
(2024) 12 JH CK 0036

Jharkhand High Court

Case No: W.P.(S) No. 5732, 6152 of 2023, 4786 of 2024

Rohit Rajesh Darshanwad

APPELLANT

Vs

Central Coalfields Ltd

RESPONDENT

Date of Decision: Dec. 10, 2024

Acts Referred:

- Constitution of India, 1950 - Article 14, 16, 141, 226
- Indian Electricity Rules, 1956 - Rule 45

Hon'ble Judges: Dr. S.N. Pathak, J

Bench: Single Bench

Advocate: Manoj Tandon, Sidharth Ranjan, Neha Bhardwaj, Adamya Kerketta, Ankita Kumari, Amit Kumar Das, Shivam Utkarsh Sahay

Final Decision: Allowed

Judgement

Dr. S.N. Pathak, J

1. These batch of writ petitions raised similar questions of law and facts and hence, the same are heard together and are being decided analogously

with the consent of the learned counsel for the parties by this common judgment.

2. Heard the learned counsel for the parties at length.

Prayer

3. The petitioners have prayed for issuance of appointment letter on the basis of merit list already prepared by the respondents for the post of

Electrician (Non-Excavation / Technician), pursuant to Advertisement No. 63 dated 28.03.2023.

4. For convenience sake, the facts of W.P.(S) No. 5732 of 2023 would be sufficient to decide all these writ petitions. The facts in nutshell are that an

advertisement was issued on 28.03.2023 by the respondent-Central Coalfield Limited (for short "CCL") for appointment on various posts including Electrician (Non-Excavation / Technician). This advertisement was for special drive to recruit the reserved category candidates i.e. Scheduled Caste, Scheduled Tribe and Other Backward Class. The total number of posts advertised were 126 for Electrician (Non-Excavation / Technician), out of which 94 posts were earmarked for Scheduled Tribe; 29 for Scheduled Caste and 03 for Other Backward Class (non-creamy-layer). The petitioners being eligible in all respects for such appointment participated in the selection process by submitting their requisite application forms. From perusal of the application forms at Annexure-A to the counter affidavit filed by respondent-CCL, it appears that the candidates were required to upload the requisite / required certificates, namely, professional / technical certificate, ITI certificate and caste / category certificate. These certificates were uploaded online. Clause 15 of the said advertisement stipulates that the applicants fulfilling the eligibility criterion will only be called for Computer Based Test (CBT). The candidates will have to download their admit cards from the link which shall be made available on the website of CCL. The candidatures of the petitioners were found to be in order and hence, admit cards were issued to them. They appeared in the Computer Based Test and were declared successful. The select list has been annexed as Annexure-2 to the writ petition, in which the names of the petitioners find place. Since the petitioners were found successful, they were called for documents verification for the post of Electrician (Non-Excavation / Technician) by letter dated 19.07.2023. The petitioners appeared on the date and venue fixed for documents verification and produced all those certificates, which they have already uploaded at the time of submission of the application form. Since the appointment letters were not issued to the petitioners, they resorted to application under the provisions of the Right to Information Act, but neither the appointment letters were issued nor suitable reply has been furnished and hence, the writ petitions were filed at their instance before this Court under Article 226 of the Constitution of India.

5. The respondents have filed counter affidavit duly sworn by Chief Manager (P/Rectt.), CCL stating inter alia therein that the petitioners did not fulfil the requisite qualification and hence, appointment letters have not been offered to them. It is specifically pleaded that these petitioners were the candidates for the post of Electrician (Non-Excavation/Technician) for which besides the qualification of matriculation or equivalent and certificate of Apprenticeship Training under Apprenticeship Act, 1961, they were also required to hold LT permit under IE Rules for mines or 440-450 volts mining parts permit issued by Competent Authority applicable to mines and HT permit for cable joining and overhead lines issued by the Competent Authority applicable to mines. It is further case of the respondents that the candidates were allowed to appear in the computer based test, merely on the basis of their declaration of their eligibility as mentioned in the application form. It is further stated that since the petitioners have failed to produce the LT permit under IE Rules for mines or 440-450 volts mining parts permit issued by Competent Authority applicable to mines and HT permit for cable joining and overhead lines issued by the Competent Authority applicable to mines, they have not been offered appointment, despite their being declared successful in the recruitment process as per the merit list.

