

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO. 1078 OF 2017

DISTRICT : MUMBAI

1. Shri Sachin A. Patil,)
R/o: 55-A/2001, Saptarshi Towers CHS)
Mumbai 400 095.)
2. Shri Dhanaji Sitaram Kor,)
R/o: C/o Yogesh Kulkarni,)
Bungalow No. 3, Yashwant Niwas,)
Arunoday Housing Society, Indira Nagar,)
Nasik-9.)
3. Shri Rajesh R. Mote,)
R/o: Flat No. 302, C-Wing, Anukul)
Residency, Kaspat Wasti, Wakad, Pimpri,)
Pune-57.)
4. Shri Vishal Vasant Chougule,)
R/o: Plot No. 1, 1078, A-Ward,)
Indraprasta Nagar.)
5. Shilpa Manoj Desai,)
R/o: B-33/7, Government colony,)
Bandra [E], Mumbai 400 051.)
6. Smt Siddhi Vinayak Nimbalkar,)
R/o: 40/706, Chhatrapati Shivaji Raje)
Complex, Mhadha, Kandivli [W],)
Mumbai 400 067.)
7. Smt Bharti Raju Kale,)
R/o: Flat No. 103, Rohit Park II,)
Moray Colony, Tapkir Nagar, Kalewadi,)
Pimpri, Pune 17.)

8. Smt Shubhada Shivprasad Walke,)
R/o: A/P Osargaon, [Kansaliwadi],)
Tal-Kankavli, Dist-Sindhudurg.)
9. Shri Shailendrasingh G. Sukede,)
R/o: Lahariya Nagar, Opp. Zilla Parishad)
Primary School, Kaulkhed, Akola.)
10. Shri Prashant U. Chavhan,)
R/o: A/P Arni, Tal-Arni, Dist-Yavatmal.)
11. Shri Bhagwan H. Aswar,)
C/o: Shriram Baliram Shinde,)
629, Vitthal Peth, Teli Chowk,)
June Jalgaon.)
12. Shri Mahesh C. Patil,)
R/o: Indira Gandhi Chowk,)
A/p: Nashirabad, Tal & Dist-Jalgaon.)
13. Shri Subodh M. Sahare,)
R/o: C/o : Kisanrao Khandekar,)
Plot No. 46-A, Near Sariputta Buddha)
Vihar, Kabir Marg, New Kailas Nagar,)
Nagpur-27.)
14. Shri Pravinn P. Warade,)
R/O: Chamunda Park Apartment,)
Gupte Road, Jathar Peth, Akola.)
15. Shri Sayyad Nabab Zairuddin,)
R/o : In front of Kamla Nehru High School)
Khari Galli, Latur.)
16. Smt Prajkta Suresh Aghav,)
R/o: Flat No. 301, Krishna Tower,)
Dasare Nagar, Ahmednagar.)
17. Ms Rajnigandha Vasant Kamble,)
R/o: C/o Vijay Pattivar, Vanashri Colony,)
Navegao Complex, Mul Road,)

- Gadchiroli.)
18. Ms Ujwala R. Wakhade,)
R/o: Bhovate Layout, Behind Benoda)
School, Amravati.)
19. Smt Tabasuum W. Shaikh,)
R/o: 511, South Sadar Bazar Camp,)
Near Mamta Collection, Solapur.)
20. Shri Sangesh S. Shinde,)
R/o: Maharashtra Housing Colony,)
Near Anand Nagar, Beed 431 122.)
- All are working as Lower Grade Stenographer)
In the office of Assistant Director and)
Public Prosecutor at various places in the)
State of Maharashtra and as mentioned)
against their respective names.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Principal Secretary,)
Marathi Language Department,)
Office at new Administrative Building,)
M.K Marg, H.R Chowk, Mantralaya,)
Mumbai 400 032.)
2. The Director,)
Directorate of Prosecution,)
[M.S], Mumbai, having office at)
Free Press Journal Marg, Nariman Point,)
Mumbai 400 021.)...**Respondents**

Shri B.A Bandiwadekar, learned advocate for the Applicants.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : Justice Mridula Bhatkar (Chairperson)
Shri Debashish Chakrabarty (Member) (A)

RESERVED ON : 19.12.2024

PRONOUNCED ON : 28.03.2025

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. The Applicants who were appointed during the period 2007 to 2010 to posts of 'Lower Grade Stenographer (English)' in the Directorate of Prosecution, Mumbai, pray to hold and declare that 'Government Circular' dated 07.06.2017 issued by 'Marathi Language Department', as 'Clarification' to 'Notification' dated 24.03.2017 by which amendment were made to provisions of Rule 2 and Rule 3 of the 'Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules 1991' are unconstitutional and unenforceable in the eyes of law. The Applicants also pray to hold and declare that in light of 'Notification' dated 24.03.2017 issued by 'Marathi Language Department' for amendment to provisions of Rule 2 and Rule 3 of 'Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991', the Applicants stood exempted from passing 'Marathi Shorthand' and 'Marathi Typing' examinations of 'Ad-hoc Board' with 80 Words Per Minute and 30 Words Per Minute.

