

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**AURANGABAD BENCH AURANGABAD**

**ORIGINAL APPLICATION NO. 157 OF 2015**

**With**

**MISC. APPLICATION NO.153 OF 2015**

**DISTRICT :JALGAON**

1. Ashok Balu Shinde )  
Age.51 years, Occ. Service, )  
R/o. Behind Tapovan Marg, )  
Aurangabad Road, Shivaji Nagar, )  
Ahmednagar. )
2. Sudhakar Nathu Dusane )  
Age. 47 years, Occ. Service, )  
R/o. Plot No.28/ 1, Gut No.101/3, )  
Mundada Nagar, Near Y Bunglow, )  
Jalgaon. )
3. Dattatraya Bapurao Joshi )  
Age. 46 years, Occu: Service, )  
R/o. At post Morwad, Tq. Renapur, )  
Dist. Latur. )
4. Vijay Dhaku More )  
Age.48 years, Occu: Service, )  
R/o. Government Quarter, )  
C/8, Jalgaon. )
5. Pankaj Vasanttrao Songire )  
Age. 38 years, Occu. Service, )  
R/o. Plot No.27 Vidyanagar, )  
Devpur, Dhule. )...Applicants

**VERSUS**

1. The State of Maharashtra )

- (Through the Secretary, )  
 Department of Technical Education )  
 Mantralaya, Mumbai) )
2. Director of Technical Education, )  
 3 Mahapalika Marg, Near Elfinston )  
 Technical High School, )  
 Mumbai 400 001. )
3. Joint Director of Technial Education,) )  
 Regional Office, Samangaon Road, )  
 Nashik, Dist. Nashik. )
4. Joint Director of Technical Education) )  
 Regional Office, Osmanpura, )  
 Aurangabad Dist. Aurangabad. )
5. Princiapl, )  
 Government Polytechnic, )  
 Burudgaon Road, )  
 Ahmednagar 414 001. )
6. Principal, )  
 Government College of Engineering, )  
 National Highway no.6, )  
 Near Government Polytechnic, )  
 Jalgoan. )
7. Principal, )  
 Government Polytechnic, )  
 Jalgaon. )
8. Principal, )  
 Government Residential Women's )  
 Polytechnic, Barshi Road, )  
 Latur 413 512. )....**Respondents**

Shri A.S. Bayas, learned Advocate for the Applicant.

Shri I.S. Thorat, learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal, Vice-Chairman**

**Shri J.D. Kulkarni, Member (J)**

**DATE : 18.10.2016**

**PER : Shri Rajiv Agarwal, Vice-Chairman**

### **ORDER**

1. Heard Shri A.S. Bayas, learned Advocate for the Applicant and Shri I.S. Thorat, learned Presenting Officer (P.O.) for the Respondents.

2. This Original Application has been filed by the Applicants seeking promotion to the post of Technical Laboratory Assistant in Government Polytechnics under the control of the Respondent no.2.

3. The Applicants are working in various Government Polytechnics as non-technical Laboratory Assistants. Learned Counsel for the Applicants argued that as per the directions of the All India Council for Technical Education (AICTE), at least one post of Technical Laboratory Assistant/ Technician is required in each discipline in a Polytechnic. A person having H.S.C with 5 years of experience can be appointed as Technical Lab. Assistant. S.S.C. plus National Trade Certificate or + 2 Vocational Course Certificate in appropriate trade with 3 years experience is another

qualification for the post. Learned Counsel for the Applicants argued that the Applicants have been working as Laboratory Assistants and are eligible to be promoted as Technical Lab. Assistants. 25% posts are to be filled by promotion and 75% by direct recruitment in that cadre. However, the Respondents have deliberately added qualification of Diploma in Engineering as the essential qualification for the post of Lab. Assistant, which is not in conformity with the requirement of AICTE. The word 'Diploma' is added by hand in the draft recruitment rules submitted by the Respondent No.2 to the Respondent No.1 on 22.2.2012 and has to be treated as unauthorised interpolation.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicants are working as Non-Technical Lab. Assistants. They are seeking promotion to the post of Technical Laboratory Assistant which is a technical post. This post is not covered under clause 6.3.1 of AICTE Hand Book at Annexure A-I (page no.27 of the Paper Book). Learned P.O. argued that the draft recruitment rules for the post of Technical Lab. Assistant has been submitted to the Respondent No.1 by the Respondent No.2 on 22.2.2012. As per these draft recruitment Rules, only those having qualification of Diploma in Engineering are eligible to be appointed as Technical Lab. Assistants. The Applicants do not have that qualification and are ineligible for promotion to the post of Technical Lab. Assistants.