Arguments advanced by learned counsel for the Petitioners

6. Mr. Manoj Tandon, learned counsel appearing for the petitioners submitted that the petitioners possess the requisite qualification as mentioned in the advertisement. As per the requirement of the advertisement, the petitioners are matriculates or have passed equivalent examination from a recognised Board of examination with ITI in Electrician trade and they have also completed Apprenticeship Training under Apprenticeship Act, 1961. It is further contended that the petitioners also possessed the permit to work as "Wireman" duly issued by the Competent Authority. It is contention of the petitioners that clause 15 of the advertisement dated 28.03.2023 duly stipulates that the applicant fulfilling the eligibility criterion only will be called for computer based test and a candidate will have to download the admit card from the link which shall be made available on the website of the CCL.

Relying on this clause, Mr. Tandon submitted that after the candidatures of the petitioners were found to be eligible were allowed to appear in the computer based test. The eligibility therefore was at the threshold and thereafter, the respondent-CCL cannot be permitted to take u-turn after the selection process is over.

7. It is further submitted by the learned counsel for the petitioners that compelling the petitioners to submit the LT permit under the IE Rules and HT

permit for cable joining etc. by the respondent-CCL is contrary to law and not backed by any Rules / Regulations. He submitted that something

impossible is being compelled to be complied with, by the petitioners. In this context, referring to the certificates of the candidates, who have already

been appointed pursuant to earlier advertisement, as Annexure-A to the supplementary counter affidavit filed by the respondents dated 16.11.2024,

learned counsel contended that such candidates, who have already been offered appointment pursuant to the same advertisement also did not possess

the LT permit and HT permit, but they have been appointed by the respondent-CCL. Mr. Tandon, has further drawn the attention of this Court

towards paragraph-17 of the rejoinder in reply to the counter affidavit to contend that similar advertisement was issued earlier on 6.8.2018, which has

been annexed as Annexure-8 to the said rejoinder. Exactly the same qualification was mentioned therein as that of the present advertisement dated

28.03.2023. Relying upon this paragraph, it is submitted that many persons including one Joshi Akash Topno and Shivcharan Trikey were appointed

having the same and similar qualification as that of the present petitioners. He further submitted that though the respondents were given opportunity

and they have filed supplementary counter affidavit after the rejoinder was filed by the petitioners, but the respondent-CCL has chosen not to give any

reply thereto. It is contended by the learned counsel for the petitioners that once the statement made in paragraph-17 of the rejoinder has been

accepted by the respondents, now at this stage, the respondents cannot be permitted to change the rule of game and deny appointments to the

petitioners, particularly when others were offered appointments having same and similar qualification pursuant to the advertisement issued by the

respondents at earlier point of time in the year 2018.

8. Referring to paragraph-10 of the supplementary counter affidavit filed by the respondents, it is submitted by the learned counsel for the petitioners

that reliance has been placed upon Rule 45 of the Indian Electricity Act, 1956 read with Rule 31 of Central Electricity Authority (Measure relating to

Safety and Electric Supply) Regulation, 2023 to support the stand of the respondents. In this context, he draws the attention of this Court that

Regulation 2023 was issued only on 8th June, 2023 whereas the advertisement in question is dated 28.03.2023 and such Regulation 2023 may not

apply to the facts of the case. Moreover, learned counsel submitted that even Rule 45 of the Indian Electricity Rules, 1956 does not stipulate any

qualification to have LT or HT permit. Learned counsel has placed the entire provisions of Indian Electricity Rules, 1956 with Annexures thereof to

contend that there is no stipulation anywhere to have HT permit or LT permit, as eligibility criteria for Electrician (Non-Excavation). Learned counsel

submitted that Rule 45 of the Indian Electricity Act, 1956 merely stipulates precautions to be adopted by consumers, owners, occupiers, electrical

contractors, electrical workmen and suppliers and nothing more. It is contention of the petitioners that Rule 45 of Indian Electricity Rules 1956 or Rule

