

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 885 OF 2022**

DISTRICT : LATUR

**Chandrakant s/o Sitaram Nakhate,**

Age 50 Years, Occu: Service,  
Civil Engineering Assistant,  
In office of Executing Engineer,  
P.W.D. Division No.2, Latur,  
R/o Sankraman Niwas,  
Near Gandhi Hospital,  
Old Ausa Road, Latur,  
Dist. Latur,

.. **APPLICANT**

**V E R S U S**

**1. State of Maharashtra,**  
Through, Secretary,  
Public Works Department,  
Mantralaya, Mumbai-32

**2. The Superintending Engineer,**  
Public Works Department Circle,  
Bandhkam Bhavan,  
Rajiv Gandhi Chowk, Latur,  
Dist. Latur

**3. The Executive Engineer,**  
Public Works Department,  
Division No.2, Near Gandhi Hospital,  
Old Ausa Road, Latur, Dist. Latur

.. **RESPONDENTS.**

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APPEARANCE : Shri K.B. Jadhav, learned counsel for the  
applicant.

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

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**CORAM : HON'BLE JUSTICE V.K. JADHAV, VICE CHAIRMAN  
AND  
: HON'BLE VINAY KARGAONKAR, MEMBER (A)**

**Reserved on : 26.03.2025**

**Pronounced on : 27.03.2025**  
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**ORDER**

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

1. Heard Shri K.B. Jadhav, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities.

**2. Brief facts:**

The present case concerns Chandrakant Nakhate, a Civil Engineering Assistant employed in the Public Works Department, who was directly appointed on 10.10.2012 under the Ex-serviceman reserved category. Initially posted in P.W.D. Sub-Division Barshi, Dist. Solapur, he was later transferred to P.W.D. Sub-Division Chakur, Dist. Latur, on 01.02.2018. The core of his legal challenge centers on his entitlement to exemption from a professional examination based on his age and interpretation of government resolutions.

**3. Applicant's Pleadings and Arguments**

(i) The applicant's primary argument centers on his entitlement to exemption from the professional examination based on Government Resolution (G.R.) dated 31.07.2013. He contends that he crossed 45 years of age on 01.06.2017 (born on 01.06.1972), which, according to his interpretation of the G.R., qualifies him for automatic exemption from the professional examination.

(ii) The applicant meticulously documented his repeated attempts to secure exemption:

1. On 10.02.2018, he first submitted an application requesting exemption based on his age.
2. After awaiting response for over three and a half years, he filed a representation on 13.08.2021.
3. On 17.02.2022, he again filed a representation, drawing attention to his previous communications.

(iii) The applicant strongly argues that the Government Resolution dated 01.03.2018 should not be applied retrospectively to his case. He emphasizes that he had already crossed 45 years of age on 01.06.2017, which was well before the issuance of the new G.R. Therefore, the provisions of the earlier G.R. dated 31.07.2013 should be applicable.

(iv) The applicant highlights a significant consequence of not granting the exemption: the withholding of his annual increments from 01.07.2017 onwards. This, he argues, is an unjust penalty arising from the administrative delay and incorrect interpretation of the government resolutions.

**4. Applicant has prayed for following relief:**

1. Immediate consideration of his representations dated 10.02.2018, 10.03.2022, and 08.09.2022.
2. Exemption from the professional examination as per G.R. dated 31.07.2013
3. Release of withheld annual increments from 01.07.2017

**5. Respondent No. 3's (Executive Engineer) Pleadings and Arguments**

(a) The respondent argues that they have consistently acted in good faith and followed proper procedures:

1. On 16.02.2018, they recommended the applicant's exemption to Respondent No. 2.
2. Again on 17.08.2021, they recommended exemption to Respondent No. 2.
3. On 12.05.2022, they reiterated that the new G.R. would not apply to the applicant.

(b) The respondent emphasizes that they have multiple times recommended the applicant's exemption from the professional qualifying examination, citing his age as the primary reason.

#### **6. Respondent No. 1 and 2's (State of Maharashtra and Superintending Engineer) Pleadings and Arguments**

(i) The respondents claim that no formal, complete proposal was received in their primary office. On 25.10.2022, the Osmanabad Circle explicitly confirmed the absence of any official record regarding Nakhate's exemption proposal. This administrative gap has prevented a definitive resolution.

