



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 26th OF NOVEMBER, 2025

WRIT PETITION No. 7812 of 2016

CHANDRESH RATHORE

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Divakar Vyas - Advocate for petitioner.

Shri B.M. Patel - Government Advocate for respondent/State.

Shri Shashank Indapurkar – Advocate for respondent No.2.

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking the following relief (s):

“i) That, the impugned order/amended result dated 20.10.2016 Annexure P/1 whereby the post of Assistant Engineer (Civil) have been reduced from the advertisement dated 24.12.2014 for recruitment in State Engineering Service Examination 2014 may kindly be quashed.

ii) That, the respondent No.2 may kindly be directed to hold the interview as per the declaration of the result of mains examination dated 12.8.2016.

iii) That, the respondents may further be directed to reduce the post of Assistant Engineer (Civil), if at all the same is required, from the



post published for recruitment in the advertisement dated 14.6.2016 for State Engineering Service Examination, 2016.

iv) Any other suitable direction which this Hon'ble Court deems fit in the facts and circumstances of the case may kindly be passed."

2. Learned counsel for petitioner submits that respondent No.2 issued an advertisement dated 24.12.2014 for recruitment to various posts of Assistant Engineer (Civil) and other branches in different departments of the State of M.P. Petitioner is concerned only with the recruitment to post of Assistant Engineer (Civil), for which a total number of 302 posts were advertised, out of which 49 were reserved for OBC category. Petitioner belongs to OBC category. It is further submitted that Clause 6(i) of the advertisement provides that any revision in the advertised posts can be made by the Government only prior to conducting preliminary examination. Petitioner duly applied for the post of Assistant Engineer (Civil) under OBC category. The preliminary examination was held on 7.11.2015 and 8.11.2015, in which petitioner participated. The result of the said examination was declared on 6.1.2016 wherein 745 OBC candidates including petitioner qualified for the post of Assistant Engineer (Civil). Thereafter, Main Examination was conducted on 14.3.2016 and 15.3.2016, in which petitioner also participated. It is further submitted that before declaration of main examination result of 2014 recruitment, another advertisement dated 14.6.2016 was issued by respondent No. 2 for filling up of 242 posts of Assistant Engineer (Civil) out of which 5 posts of the Public Health Engineering Department were reserved for OBC Category. It is further submitted that respondent No. 2, thereafter, declared the result of the State Engineering Service Mains Examination, 2014 on 12.8.2016, in which the name of petitioner appeared at Serial No. 144. After declaration of result of main examination, petitioner submitted an online



application for participating in the interview. Petitioner was waiting for interview call letter whereas, in the meantime, respondent No. 2 issued an order dated 20.10.2016 reducing the posts of Assistant Engineer (Civil) from 302 to 289. The said amended order/result dated 20.10.2016 was challenged by petitioner. The break-up of the reduced posts was provided in Annexure P/1 relating to the Public Health Engineering Department, wherein out of 13 reduced posts, 7 belonged to OBC category.

3. It is submitted by learned counsel for petitioner that the impugned action of the respondents is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India. It is further submitted that when the impugned order was passed, both preliminary and mains examinations had already been conducted and the candidates, including petitioner, were waiting for interview stage of the selection process. It is further submitted that the impugned action is *mala fide*, inasmuch as had there been any genuine reason for reducing the posts of Assistant Engineer (Civil) after the mains examination, the respondents would not have issued another advertisement for filling the same posts by conducting the State Engineering Service Examination, 2016, wherein posts of Assistant Engineer (Civil) from all departments, including the Public Health Engineering Department, were advertised. Thus, there was no justification for reducing the posts from earlier advertisement of 2014. It is further submitted that if at all the posts are required to be reduced then the same should have been done from the posts advertised for recruitment in the subsequent advertisement of the year 2016 because in the subsequent advertisement even the preliminary examination result had not been declared whereas in the examination of 2014 petitioner had already undergone and successfully qualified not only the prelims but also the mains



examination; therefore, such action clearly violates the right of equality as well as right of public employment of petitioner.

4. *Per contra*, learned Government Advocate for respondent–State submits that the Engineer-in-Chief of the Public Health Engineering Department, vide letter dated 23.5.2014, sent a proposal to the State Government in favour of the M.P. Public Service Commission for filling up of 39 vacant posts of Assistant Engineer (Civil). On the basis of this proposal, the M.P. Public Service Commission issued an advertisement for 52 posts, reserving 3 for SC category, 3 for ST category and 7 for OBC category. Thereafter, the Secretary, Public Health Engineering Department, wrote a letter to the Secretary, MPPSC, dated 27.4.2015, stating that backlog posts had wrongly been added to the general category and, therefore, those posts were required to be reduced in the following manner:

3 लोक सेवा आयोग द्वारा दिनांक 24.12.2014 को जारी विज्ञापन के अनुसार सहायक यंत्री (सिविल) के रिक्त 39 पदों के अंतर्गत अनारक्षित वर्ग के –26, बैकलॉग के अंतर्गत (अनुसूचित जाति के –03, अनुसूचित जनजाति के –03, अन्य पिछड़ा वर्ग के –07) के स्थान पर 52 पदों (सामान्य–26, अनुसूचित जाति–06, अनुसूचित जनजाति–06 अन्य पिछड़ा वर्ग–14) पदों का विज्ञापन जारी किया गया है, जिसमें बैकलॉग के पदों को सामान्य रिक्तियों में जोड़कर दर्शाया गया है।