2. The Applicants by way of amendments carried out in this O.A No. 1078/2017 have further prayed that 'Notification' dated

05.10.2021 be quashed and set aside and 'Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' be declared as amended to the extent of first proviso by inserting the words "Steno-Typist" who are appointed on or after 24.03.2017 and further after the words Government Service it be added as "on or after the 24th March 2017".

3. The contents of 'Government Circular' dated 07.06.2017 is reproduced below:-

“दि.२४.३.२०१७ च्या सुधारीत अधिसूचनेतील तरतुदी अधिसूचनेच्या दिनांकापासून लागू आहेत. त्यामुळे नियुक्तीच्या चार वर्षांची परिगणना विचारात घेताना ज्या कर्मचा-यांकडे सुधारीत अधिसूचनेच्या दिनांकास विहित संधी उपलब्ध आहेत. त्यांनाच सुधारीत आदेशातील तरतुदी लागू राहतील. ज्या कर्मचा-यांच्या विहित संधीचा कालावधी सदर अधिसूचनेच्या दिनांकापूर्वी पूर्ण झाला आहे त्यांनो यापूर्वीच्या तरतुदीनुसार एतदर्थ मंडळाची परीक्षा देणे अनिवार्य आहे.”

4. The Applicants when appointed in Directorate of Prosecution, Mumbai, as Lower Grade Stenographers (English) during the period from 2007 to 2010 had fulfilled the requisite criteria under Rule 5 & Rule 6 of The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer-Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997; as all of them possessed 'Government Commercial Certificate' of 'Marathi Shorthand' issued by the Maharashtra State Examination Council. The 'Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' requires those who are appointed to posts of English Stenographers are also required subsequently to pass the examination of 'Marathi Shorthand' and 'Marathi Typing' as per standards specified in Rule 3 within time periods of as prescribed under Rule 4. The 'Ad hoc Board'

established under GAD was to conduct the Marathi Shorthand and Marathi Typing examinations for English Stenographers and English Typist. Such English Stenographers and English Typists were required to pass compulsory Marathi Shorthand and Marathi Typing examinations within Four Years from their date of their joining Government Service. Further under Rule 7 of 'Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991', consequence of failure to pass the Marathi Shorthand and Marathi Typing examinations within Four Years has been provided as temporary withholding of 'Annual Increments' with no entitlement to later receive arrears arising out of withholding of such 'Annual Increments'.

5. The 'Notification' dated 24.03.2017 of Marathi Language Department made amendments to 'Rules 2 & Rule 3' of Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing examinations for English Stenographers and English Typist] Rules, 1991' regarding compulsory passing of Marathi Shorthand and Marathi Typing Examination for English Stenographers and English Typists of the 'Ad-hoc Board'. By this 'Notification' dated 24.03.2017 of Marathi Language Department if at the time of appointment or within Four Years from the date of joining the 'Government Service' if the English Stenographers and English Typists had acquired 'Government Commercial Certificate' in 'Marathi Shorthand' with speed of 80 Words Per Minute and Marathi Typing with speed of 30 Words Per Minute or higher speed then they shall be exempted from passing the 'Marathi Shorthand' and 'Marathi Typing' of the 'Ad-hoc Board' with respective speeds of 80 Words Per Minute and 30 Words Per Minute.

6. The 'Notification' dated 24.03.2017 of Marathi Language Department thus had substantially amended Rule 3 of Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991'. However, subsequently by 'Clarification' issued through 'Government Circular' dated 07.06.2017 of Marathi Language Department it was decided that only those amongst 'English Stenographer' and 'English Typists' who had not acquired Government Commercial Certificate of Marathi Shorthand with 80 Words Per Minute and Marathi Typing 30 Words Per Minute after joining Government Service, as they have prescribed chances left shall be eligible to get benefits of exemption provided under amendment by 'Notification' dated 24.03.2017 of Marathi Language Department. Thus, Applicants who had been appointed during the period from 2007 to 2010 much prior to amendment by 'Notification' dated 24.03.2017 and had within Four Years not passed Marathi Shorthand with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute were therefore still required to compulsorily pass examinations of 'Ad hoc Board'. The 'Directorate of Prosecution', Mumbai, had thus stopped the 'Annual Increments' of the Applicants also taken action to recover those amounts arising out of 'Annual Increments' paid to the Applicants.