5. We find that Recruitment Rules for laboratory Assistant (non-technical) were framed by G.R. dated 24.9.1964. Apparently, no recruitment rules for Technical Laboratory Assistant have yet been framed by the Government of Maharashtra. The Applicants in para 15 of the O.A. have claimed that 25% of the posts of Technical Lab. Assistants are to be filled by promotion and 75% by direct recruitment. Affidavit-in-reply on behalf of all the Respondents has been filed by Administrative Officer, in the office of Joint Director of Technical Education, Nashik. We find it quite strange that in such an important matter, no affidavit is filed by the Respondent No.1 i.e. the State Government. However, as the State Government has chosen to authorise a relatively junior officer, working in a Regional Office to file affidavit on its behalf, it is its choice. It is mentioned in para 6 of the affidavit in reply dated 14.8.2015 that the Draft Recruitment Rules do have such a provision. It is also stated that clause 6.3.1 of AICTE Hand Book does not apply to the post of Technical Lab. Assistant and it is a new post created by Government of Maharashtra.

6. We have carefully gone through the Hand Book of AICTE. Chapter 6 deals with 'Norms of Staff' for Polytechnics. Clause 6.1.5 deals with staffing pattern and sub- clause (iii) is regarding 'Technical supporting staff'. Clause, 6.3 is regarding "Laboratory Staff" which has two categories viz. Lab. Technician/Lab. Assistant and Lab. Attendant. For the post of Lab. Attendant, qualification is a

pass in 10 years schooling. Clause 6.3.1 deals with Laboratory Technician/Assistant and has qualifications of 12 years schooling with 5 years of experience or a pass in 10 years schooling plus a national trade certificate or + 2 vocation course certificate with 3 years practical experience. From this, it appears that Lab. Technician/Assistant is in fact a Technical post. In any case, a post not required as per AICTE norms is hardly likely to be created by the State Government. The contention of the Respondents that the post of Technical Lab. Assistant is not covered by AICTE Hand Book is difficult to accept.

7. The draft recruitment rules submitted by the Respondent No.2 to the Respondent No.1 on 22.2.2012 had been changed by scoring out qualification of ITI certificate/NCTVT course and the word Diploma is added in hand. The rules are in Marathi while the word 'Diploma' is written in English. This supports the contention of the Applicants that there was extrapolation in the draft recruitment rules. In the rules it is stated that 25% posts will be filled by promotion of (non-technical) Lab. Assistant, for whom, as per 24.9.64 G.R., qualification is S.S.C only. For a post requiring qualification S.S.C., it is futile to expect that a Diploma in Engineering will be required for promotion. The Draft Recruitment Rules in the present form ensure that there will be no appointment to the post of Technical Lab. Assistant by promotion. This is quite unreasonable. We donot know whether the State Government has that

intention. We are also not convinced that the post of Technical Lab. Assistant is different from the post of Lab. Technician/ Lab. Assistant mentioned in clause 6.3 of AICTE Hand Book. In fact, the post of Technical Lab. Assistant appears to be the post mentioned in aforesaid para 6.3.

8. Considering the aforesaid facts and circumstances of the case, we allow the prayer in the Misc. Application that 25% of Technical Lab. Assistant in Government Polytechnics will not be filled by the Respondents till the Recruitment Rules for the said posts are finalised. The Respondent No.1 will keep in mind the observations of this Tribunal in preceding para while finalising the Recruitment Rules for the post of Technical Lab. Assistant which should be done within six months from the date of this order. The Applicants will be considered for promotion to the post of Technical Lab. Assistant as and when the Recruitment Rules are finalised and they are found eligible. This Original Application is disposed of accordingly with no order as to costs.

**(J.D. Kulkarni)**  
**(MEMBER) (J)**

**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

**Date : 18.10.2016**

**Place : Mumbai**

**Dictation taken by : SBA**

*D:\savita\2016\Sept\O.A.No.157 of 2015 with M.A.No.153 of 2015 in O.A.No.157 of 2015 6 VC & M(J) Promotion.doc*