31 of the said Regulation, 2023 have already been quoted in paragraph-10 of the supplementary counter affidavit, but the same do not refer any such

qualification, as contended by the respondents to deny the appointments to the petitioners. In this view of the matter, it is submitted by the learned

counsel for the petitioners that in case of conflicting terms and conditions prescribed in the advertisement, the rules/ regulation shall prevail over the

terms and conditions of the advertisement and the rules / regulations never stipulates such conditions / qualifications, which are now being compelled

to be complied by the petitioners. The submission in nutshell is that the law does not compel a man to do which he cannot possibly perform. It is lastly

submitted that 55 numbers of vacancies are still available where the petitioners can be accommodated by issuance of direction upon the respondents

to issue appointment letters to the petitioners.

9. In reply to the legal propositions as cited by the learned counsel for the respondents, Mr. Manoj Tandon, learned counsel appearing for the

petitioners argued that in fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless

he/she participates in the selection process and in support of his contention, he relied upon the judgment rendered in the case of Dr (Major) Meeta

Sahay Vs. State of Bihar & Ors. ,reported in (2019) 20 SCC 17. Learned counsel further relied upon the judgement rendered by this Court in the

case of Abhishek Kumar Pandey Vs. State of Jharkhand & Or,s reported in 2017 (4) JBCJ 605, wherein it was held that if the selection process is

vitiated by glaring defects, the same can be challenged by the candidates even though they have participated in the selection process. Learned counsel

also relied upon the judgment in the case of Ashish Kumar Vs. State of UP, reported in (2018) 3 SCC 55 to contend that any part of the

advertisement which is contrary to the statutory rules has to give way to the statutory prescription.

On reply to the issue that illegality cannot be allowed to continue, learned counsel argued that it is first the respondents who have to say that in earlier

selection process, illegality has been committed by the respondents, and if any illegality has been committed, what action was taken by the respondents

for curing the illegality.

Arguments advanced by the learned counsel for the Respondents.

10. Mr. Amit Kumar Das, learned counsel appearing for the respondent-CCL submitted that the petitioners do not fulfil the eligibility criterion as

mentioned in the advertisement and hence, they are not entitled for appointment. Referring to clause 2(c) of the advertisement, it is contended that LT

permit under IE Rules for mines or 440-450 volts mining parts permit issued by Competent Authority applicable to mines and HT permit for cable

joining and overhead lines issued by the Competent Authority applicable to mines is an essential qualification to be complied with. Countering the

arguments advanced by the learned counsel for the petitioners, Mr. Das submits that Indian Electricity Rules, 1956 was in vogue at the time when

advertisement was issued. He referred to Rule 45 as quoted in paragraph-10 of the supplementary counter affidavit in support of his contention.

Learned counsel further argued that the contention of the petitioners that since they fulfilled the eligibility criterion, they were allowed to appear in the

computer based test, is not tenable, as the petitioners were allowed provisionally to appear in the computer based test only on the basis of declaration given in the application forms and in support of his contention, he referred to clause 6(ii) of the advertisement. Though the petitioners have been declared as successful candidates, but they are not being offered appointments because they do not fulfil the stipulated eligibility criterion as per the advertisement. He submitted that pursuant to order dated 29.10.2024 passed in these batch of writ petitions, the respondents have filed the supplementary counter affidavit, in which certificates of others who have already been appointed have been annexed as Annexure-A which are renewal permit of wireman/permit of wireman. In reply to the contentions raised by the learned counsel for the petitioners, Mr. Das submitted that though no affidavit has been filed denying the statements made in paragraph-17 of the rejoinder filed by the petitioners to the effect that similarly situated persons having same qualification and similar stipulation in the advertisement at earlier point of time were appointed, but at the same time, law is well settled that illegality, if any, cannot be allowed to be perpetuated. In support of his contention, he referred the judgment of the Honâ€™ble Apex Court in the case of Bihar Public Service Commission & Ors. Vs. Kamini & Or,s reported in (2007) 5 SCC 519. To buttress his arguments, learned counsel further placed reliance upon the judgment in the case of Bedanga Talukdar Vs. Saifudaullah Khan & ors., reported in (2011) 12 SCC 85 to contend that terms and conditions stipulated in the advertisement must be adhered to. Learned counsel further referred the judgement in the case of State of Uttar Pradesh Vs. Karunesh Kumar & Or.s, reported in 2022 OnLine SC 1706 to argue that a candidate who has participated in the selection process is stopped from questioning the selection process. In view of such submissions, Mr. Das submitted that the writ petitions deserve dismissal.