7 The learned Counsel for Applicants has submitted that the Applicants who are 'English Stenographers' cannot be denied the benefits of the 'Notification' dated 24.03.2017 of Marathi Language Department. The English Stenographers have been evidently given exemption from passing the examination of Marathi Shorthand with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute of 'Ad-hoc Board', as they possess 'Government

Commercial Certificate' of 'Marathi Shorthand' with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute.

8. The learned Counsel for Applicants specifically pointed out that in 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997' dated 24.06.1997, no condition for compulsory passing of examinations of 'Ad hoc Board' for Marathi Shorthand with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute for 'English Stenographers' and 'English Typists' has been specifically incorporated with reference to 'Rule 3' and 'Rule 4' of Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' and thereupon emphasized that it was an 'Unreasonable Classification'.

9. The provisions of 'Rule 2', Rule 4 and 'Rule 7' of The Maharashtra Civil Services (Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typing) Rules, 1991 reads as follows:-

"3. Examinations to be passed by Stenographers and Typists— Subject to these rules, every Stenographer or Typist performing the duties of English Stenography or English Typing as the case may be shall pass the following examinations within the period prescribed in rule 4 hereunder namely:-

Sr No	Designation	Examination to be passed
(i)	Selection Grade, Higher Grade and Lower Grade Stenographers performing the duties of English Stenography	Marathi Short Hand and Marathi Typing examinations of the ad hoc Board with the speed of 80 words per minute and 30 words per minute, respectively.
(ii)	Steno-typist performing the	Marathi Short Hand and

	duties of English stenography and English typing	Marathi typing examination of the ad hoc Board with the speed of 80 words per minute and 30 words per minute respectively.
(iii)	Typist and Clerk-Typist performing the duties of English typing	Marathi typing examination of the ad hoc Board with the speed of 30 words per minute.

4. Period for passing examinations – (i) The English Stenographer or English Typist, who has passed the Secondary School Examination with Marathi (Higher Standard) as the first language.....

(a) who are already in the service of the Government on the commencement date, shall pass the examination prescribed in Rule 3 within four years from the commencement date;

(b) who are recruited after the commencement date, shall pass the examination prescribed in Rule 3 within four years from the date of joining the Government service.

(ii) The English Stenographer or English Typist who has passed the Secondary School Certificate Examination but not with Marathi (Higher Standard) as the first language----

(a) who are already in the service of the Government on the commencement date, shall pass the examination prescribed in Rule 3 within six years from the commencement date;

(b) who are recruited after the commencement date, shall pass the examination prescribed in Rule 3 within four years from the date of joining the Government service.”

7. Consequence of failure to pass examination-

(i) The English Stenographer/Typist who fails to pass the above said examination within the period specified in above said Rule 4, shall be liable to have his/her annual increments withheld till he/she passes the examination or is exempted from passing such an examination under Rule 8.

(iii) Increments so withheld shall become payable to the Government Servant with effect from the date on which he/she passes the examination or is exempted from passing it and increments shall accrue to him/her as if no increment had been withheld. He shall, however, not be entitled for the arrears due to withholding of increments.”

10. The provisions of Rule 2 & Rule 3 of Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' which have been amended by 'Notification' dated 24.03.2017 of Marathi Language Department read as follows:-

"2. In rule 2 of the Maharashtra Civil Services (Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typists) Rules, 1991 (hereinafter referred to as "the principal Rules"), after clause (i), the following clause shall be inserted namely:-

(i-a) "Government Commercial Certificate" means the certificate issued by the "Maharashtra State Examination Council" functioning under the control of the School Education and Sports Department, Government of Maharashtra and includes a certificate issued by any other institutions as may be specifically declared by the Government to be equivalent thereto."

"3. To rule 3 of the Principal Rules, the following provisos shall be added, namely:-

Provided that English Stenographers or Steno Typists who have acquired the Government Commercial Certificate of Marathi Shorthand of speed of 80 words per minute and Marathi Typing of speed of 30 words per minute or of higher speed, respectively at the time of appointment or within a period of four years from the date of their joining of Government service as the case may be, shall be exempted from passing the Marathi shorthand and Marathi typing examination of the Ad hoc Board with the speed of 30 words per minute."

Provided further that English Typists or Clerk-cum-Typists who have acquired the "Government Commercial Certificate" of Marathi Typing of speed of 30 words per minute or of higher speed at the time of appointment or within a period of four years from the date of their joining of Government Services, shall be exempted from passing the Marathi Typing Examination of the Ad hoc Board with the speed of 30 words per minute."