4 अतः सहायक यंत्री (सिविल) के कुल 39 पदों जिनमें अनारक्षित वर्ग के–26 एवं बैकलॉग के अंतर्गत अनुसूचित जाति वर्ग के –03, अनुसूचित जनजाति वर्ग के –03, अन्य पिछड़ा वर्ग के –07 को भरे जाने हेतु पुनः संशोधित मांग–पत्र संलग्न प्रेषित है। कृपया तदनुसार संशोधित विज्ञापन जारी करने का कष्ट करें।

5. On the basis of letter dated 27.4.2015, respondent No. 2 issued a correction letter dated 24.9.2016 reducing the posts of Assistant Engineer (Civil) to 39. It is further submitted that in view of Clause 6(i) of the advertisement, the number of



posts could be increased, extended, or reduced. The relevant clause of the advertisement is reproduced below:

छ: (i) शासन द्वारा पदों की संख्या का पुनरीक्षण करने पर इस पद संख्या में परिवर्तन किया जा सकता है। किन्तु पदों की संख्या में वृद्धि केवल प्रारम्भिक परीक्षा के परिणाम के पूर्व तक ही की जा सकेगी। पदों में वृद्धि की स्थिति में कोई अतिरिक्त आवेदन पत्र प्राप्त नहीं किये जायेंगे तथा सभी पदों हेतु केवल वही अभ्यर्थी पात्र होंगे जिन्होंने प्रारम्भिक परीक्षा हेतु ऑनलाइन आवेदन करने की अंतिम तिथि ऑनलाइन आवेदन पत्र जमा किया है।

It is submitted by learned counsel for respondents/State that the posts can be filled only after approval of the Finance Department and concurrence of the Cabinet of Ministers; therefore, appointments beyond 39 sanctioned posts are not permissible. It is also submitted that respondent No. 2 was within its authority to issue the corrected advertisement for the sanctioned posts, as no appointment can be made in excess of the sanctioned strength. Thus, the action of the respondents is just and proper and cannot be termed as illegal, arbitrary or in violation of any rule. It is further submitted that since permission from the Finance Department was granted only for 39 posts, the respondents could not fill more than 39 posts and accordingly issued the impugned order. It is also submitted that due to this reduction, petitioner who secured 225 marks against the OBC cut-off of 231 was not selected. Petitioner failed to establish any arbitrariness, discrimination, or violation of Articles 14 and 16 of the Constitution. It is further submitted that the number of posts to be filled was within the domain of the department and the reduction was made after following due procedure. Petitioner has also not rebutted the facts stated in the reply by filing any rejoinder. It is further submitted that the number of posts were fixed by the Government and the advertisement was issued accordingly. As permission from the Finance Department had not



been obtained for 13 backlog posts, those posts were reduced by issuing the impugned order. There is no arbitrariness or *mala fide* in the selection process. It is also submitted that Clause 6(i) of the advertisement specifically provides that the number of posts may be increased or reduced and while enhancement can be made only before the declaration of the preliminary examination result, there is no bar on reduction at any stage. It is further submitted that the posts were reduced because prior approval from the Finance Department for the 13 backlog posts had not been sought, and petitioner did not allege that the reduction was made to favour anyone.

6. Heard the learned counsel for parties and perused the record.

7. From perusal of the record, it is gathered that Engineer-in-Chief of the Public Health Engineering Department, vide letter dated 23.5.2014, sent a proposal to the State Government in favour of the M.P. Public Service Commission for filling up of 39 vacant posts of Assistant Engineer (Civil). On the basis of this proposal, the M.P. Public Service Commission issued an advertisement for 52 posts, reserving 3 for SC category, 3 for ST category and 7 for OBC category. Thereafter, the Secretary, Public Health Engineering Department, wrote a letter to the Secretary, MPPSC, dated 27.4.2015, stating that backlog posts had wrongly been added to the general category and, therefore, those posts were required to be reduced. Further, on the basis of letter dated 27.4.2015, respondent No. 2 issued a correction letter dated 24.9.2016 reducing the posts of Assistant Engineer (Civil) to 39. Moreover, in view of Clause 6(i) of the advertisement, the number of posts could be increased, extended, or reduced. The posts can be filled only after approval of the Finance Department and



concurrence of the Cabinet of Ministers; therefore, appointments beyond 39 sanctioned posts are not permissible. Respondent No. 2 was within its authority to issue the corrected advertisement for the sanctioned posts, as no appointment can be made in excess of the sanctioned strength. Thus, the action of the respondents is just and proper and cannot be termed as illegal, arbitrary or in violation of any rule. Since permission from the Finance Department was granted only for 39 posts, the respondents could not fill more than 39 posts and accordingly issued the impugned order. Due to this reduction, petitioner who secured 225 marks against the OBC cut-off of 231 was not selected. Petitioner failed to establish any arbitrariness, discrimination, or violation of Articles 14 and 16 of the Constitution. The number of posts to be filled was within the domain of the department and the reduction was made after following due procedure. Petitioner has also not rebutted the facts stated in the reply by filing any rejoinder. The number of posts were fixed by the Government and the advertisement was issued accordingly. As permission from the Finance Department had not been obtained for 13 backlog posts, those posts were reduced by issuing the impugned order. There is no arbitrariness or *mala fide* in the selection process. Clause 6(i) of the advertisement specifically provides that the number of posts may be increased or reduced and while enhancement can be made only before the declaration of the preliminary examination result, there is no bar on reduction at any stage. The posts were reduced because prior approval from the Finance Department for the 13 backlog posts had not been sought, and petitioner did not allege that the reduction was made to favour anyone.



8. Thus, taking into consideration overall facts and circumstances of the case and perusal of material available on record, this Court is satisfied with the submission put forth by learned counsel for the State.

9. Accordingly, present petition being devoid of substance deserves to be and is hereby *dismissed*.

10. Interlocutory application, if any pending, stands disposed of.

(Anand Singh Bahrawat)
Judge

Ahmad