Findings of the Court

11. This Court has taken anxious considerations of the arguments advanced by the learned counsel for the parties in the light of the materials on record. These batch of writ petitions were heard at length on 29.10.2024. While recording the submissions of the learned counsel for the parties, the

respondents were directed to file specific affidavit bringing on record as to which Rules, such terms and conditions in the advertisement have been

inserted, so as to decide the writ petitions appropriately. Pursuant to the said direction, the respondent-CCL has filed supplementary counter affidavit

on 16.11.2024. The respondents have quoted Rule 45 of the Indian Electricity Rules, 1956 to contend that qualification in Clause 2 (c) of the

advertisement was made on the basis of this Rule. The qualification which is sought to be complied in Clause 2 of the advertisement, reads thus:-

“(a) Matriculate or equivalent examination from any recognised Board of examination with ITI in Electrician Trade.

(b) Must have completed Apprenticeship Training under Apprenticeship Act, 1961.

(c) LT permit under IE Rules for mines or 440-450 Volts mining parts permit issued by Competent Authority applicable to mines and HT permit for cable joining

and overhead lines issued by the competent authority applicable to mines.”

12. There was also a stipulation at clause 15 of the advertisement at clause 15, which reads as under:-

“(15. Applicants fulfilling the eligibility criteria will only be called for Computer Based Test and candidates will have to download their admit card from the

link which shall be made available on the CCL website.”

13. From a perusal of clause 15, it is evident that only eligible candidates shall be allowed to appear for computer based test.

Further, from Annexure-H to the counter affidavit, which are the application forms of the petitioners, it is abundantly clear that these petitioners have

uploaded their matriculation certificates, professional / technical certificate, ITI certificate and the caste / category certificates. Just

above a declaration, these certificates appear to be uploaded. The respondents employer consciously allowed the petitioners to appear in

the computer based test in terms of clause 15 of the advertisement.

14. The respondents have admitted that these petitioners have the matriculation or its equivalent examination from recognised Board and that they

have also completed Apprenticeship Training under the Apprenticeship Act, 1961. Therefore, there is no dispute with regard to Clause (a) and (b) of

the said advertisement. The dispute is only with regard to Clause (c) of the advertisement and as per submission of the respondents that this impugned

clause has been inserted in accordance with the provisions of Rule 45 of the Indian Electricity Rules, 1956. To better appreciation, the contentious

Rule 45 of the said Rules is quoted herein below:-

“45. Precautions to be adopted by consumers [owners occupiers], electrical contractors, electrical workmen and suppliers-

(1) No electrical installation work, including additions, alterations, repairs and adjustments to existing installations, except such replacement of lamps, fans,

fuses, switches, low voltage domestic appliances and fittings as in no way alters its capacity or character, shall be carried out upon the premises of or on behalf of

any 2[consumer, supplier, owner or occupier] for the purpose of supply to such 2[consumer, supplier, owner or occupier] except by an electrical contractor

licensed in this behalf by the State Government and under the direct supervision of a person holding a certificate of competency and by a person holding a permit

issued or recognised by the State Government. Provided that in the case of works executed for or on behalf of the Central Government and in the case of

installations in mines, oil fields and railways, the Central Government and in other cases the State Government may, by notification in the Official Gazette,

exempt, on such conditions as it may impose, any such work described therein either generally or in the case of any specified class of 2[consumers, suppliers,

owners or occupiers] from so much of this sub-rule as requires such work to be carried out by an electrical contractor licensed by the State Government in this

behalf.”