11. The learned Counsel for Applicants submitted that all Applicants had acquired 'Government Commercial Certificate' of 'Marathi Shorthand' and 'Marathi Typing' with speed of 80 Words Per Minute and 30 Words Per Minute, before entering Government

Service except Applicant No. 9, who passed it subsequently upon joining Government Service. Furthermore, it is also an admitted fact that many amongst the Applicants have subsequently even passed the Marathi Shorthand and Marathi Typing examinations conducted by 'Ad hoc Board'.

12. The provisions of 'Rule 2' and 'Rule 3' of The Maharashtra Civil Services (Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typing) Rules, 1991 which were subsequently amended by 'Notification' dated 24.03.2017 reads as follows:-

3. Examinations to be passed by Stenographers and Typists—Subject to these rules, every Stenographer or Typist performing the duties of English Stenography or English Typing as the case may be shall pass the following examinations within the period prescribed in rule 4 hereunder namely:-

Sr No	Designation	Examination to be passed
(i)	Selection Grade, Higher Grade and Lower Grade Stenographers performing the duties of English Stenography	Marathi Short Hand and Marathi Typing examinations of the ad hoc Board with the speed of 80 words per minute and 30 words per minute, respectively.
(ii)	Steno-typist performing the duties of English stenography and English typing	Marathi Short Hand and Marathi typing examination of the ad hoc Board with the speed of 80 words per minute and 30 words per minute respectively.
(iii)	Typist and Clerk-Typist performing the duties of English typing	Marathi typing examination of the ad hoc Board with the speed of 30 words per minute.

7. Consequence of failure to pass examination-

(i) The English Stenographer/Typist who fails to pass the above said examination within the period specified in above said Rule 4, shall be liable to have his/her annual increments withheld till he/she passes the examination or is exempted from passing such an examination under Rule 8.

(iii) Increments so withheld shall become payable to the Government Servant with effect from the date on which he/she passes the examination or is exempted from passing it and increments shall accrue to him/her as if no increment had been withheld. He shall, however, not be entitled for the arrears due to withholding of increments.

13. The contents of 'Circular' dated 27.10.2015 issued by 'GAD' is reproduced below for contextual clarity regarding case of Applicants.

“३. त्यामुळे म.ना.से. (इंग्रजी लघुलेखक व इंग्रजी टंकलेखक यांना मराठी लघुलेखन/ मराठी टंकलेखन परीक्षा सक्तीची करण्याबाबत) नियमावली १९९१, दि. ०६.०५.१९९१ मध्ये नमुद केल्यानुसार विहित कालावधीत एतदर्थ मंडळाची मराठी लघुलेखन/टंकलेखन परीक्षा उत्तीर्ण न झाल्यास परीक्षा उत्तीर्ण होईपर्यंत संबंधित लघुलेखक/टंकलेखकाची वार्षिक वेतनवाढ रोखण्याची कारवाई करावी. तसेच, एतदर्थ मंडळाची मराठी लघुलेखन/टंकलेखन परीक्षा उत्तीर्ण झालेले इंग्रजी लघुलेखक मराठी टंकलेखन करण्यास नकार देत असतील किंवा टाळाटाळ करीत असतील तर, उपरोक्त परिच्छेद २ मध्ये नमुद केलेल्या तरतूदीच्या आधारे त्यांना लेखी ताकीद देणे, गोपनीय अहवालात नोंद घेणे, बढती रोखणे इ. बाबींचा क्रमशः वापर करण्यात यावा. बढती किंवा कालबद्ध पदोन्नतीसंदर्भात गोपनीय अहवालांव्यतिरिक्त ज्याप्रमाणे हिंदी व मराठी भाषा परीक्षा उत्तीर्ण असणे, संगणकाची परीक्षा उत्तीर्ण असणे या आवश्यक अर्हता समजल्या जातात, तद्वतच एतदर्थ मंडळाची मराठी भाषा परीक्षा उत्तीर्ण असणे ही अनिवार्य अर्हता समजण्यात यावी.”

14. The opinions of GAD Desk-12 and GAD Desk-14 recorded in 'File Notings' being pertinent are reproduced below for further contextual clarity about case of Applicants:-