(ii) Their primary argument centers on the fundamental change in the exemption policy, which extended the age of exemption from 45 to 50 years. The respondents argue that this policy change was intentionally designed to address challenges faced by employees appointed later in their careers. From their perspective, Nakhate's situation is unique – he was appointed after 40 years of age and is seeking exemption within just four years, which they view as contrary to the policy's underlying spirit.

(iii) Despite their reservations, the respondents have not entirely dismissed Nakhate's claim. They express a willingness to process his case according to the current government policy,

provided a proper and complete proposal is submitted through the correct administrative channels.

(iv) The respondents argue that the new G.R. reflects a considered policy decision. The extension of the exemption age to 50 years was a deliberate measure to provide more flexibility to employees in professional examinations. They contend that Nakhate's interpretation would undermine the comprehensive approach taken by the government in designing this new policy.

(iv) Ultimately, the respondents seek a strict adherence to the latest government policy and proper procedural submissions. They maintain that their actions are not meant to disadvantage Nakhate, but to ensure consistent application of government resolutions.

## **7. Reasoning and Conclusions:**

After careful consideration of the submissions, documents, and arguments presented by both parties, this Tribunal finds merit in the Original Application filed by the Applicant, Chandrakant Nakhate.

The core issue before this Tribunal is the interpretation and application of Government Resolutions concerning professional examination exemptions, particularly in light of the Applicant's age and service circumstances.

(i) Applicant's Age and Initial Appointment: The Applicant was born on 01.06.1972 and crossed 45 years of age on 01.06.2017. He was appointed as a Civil Engineering Assistant under the Ex-serviceman reserved category on 10.10.2012. These fundamental facts are undisputed by the Respondents.

(ii) Government Resolution Interpretation :

The Tribunal carefully examined the temporal application of Government Resolutions and finds a critical legal principle at play. At the time the Applicant attained 45 years of age on 01.06.2017, the Government Resolution dated 31.07.2013 was the operative legal instrument governing professional examination exemptions. This resolution unequivocally provided exemption from professional examination for employees who crossed 45 years of age.

(iii) The legal doctrine of vested rights and the principle of non-retrospective application of administrative instructions are paramount in this context. When the Applicant reached the age of 45 on 01.06.2017, he immediately acquired a right under the existing G.R. dated 31.07.2013. These rights are considered substantive and cannot be retrospectively altered to his detriment by a subsequent government resolution.

(iv) The subsequent G.R. dated 01.03.2018, which extended the exemption age to 50 years, cannot be interpreted as having retrospective effect that would nullify rights already accrued. This principle is firmly established in administrative law, which protects individuals from arbitrary changes in administrative policies that would prejudice rights already earned under previous regulations.

(v) Key legal principles supporting this interpretation include:

1. Doctrine of Legitimate Expectation: The Applicant had a legitimate expectation of exemption based on the existing government resolution at the time he attained the age of 45.
2. Non-Retrospective Operation: Administrative instructions generally do not have retrospective effect unless expressly

stated and cannot adversely impact rights already acquired. The G.R. dated 01/03/2018 explicitly clarifies that it is not retroactive, and its provisions apply only from the date of issuance.

3. Substantive Rights: The right to exemption, once crystallized under the 31.07.2013 G.R., cannot be taken away by a subsequent resolution.

(vi) Therefore, the Tribunal finds that the Applicant was fully entitled to exemption from the professional examination as on 01.06.2017 under the G.R. dated 31.07.2013. The subsequent G.R. dated 01.03.2018 cannot be used as a tool to deny the Applicant's rights that had already vested under the earlier resolution. The attempt to apply the 01.03.2018 G.R. retrospectively would not only be legally untenable but would also constitute an arbitrary and capricious exercise of administrative power, which is antithetical to the principles of natural justice and administrative fairness.

(vii) The withholding of annual increments from 01.07.2017 is found to be arbitrary and unjustified, given that the Applicant had met the age criteria under the existing government resolution at the relevant time.

8. Hence the following order: -

### **ORDER**

The Original Application is allowed with the following directions:

A. The Respondents shall grant exemption to the Applicant from the professional examination as per G.R. dated 31.07.2013.

B. All annual increments withheld from 01.07.2017 shall be released immediately with all consequential benefits.

C. The Respondents shall complete these actions within two months from the date of this order.

D. There shall be no order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 27.03.2025**

O.A.NO. 885-2022-DB-HDD-Exemption in examination