15. This Court has given conscious consideration to the terms and conditions mentioned in the advertisement vis-à-vis Rule 45

of the said Rules, 1956. If both are tallied together, this Court finds that there is no such stipulation in Rule 45 of the said Rules, 1956. The proviso

to Rule 45 merely refers that in the case of installations in mines, oil fields and railways, the Central Government and in other cases

the State Government may by notification in the official Gazette, exempt on such conditions as it may impose, any such work described

therein either generally or in the case of any specified class of consumers, suppliers, owners or occupiers. From bare perusal of Rule 45 of the said

Rules, 1956, it is evident that there is no such stipulation as mentioned in the advertisement and in particular clause 2(c) thereof. From perusal of the

certificates of the petitioners, it is clear that these petitioners do possess the qualification of matriculation or its equivalent examination. They have also completed apprenticeship training and additionally they have also produced the Wireman certificate. The permit to work as "Wireman" has also been enclosed with the writ petition. The petitioners have therefore fulfilled all the eligibility criterion stipulated in the advertisement.

So far as LT permit and HT permit are concerned, the same are neither mentioned in Rule 45 of the said Rules, 1956 nor the same is mentioned in

Regulation 2023. Even the candidates who have already been appointed and whose certificates are annexed at Annexure-A to the supplementary

counter affidavit filed by the respondents, these certificates also are the "Permit of Wireman".

16. It is well settled law that in the case of any part of the advertisement which is contrary to the statutory rules has to give way to the statutory

prescription. As already noted above, Rule 45 of the said Rules 1956 never stipulates such qualification and therefore, the respondents cannot be

permitted to deny appointment to the petitioners. This legal proposition has been held by the Hon'ble Apex Court in the case of Ashish Kumar

Vs. State of UP, reported in (2018) 3 SCC 55, relying upon its earlier judgment in the case of Malik Mazhar Sultan v. U.P. Public Service

Commission, reported in (2006) 9 SCC 507. For better appreciation of the matter, paragraph-27 thereof is reproduced in extenso:-

27. Any part of the advertisement which is contrary to the statutory rules has to give way to the statutory prescription. Thus, looking to the qualification

prescribed in the statutory rules, the appellant fulfils the qualification and after being selected for the post denying appointment to him is arbitrary and illegal. It

is well settled that when there is variance in the advertisement and in the statutory rules, it is the statutory rules which take precedence. In this context, reference

is made in the judgment of this Court in Malik Mazhar Sultan v. U.P. Public Service Commission [Malik Mazhar Sultan v. U.P. Public Service Commission, (2006)

9 SCC 507 : 2006 SCC (L&S) 1870] . Para 21 of the judgment lays down the above proposition which is to the following effect: (SCC p. 512)

"21. The present controversy has arisen as the advertisement issued by PSC stated that the candidates who were within the age on 1-7-2001 and 1-7-2002

shall be treated within age for the examination. Undoubtedly, the excluded candidates were of eligible age as per the advertisement but the recruitment to the service can only be made in accordance with the Rules and the error, if any, in the advertisement cannot override the Rules and create a right in favour of a candidate if otherwise not eligible according to the Rules. The relaxation of age can be granted only if permissible under the Rules and not on the basis of the advertisement. If the interpretation of the Rules by PSC when it issued the advertisement was erroneous, no right can accrue on basis thereof. Therefore, the answer to the question would turn upon the interpretation of the Rules.â€

[emphasis supplied]