“शासकीय कार्यालयात इंग्रजी टंकलेखक, लिपिक-टंकलेखक, इंग्रजी लघुटंकलेखक, लघुलेखक या पदावर नियुक्त होणारे बहुतांश कर्मचारी नियुक्तीपूर्वीच शासकीय वाणिज्य प्रमाणपत्र परीक्षेची ३०/४० शब्द प्रति मिनीट मराठी टंकलेखनाची व ८० किंवा त्याहून अधिक वेगाची लघुलेखनाची परीक्षा उत्तीर्ण असतात. तरीही त्यांना एतदर्थ मंडळाची मराठी टंकलेखन व लघुलेखन परीक्षा दि.०६ मे, १९९१ च्या शासननिर्णयानुसार अनिवार्य केली जाते. एतदर्थ मंडळाची उपरोक्त परीक्षा उत्तीर्ण न केल्यास वेतनवाढी रोखल्या जातात. आतापर्यंत बऱ्याच कर्मचाऱ्यांच्या वेतनवाढी रोखलेल्या आहेत. जर शासकीय कर्मचाऱ्यांना आता नियुक्तीपूर्वी मराठी टंकलेखन/लघुलेखनाची शासकीय वाणिज्य प्रमाणपत्र परीक्षा उत्तीर्ण करण्याचा पर्याय देऊन एतदर्थ मंडळाच्या मराठी टंकलेखन व लघुलेखन परीक्षेस बसण्याची आवश्यकता नाही असा पर्याय दिल्यास, यापूर्वी नियुक्ती आधी ज्या कर्मचाऱ्यांनी शासकीय वाणिज्य प्रमाणपत्र परीक्षा टंकलेखन व लघुलेखन उत्तीर्ण केली आहे. परंतु त्यांच्या वेतनवाढी रोखल्या आहेत. ते सर्व कर्मचारी त्यांच्याकडून वसूल केलेल्या रक्कमेची परत मागणी करतील, त्याकरीता ते न्यायालयात देखील जातील. या सर्व वस्तुस्थितीचा विचार करून त्याप्रमाणे तसा निर्णय शासनस्तरावरून घ्यावा लागेल.”

15. The learned CPO per contra submitted that the examinations of 'Ad hoc Board' are for testing of proficiency in 'Marathi Shorthand' and 'Marathi Typing' of 'English Stenographers' and

'English Typists' are conducted under the aegis of 'Marathi Language Department' and GAD of Government of Maharashtra while the 'Government Commercial Certificate' are awarded by Maharashtra State Examination Council and can also be obtained even by anyone who is not 'Government Servant' from any Private Institute which is recognized by Government of Maharashtra.

16. The learned C.P.O further submitted from 1991 upto 2017 the Government of Maharashtra had insisted that those entering the Government Service as 'English Stenographer' and 'English Typist' should compulsorily pass the examinations of 'Marathi Shorthand' and 'Marathi Typing' conducted by 'Ad hoc Board'. Further; she emphasized that all Applicants had been appointed prior to 2017 and thus it was binding upon all the Applicants to appear and pass these examinations of the 'Ad hoc Board' as per Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991'.

17. The learned C.P.O explained that Government of Maharashtra accords utmost importance to 'Marathi language' as it has been declared as our 'State Language', i.e. "राजभाषा". She further submitted that many amongst 'English Stenographers' and 'English Typists' who know Marathi Shorthand and Marathi Typing, often refused to take dictation in 'Marathi Language', and it was against this backdrop that Government of Maharashtra had found it necessary to impose the stringent condition that all English Stenographers & English Typist after joining Government Service must appear and pass the Marathi Shorthand with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute conducted by 'Ad-hoc Board' which is defined in 'Maharashtra Civil Services (Compulsory Marathi Shorthand and Marathi Typing

Examinations for English Stenographers and English Typing) Rules, 1991'. Therefore; she submitted that provisions of Maharashtra Civil Services (Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typing) Rules, 1991, were to be considered to be independently applicable to English Stenographers' and "English Typists' who were appointed as per provisions of The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997, especially when seen from perspective of 'State Policy' of 'Government of Maharashtra' regarding doing all that is necessary for promotion and use of our "राजभाषा" which is 'Marathi Language'.

Assessment:-

18. Now let us advert to provisions of 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997'. The 'Lower Grade Stenographers' are appointed by 'Nomination' as per 'Rule 5' and 'Steno-Typist' are as per Rule 6' but they are required to possess more or less same eligibility conditions and educational qualifications except the difference in the requirement of 'Speed' of taking 'Shorthand Dictation'. For posts of 'Lower Grade Stenographer'; the Government Commercial Certificate is required to be with 'Speed' of Shorthand Dictation of not less than 100 Words Per Minute and not less than 40 Words Per Minute in English Typing and 30 wpm in Marathi Typing and for the post of 'Steno-Typist' the Government Commercial

