”

G.R. dated 31st March 2021 is for departmental examination conducted by the state government for various departments. This GR is not applicable for competitive examination for selection for promotional post. The applicable Government Resolution (GR) for the limited competitive examination for the post of Agricultural Supervisor (Group C) is specified in the advertisement itself. When a specific clause in the advertisement states that a particular GR, namely the GR dated 04/05/2022, shall apply, there is no room for interpreting the applicability of other GRs.

10. Learned counsel for the applicant has relied on Supreme Court Judgment in the case of the **Director General Telecommunication and another V. T.N. Peethambaram, AIR 1987 SC 162.**

11. Facts of the case mentioned by the learned counsel are different than the facts of this case. Relevant part of the judgment is reproduced below:

“Rule” does not employ the expression ‘aggregate’, and it is impossible to inject the said word in the rule in the disguise of interpretation, as it would lead to absurd results. Since the rule does not specify a different passing standard for ‘each’ subject, the prescribed minimum passing standard must be the yardstick to apply to each of the subjects or items.”

In this case, the rules (provisions) outlined in the GR dated 04/05/2022 are very clear. The provisions of the GR explicitly state that the criterion for inclusion in the select list shall be the “aggregate (total)” marks secured. Therefore, we do not see any error on the part of the respondents in interpreting the relevant GR and preparing the select list. The Respondents have correctly relied on the GR mentioned in the advertisement. There is no error in their application or interpretation of the GR.

12. Learned counsel for the applicants has vehemently argued that deciding merit on marks obtained in each subject is better criterion for inclusion in merit list. The determination of merit lists for various examinations is a crucial process that significantly impacts the future prospects of candidates. A

common criterion for inclusion in the merit list is achieving a certain percentage of total marks in the examination. However, disputes often arise regarding whether this percentage should apply to the total marks or to the marks obtained in each individual subject. Merit lists based on total marks are a widely accepted and pragmatic approach in many competitive and educational examinations. This method takes into account the aggregate performance of candidates across all subjects, providing a more comprehensive assessment of their overall capabilities. Evaluating candidates based on their total marks ensures a holistic assessment of their knowledge and skills. It acknowledges that candidates may have varying strengths and weaknesses across different subjects. A candidate who excels in some subjects but perform moderately in others can still be recognized for their overall technical proficiency. In real-world scenarios, success often depends on the ability to integrate knowledge from multiple disciplines. For instance, in professional settings, individuals are expected to apply concepts from various fields to solve complex problems. Evaluating candidates based on total marks aligns with this interdisciplinary nature of real-world applications. Many prestigious examinations and educational institutions worldwide determine rankings and merit lists based on total

marks. Rankings and merit in most competitive examinations in India like, Civil Services Examination of UPSC, Engineering Service Examination of UPSC, JEE for IITs, CAT for IIMs, NEET, State Civil Services Examination conducted by MPSC are determined on the basis to total Marks and there is not separate qualifying marks in each paper for these examinations. This established practice for most coveted jobs in India lends credibility and consistency to the evaluation process, ensuring that it is widely understood and accepted by candidates and examiners alike. In conclusion, determining merit lists based on total marks is a fair, practical, and holistic approach to evaluating candidates' performances. It Baligns with the goals of fostering well-rounded development, encouraging diverse talents, and prepares candidates for real-world challenges.

13. Learned counsel for the applicant has argued that the rules of the game were changed by the respondents after the game had started. However, we do not see any deviation by the respondents in interpreting or applying the provisions of the applicable Government Resolutions. The selection procedure followed by the concerned authorities is neither contradictory, inconsistent, nor in violation of the procedures mentioned in the advertisement or the Government Resolution. The process

followed in this case is transparent and fair, complying with the Government Resolution, laws, and regulations regarding equal opportunities and non-discrimination.

14. In view of above we do not see any merit in both these Original Applications. Hence the following order: -

ORDER

(i) OAs are dismissed without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

O.A.NO.595 & 380-2023(DB)-2024-HDD-Selection process