17. It has been argued by the learned counsel for the petitioners that at earlier point of time, advertisement was issued on 6.8.2018. Exactly similar qualification was mentioned for the post of Electrician /Non-Excavation/Technician. The persons having similar qualification applied and they were appointed also. Documents to this effect have been enclosed as Annexure-9 at page-27 of the rejoinder filed by the petitioners. Even the advertisement dated 6.8.2018 has been placed on record as Annexure-8 to the rejoinder. Statement made to this effect in paragraph-17 of the rejoinder reflects that persons having similar qualification were appointed. Pursuant to order dated 29.10.2024, though an opportunity was given to the respondents to controvert the statement made in paragraph-17 of the rejoinder, but this stand was not controverted by the respondents. A pointed query was put to the learned counsel for the respondents to this effect, but he failed to convince this Court as to how the same was illegal and if at all, illegality was committed then whether such persons have been removed from service. Law is well settled that in a public employment, the employer cannot be given this much of discretion to appoint one set of applicants and to deny the offer of such applicants having exactly the same and similar qualification with respect to the same stipulation in the advertisement. This action of the respondents is absolutely contrary to Articles 14 and 16 of the Constitution of India. Arbitrariness is anathema to the Indian Constitution and in particular Articles 14 and 16. The selection process has to be made following the procedure enshrined under Articles 14 and 16, which in the present case is lacking at the instance of the respondents.

18. There is a legal maxim, "Lex Non Cogit Ad Impossibilia"TM, which connotes that "law does not compel a person to do that which he cannot possibly perform". From perusal of the certificates of these petitioners and that of those who have already been appointed, it appears that LT and HT permits are not essential for their qualification and the captions of the certificates are "permit of wireman / permit to work as wireman". These certificates are duly possessed by the petitioners. The respondents-CCL are compelling the petitioners to perform which is something impossible that too contrary to the Rules 45 of the said Rules 1956, on which heavy reliance was placed by the learned counsel for the respondents. In this view of the matter, the respondents have no justification to deny issuance of appointment letters to the petitioners.

19. During course of arguments, it was argued by the learned counsel for the respondents that once the petitioners participated in the selection process, he cannot be allowed to make such statement and the Writ Court should not interfere in such matter. Reference in this context may be made to the judgment rendered in the case of Dr. (Major) Meeta Sahay (supra), wherein it was held that in fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process. Paragraph-17 thereof is quoted in extenso:-

"17. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process."

[Emphasis supplied]

20. Even this Court in the case of Abhishek Kumar Pandey Vs. State of Jharkhand & Ors, reported in 2017 (4) JBCJ 605 held that if the

selection process is vitiated by glaring defects, the same can be challenged by the candidates even though they have participated in the selection

process. It was further held that an applicant even after appearing in the selection process for public employment has locus to challenge the procedure

and method of selection. Paragraph-8 is profitable to quote herein below:-

“8. “.. “.

The contention of the learned counsel for the respondents that when the petitioner had already appeared in the entire process, he is debarred from challenging

the selection process, is not at all acceptable to this Court in view of the fact that Courts have already held that if the selection process is vitiated by glaring

defects, the same can be challenged by the candidates even though they have participated in the process. An applicant even after appearing in the selection test

for public employment has locus standi to challenge the procedure and method of selection “ debaring an unsuccessful candidate from challenging the

selection procedure is largely a practice followed by the Court having regard to the facts of each case and is not a declaration of law under Article 141 of the

Constitution “ doctrine of Estoppel will not apply as a routine in every case “ therefore, a candidate even if having participated in the selection procedure,

on being unsuccessful, has a locus to challenge it on the ground of glaring defects in the selection process “ the candidate cannot be said to have waived his

fundamental rights under Articles 14 and 16 of the Constitution by being an applicant. “ “.

21. The judgment relied upon by the learned counsel for the respondents needs to be addressed. He has relied upon the judgments in the case of

Bihar Public Service Commission & Ors. Vs. Kamini & O.(supra), Bedanga Talukdar (supra) and State of Uttar Pradesh