Certificate required is required to be with Speed of 'Shorthand Dictation' not less than 80 Words Per Minute and identical not less than 40 Words Per Minute in English Typing and 30 wpm in Marathi Typing. Thus, requisite eligibility conditions and educational qualifications which are mentioned in Rule 5 & Rule 6 are not distinguished for both Marathi Language and English Language. Thus, after specifically going through Rules 4, which is about Higher Grade Stenographers; Rule 5 which is about Lower Grade Stenographer and Rule 6 which is about Steno Typist it is evident that The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997', only distinguishes the 'Speed' of 'Shorthand Dictation' but they are kept identical both for 'English Stenographers' and 'Marathi Stenographers'. So if a Higher Grade Stenographer or Lower Grade Stenographer in Marathi Language is appointed by 'Nomination', then he is required to have proficiency of 40 Words Per Minute in English Typing and 30 Words Per Minute in Marathi Typing. However, this extent of typing proficiency is again common factor for High Grade Stenographer or Lower Grade Stenographer in 'English Language'. As we have pertinently observed that 'Higher Grade Stenographer' with 120 Words Per Minute, Lower Grade Stenographer with 100 Words Per Minute and for Steno Typist with 80 Words Per Minute are distinguished by their Speeds of 'Shorthand Dictation'. Nothing is mentioned in 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997', about the language whether Marathi Language and English Language in which they are seeking appointment should have proficiency of 'Speed' of 'Shorthand

Dictation' in that particular language. Thus, those seeking appointment to posts for Marathi Language or English Language at levels of Higher Grade Stenographer, Lower Grade Stenographer or Steno-Typist are required to take 'Shorthand Dictation' in the chosen language and achieve respective 'Speeds' of 'Shorthand Dictation' as specified under Rules 4, 5 & 6 along with common proficiency of 40 Words Per Minute in English Typing & 30 Words Per Minute in Marathi Typing. Thus, none of the Higher Grade Stenographers, Lower Grade Stenographers or Steno Typist who seek appointment for 'Marathi Language' or 'English language' are required to possess extra proficiency in the 'Other Language', i.e. English Higher Grade Stenographers, Lower Grade Stenographers or Steno Typist to compulsorily be able to take 'Shorthand Dictations' in 'Marathi Language' or Marathi Higher Grade Stenographer, Lower Grade Stenographer and Steno Typist to compulsorily be able to take Shorthand Dictation in 'English Language'.

19. The Applicants who are working as Lower Grade Stenographers in 'English Language' were recruited as per The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer-Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997, subsequently have come to possess 'Government Commercial Certificate' in 'Marathi Shorthand' with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute though not as per provisions of Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' which requires doing so by qualifying examination of 'Ad-hoc Board'. Hence, it is evident that Applicants who have subsequently acquired knowledge and skill proficiency in Marathi

Shorthand with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute as per standard specified in Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' having earlier fulfilled requirement of 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997'. Under provisions of its Rule 4; Rule 5 & Rule 6 relating to appointments to posts of 'Higher Grade Stenographer', 'Lower Grade Stenographer' and 'Steno-typist', in 'English Language' the passing 'Marathi Shorthand' and 'Marathi Typing' from 'Ad-hoc Board' within Four Years of joining Government Service was not a pre-condition of their recruitment. Therefore, it is necessary to advert specifically to Rule (III)(b) of 'Rule 5' for appointment to post of Higher Grade Stenographer, Lower Grade Stenographer and Rule (iii)(b) of Rule 6 of appointment to post of 'Steno-typist' of 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997' which are as follows:-

“5. Appointment to the post of Lower Grade Stenographer shall be made either:-

(b) by nomination from amongst persons who-

.....
(iii) possess Government Commercial Certificate with the speed of not less than 100 words per minute in Shorthand and not less than 40 words per minute in English typewriting or 30 words per minute in Marathi typewriting.”

6. Appointment to the post of Steno-typist shall be made either:-

(b) by nomination from amongst the persons who -

.....
(iii) possess Government Commercial Certificate with the speed of not less than 80 words per minute in shorthand and not less than 40 words per minute in English

typewriting or 30 words per minute in Marathi type writing.”

The ‘Shorthand Dictation’ proficiency required is with Speed of 100 Words Per Minute if the post is of Lower Grade Stenographer and 80 Words Per Minute if the post is of Steno-Typist, irrespective of the language which may be either in English Language or Marathi Language but it has to be 40 Words Per Minute in English Typing or 30 Words Per Minute in Marathi Typing. The Personal Assistant Group ‘B’ Higher Grade Stenographer-Group ‘B’ Lower Grade Stenographer- Group ‘B’ and Steno-Typist-Group ‘C’ in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997 have been framed by Government of Maharashtra under ‘Article 309’ of the ‘Constitution of India’ and ‘Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991’ are also framed under ‘Article 309’ of the ‘Constitution of India’, but it makes compulsory only for English Stenographers and English Typists to pass the examination in Marathi Shorthand with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute which are conducted by Ad-hoc Board working under aegis of Marathi Language Department and GAD. The former specifically mentions that to be found eligible, appointees should possess ‘Government Commercial Certificate’ as defined in Sub-rule (b) of ‘Rule 2’ of ‘The Personal Assistant Group ‘B’ Higher Grade Stenographer-Group ‘B’ Lower Grade Stenographer- Group ‘B’ and Steno-Typist-Group ‘C’ in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997’ which is reproduced below:-

“2(b) Government Commercial Certificate” means a certificate issued by the Bureau of Government Examinations, Directorate of Technical Education, Government of Maharashtra and includes a certificate issued by any other institution as may be specifically declared by Government to be equivalent thereto.”

The examination for Government Commercial Certificate which is awarded by Maharashtra State Council can thus be received even from Private Institutions as may be approved by the Government of Maharashtra.

19. The Applicants are not entitled to challenge the 'Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991', as they should have knowledge of Marathi Language Standards of proficiency as prescribed thereunder of 'Marathi Shorthand'. The challenge of Applicants is very limited, i.e., in respect of Clause b(ii) of Rule 5 of the Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997, wherein it is not mentioned that those appointed by 'Nomination' under 'Rule 5' as Lower Grade English Stenographers in English Language should compulsorily pass the examination in 'Marathi Shorthand' with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute of 'Ad hoc Board'. The 'Ad hoc Board' as defined in 'Rule 2(a)' of 'The Maharashtra Civil Services (Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typists) Rules, 1991' is as under:-

"2. Definition: (a) "Ad hoc Board" means the Board constituted by the Government to conduct the examinations in Marathi Shorthand and Marathi Typing for the English Stenographers and Typists in the service of the Government;"

The Applicants undoubtedly possess this 'Government Commercial Certificates' in 'Marathi Shorthand' and 'Marathi Typing' with 80 words Per Minute and 30 words Per Minute.

20. Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997 under 'Rule 5' specifies that Lower Grade Stenographers in Marathi Language as well as English Language are required to pass the Shorthand Examination of Maharashtra State Examination Council with requisite speed of 100 words Per Minute and possess 'Government Commercial Certificate'. The eligibility condition of Government Commercial Certificate in Rule 5 of 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer-Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997' was certainly not incorporated as substitute or alternative for passing the examination conducted by 'Ad-hoc Board'. Thus, it was not the case that from 1991 upto 2017, 'Government Commercial Certificate' was to be considered as equivalent or even adversely considered to be of lower standard than levels of proficiency certified by the 'Ad-hoc Board'. The 'Notification' dated 24.3.2017 belatedly captures the essence of equivalence to provide relief to those who are holding 'Government Commercial Certificate' in 'Marathi Shorthand' and 'Marathi Typing' with speed of 80 Words Per Minute and 30 Words Per Minute. Such English Stenographers would stand exempted from passing the examination conducted for 'Marathi Shorthand' and 'Marathi Typing' by 'Ad-hoc Board'. Thus, Government of Maharashtra by itself has realized that standards certified by the 'Ad-hoc Board' can now be considered as being of same level of proficiency as certified through examinations conducted by 'Maharashtra State Examination Council' prior to award of 'Government Commercial Certificate' and it is for this reason that amendments were made in 'Maharashtra Civil Services [Compulsory Marathi Shorthand and

Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' by 'Notification' dated 24.03.2017. The Applicants naturally were happy with this modification by 'Notification' dated 24.03.2017 of Marathi Language Department. However, as basic intent and objective of 'Notification' dated 24.03.2017 was subsequently modified by Government Circular dated 07.06.2017 of Marathi Language Department and benefits of exemption from passing of examinations of 'Ad-hoc Board' was sought to be limited to only those who have not availed of all chances within the specified period of Four Years for passing the Marathi Shorthand and Marathi Typing examination, the Applicants stood deprived of the benefits of equivalence granted to standards of proficiency achieved by holders of 'Government Commercial Certificate' validated independently by 'Ad-hoc Board'.

21. The 'Ad-hoc Board' was constituted by Government of Maharashtra to conduct examinations to certify proficiency in Marathi Shorthand and Marathi Typing and the Government Commercial Certificates are awarded based on examinations conducted by 'Maharashtra State Examination Council'. Thus, the overall standards certified by Ad hoc Board or by 'Maharashtra State Examination Council' for 'Marathi Shorthand' and 'Marathi Typing' after 'Notification' dated 24.03.2017 was issued by 'Marathi Language Department are to be considered to be equivalent as both approved and accepted by 'Government of Maharashtra. Thus, there appears to be no difference in the overall 'Quality Benchmarks. The skills of Marathi Shorthand should be undoubtedly possessed by the Higher Grade Stenographers, Lower Grade Stenographers and Steno Typist of English Language which is the basic and important fact and is also not challenged by Applicants. They have achieved the overall 'Quality Benchmarks' and possess Government Commercial Certificates issued by the