Vs. Karunesh Kumar & Ors (supra) to buttress his argument that if somebody was illegally appointed, the same cannot be a ground and terms and

conditions stipulated in the advertisement must be adhered to. From perusal of the judgments, it appears that facts were entirely different to the facts

of the present case. The respondents have failed to demonstrate as to whether earlier appointments made pursuant to same terms and conditions in

the advertisement were illegal or not. First illegality has to be established, then such judgments have to be applied. The judgment has to be read as a

whole and not a bit from here and a bit from there. Compelling something which is impossible de hors the rules cannot be permitted under the law. The hands of this Court, sitting under Article 226 of the Constitution, which is an extraordinary power, are not fettered to interfere in a given case. In the case of Ashish Kumar (supra) exactly similar issue fell for consideration before the Honâ€™ble Apex Court, wherein the writ petition was dismissed, review was also dismissed and even the Special Leave Petition before the Division Bench of the High Court was dismissed. The Honâ€™ble Apex Court, however, interfered on the ground that there was wrong interpretation of the Rules and Advertisement. What was being compelled to be complied by the candidates was de hors the Rules applicable to the selection process and therefore, the Honâ€™ble Court directed the employer to issue appointment letter to the appellant of that case. In this view of the matter, these judgments relied by the learned counsel for the respondents are misplaced.

22. Moreover it is not in dispute that the persons having lesser marks have been appointed. The petitioners name find place in the select list, but still the appointment letters were not issued on such flimsy grounds. More meritorious persons are compelled to remain on road and less meritorious persons have been appointed by the respondents for the reasons best known to them. This violates Articles 14 and 16 of the Constitution of India.

Since the petitioners are having legitimate expectation to be appointed as Electrician, taking into consideration that they have qualified and duly possessed the required qualification as per the Rules, on an existing practice, they are entitled for appointment in view of existing vacancies. The Honâ€™ble Apex Court in the case of Sivanandan C.T. & Ors. Vs. High Court of Kerala & Ors., reported in (2024) 3 SCC 799 has elaborately dealt with â€˜doctrine of legitimate expectationâ€™ and has concluded in paragraph-46 thereof, which reads thus:-

â€œ46. From the above discussion, it is evident that the doctrine of substantive legitimate expectation is entrenched in Indian administrative law subject to the limitations on its applicability in given factual situations. The development of Indian jurisprudence is keeping in line with the developments in the common law.

The doctrine of substantive legitimate expectation can be successfully invoked by individuals to claim substantive benefits or entitlements based on an existing promise or practice of a public authority. However, it is important to clarify that the doctrine of legitimate expectation cannot serve as an independent basis for judicial review of decisions taken by public authorities. Such a limitation is now well recognised in Indian jurisprudence considering the fact that a legitimate expectation is not a legal right. [Union of India v. Hindustan Development Corpn., (1993) 3 SCC 499; Bannari Amman Sugars Ltd. v. CTO, (2005) 1 SCC 625; Monnet Ispat & Energy Ltd. v. Union of India, (2012) 11 SCC 1; Union of India v. P.K. Choudhary, (2016) 4 SCC 236 : (2016) 1 SCC (L&S) 640; State of Jharkhand v. Brahmputra Metallics Ltd., (2023) 10 SCC 634.] It is merely an expectation to avail a benefit or relief based on an existing promise or practice.

Although the decision by a public authority to deny legitimate expectation may be termed as arbitrary, unfair, or abuse of power, the validity of the decision itself can only be questioned on established principles of equality and non-arbitrariness under Article 14. In a nutshell, an individual who claims a benefit or entitlement based on the doctrine of legitimate expectation has to establish : (i) the legitimacy of the expectation; and (ii) that the denial of the legitimate expectation led to the violation of Article 14.â€

23. In view of the aforesaid backdrops of the facts, it can safely be said that the petitioners having been declared successful in the merit list and the persons having similar qualifications as that of the petitioners, have already been appointed pursuant to earlier advertisement, have established their case for legitimate expectation and the respondents admitting said situation have denied the appointments, have violated the provisions enshrined in Article 14 of the Constitution of India. As such, the petitioners have not only the legitimate expectation, but their cases are covered by protectable interest.

24. As a sequitur to the aforesaid rules, regulations, guidelines and judicial pronouncements, this Court holds that the petitioners are fit to be appointed on the post of Electrician (Non-Excavation / Technician), pursuant to Advertisement No. 63 dated 28.03.2023. The respondents are directed to issue appointment letters to the petitioners within a period of three weeks from the date of receipt / production of a copy of this order.

25. These writ petitions stand allowed.