Maharashtra State Examination Council. The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997 which govern appointment to posts of Higher Grade Stenographers, Lower Grade Stenographers and Steno Typist for English Language were framed much after 'Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' which had made it necessary only for 'English Stenographers' and 'English Typists' to possess proficiency of 'Marathi Shorthand' & 'Marathi Typing' to be certified subsequently by 'Ad-hoc Board'. The absence of requirement of 'Marathi Shorthand' with speeds of 100 Words Per Minutes and 80 Words Per Minute for Higher Grade Stenographers & Lower Grade Stenographers of English Language to be certified subsequently by 'Ad-hoc Board' is necessary to be taken into account while addressing the issues raised by Applicants. We do appreciate that the 'Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991' was framed only with the noble objective of promotion and use of 'Marathi Language'. Hence, the skills of 'Marathi Language' is necessary requirement for all Government Servants serving under Government of Maharashtra. Nonetheless, it is a fact that as per Clause (iii)(b) of Rule 5 and 'Clause (iii)(b)' of 'Rule 6' of 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer-Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997', the proficiency in 'Marathi Shorthand' or 'English Shorthand' was not distinguished and included as eligibility criteria for appointment to posts of Higher Grade Stenographers & Lower

Grade Stenographers. While framing, 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997', the Government of Maharashtra, in its wisdom has rightly considered that Marathi Shorthand & English Shorthand both require knowledge, learning and skills of two vastly different 'Scripts'. Therefore, only common requirement included was proficiency of 100 Words Per Minute in Shorthand irrespective of 'English Language' and 'Marathi Language'. However, for typing skill proficiency for English Language was fixed at 40 Words Per Minute and Marathi Language 30 Words Per Minute. Thus, although proficiency of Marathi Shorthand with 80 Words Per Minute and Marathi Typing with 30 Words Per Minute for English Stenographers is a necessary enforceable condition under Maharashtra Civil Services [Compulsory Marathi Shorthand and Marathi Typing Examinations for English Stenographers and English Typist] Rules, 1991', it is not provided as an eligibility criteria for appointments under 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer-Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997'.

23. The meanings of the word 'Eligibility' and "Qualification" in 'Oxford Dictionary' reads as under:-

"Eligibility" means satisfying the appropriate conditions.

"Qualification" means the action of qualifying or the fact of becoming qualified. A pass of an examination or an official completion of a course. A quality that qualifies someone for a job or activity. A condition that must be fulfilled before a right can be acquired. A statement or assertion that qualifies another."

The Applicants who are serving as Lower Grade Stenographers in Directorate of Prosecution, Mumbai for 'English

Language' do possess the expected levels of proficiency in 'Marathi Shorthand' with 80 Words Per Minute and 'Marathi Typing' with 30 Words Per Minute but not from 'Ad-hoc Board' but as holders of 'Government Commercial Certificate' issued by 'Maharashtra State Examination Council'. Moreover, by Notification dated 24.03.2017 the Higher Grade Stenographers; Lower Grade Stenographers and Steno Typist holding Government Commercial Certificates have been exempted from requirement to get themselves certified again about requisite standards of proficiency by appearing for examination of 'Ad-hoc Board'. The 'Notification' dated 24.03.2017 of Marathi Language Department which is made applicable prospectively would be violative of 'Article 14' of the 'Constitution of India'. Further, we cannot allow unequal treatment to be given to Applicants who are Lower Grade Stenographers in English Language by validating 'Government Circular' dated 07.06.2017 of Marathi Language Department and affirming that it would be applicable selectively only to those who have chances remaining after conscious decision has been arrived at on equivalence based on Quality Benchmarks of 'Marathi Shorthand' and 'Marathi Typing' which are certified by examinations of 'Ad-hoc Board' or recognized upon award of Government Commercial Certificates. Therefore, we are of the view that this Original Application No. 1078/2017 holds substance and it required to be allowed. Hence, following order.

ORDER

- (i) The Original Application is allowed.
- (ii) The 'Government Circular' dated 07.06.2017 of Marathi Language Department is quashed and set aside together with 'Notification' dated 05.10.2021 of Marathi Language Department and directions to implement 'Notification' dated 24.03.2017 of Marathi

Language Department in respect of all appointees to posts of 'English Stenographers' and 'English Typists' including Applicants who had been appointed as per provisions of 'The Personal Assistant Group 'B' Higher Grade Stenographer-Group 'B' Lower Grade Stenographer- Group 'B' and Steno-Typist-Group 'C' in the various offices of Government outside Greater Mumbai (Recruitment) Rules, 1997'.

(ii) No order as to Costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 28.03.2025
Dictation taken by : A.K. Nair.

D:\SANJAY\SANJAY BACKUP\SANJAY WAMANSE\JUDGMENTS\2025\March, 2025\
O.A 1078.17, Judg. Challenging Circular, DB. Chairperson and Member, A - Copy.doc

Uploaded on