मध्यप्रदेश ग्रामीण सड़क विकास प्राधिकरण

(म.प्र. शासन, पंचायत एवं ग्रामीण विकास विभाग के अधीन)

तृतीय तल, विकास भवन, भोपाल

क्र.15376/22/वि–12/प्रशा/Advt.06/2024 भोपाल, दिनांक 19/12/2024

प्रति,

श्री बीरेन्द्र सिंह यादव,
276, वार्ड क्र.–13, क्षत्रसाल वार्ड,
पन्ना, जिला पन्ना (म.प्र.)

विषयः महाप्रबंधक (प्रतिनियुक्ति/से.नि. संविदा आधार पर) पद हेतु आयोजित व्यक्तिगत साक्षात्कार के संबंध में।

संदर्भः इस प्राधिकरण की विज्ञप्ति क्र. 10747 दिनांक 23.08.2024।

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म.प्र. ग्रामीण सड़क विकास प्राधिकरण द्वारा महाप्रबंधक के 38 रिक्त पदों पर प्रतिनियुक्ति/संविदा आधार पर पूर्ति हेतु आवेदन आमंत्रित किये गये थे, जिसके संदर्भ में आपके द्वारा सेवानिवृत्ति उपरांत संविदा आधार पर महाप्रबंधक पद हेतु आवेदन प्रस्तुत किया गया। आपके आवेदन में उल्लेखित अर्हताएं महाप्रबंधक (प्रतिनियुक्ति/से.नि. संविदा) हेतु साधिकार समिति से अनुमोदित अर्हताओं के अनुरूप नहीं होने से, आपको साक्षात्कार में आमंत्रित नहीं किया गया।

2. आपके द्वारा प्राधिकरण की उक्त कार्यवाही के विरूद्ध माननीय उच्च न्यायालय, जबलपुर में याचिका क्र. WP-31629/2024 दिनांक 14.10.2024 को दायर की गई।

3. मान. उच्च न्यायालय, जबलपुर द्वारा श्री बीरेन्द्र सिंह यादव विरूद्ध म.प्र. ग्रामीण सड़क विकास प्राधिकरण में आदेश दिनांक 18/11/2024 को पारित किया गया है, जो इस प्रकार है:–

Before deciding the same, it is apt to reproduce the respective clause, which is as under :-

क्र.	पदनाम	नियुक्ति का प्रकार	अधिकतम आयुसीमा	न्यूनतम अर्हताएं	अनुमानित पद संख्या	पद स्थापना
2	महाप्रबंधक (सिविल)	से.नि. उपरांत संविदा	63 वर्ष	महाप्रबंधक के पद हेतु राज्य शासन के कार्य विभागों, म.प्र. राज्य विद्युत मंडल की उत्तरवर्ती कम्पनियों, केन्द्र एवं राज्य शासन के निगम, मण्डल व उपक्रम के अधीक्षण यंत्री/कार्यपालन यंत्री के पद से सेवानिवृत्त डिग्रीधारी सिविल इंजीनियर अथवा ऐसे सेवानिवृत्त सिविल डिग्रीधारी सहायक यंत्री, जिन्हें 15 वर्षो का अनुभव सहायक यंत्री के रूप में हो, जिसमें से 10 वर्षों का फील्ड का अनुभव हो। इसके अतिरिक्त इससे उच्च पद पर कार्यरत रहते हुये सेवानिवृत्त शासकीय सेवक जैसे–मुख्य अभियंता/प्रमुख अभियंता से सेवानिवृत्त अर्थात ग्रेड पे रू. 8900 से अधिक होने पर आवेदन करने हेतु पात्र नहीं होंगे।	36	प्राधिकरण मुख्यालय/ इकाई

From the aforesaid, it is clear that the petitioner, as per the requirement of the said clause, falls within the category of retired civil degree holder of 15 years of working experience as Assistant Engineer. The petitioner submits that he is a retired Assistant Engineer having civil degree of the said post and also worked as an Assistant Engineer for 15 years. The petitioner was initially holding the post of Sub Engineer and vide order dated 30.10.2006, he was sent on deputation on the post of Assistant Engineer in Janpad Panchayat, Office of Madhya Pradesh Rojgar Guarantee Parishad and thereafter vide order dated 03.10.2015, he was promoted to the post of Assistant Engineer by the DPC w.e.f. 29.08.2013. The petitioner, at the time of retirement was also working as In-charge Executive Engineer and retired as such. The respondents in their reply has taken a stand that petitioner did not have 15 years of experience as Assistant Engineer because he got promoted to the post of Assistant Engineer only on 29.08.2013 and worked as Assistant Engineer till 03.08.2018 but his substantive working as Assistant Engineer can be considered from the date of his promotion i.e. 29.08.2013. It is also submitted by Shri Jain that at the time of retirement, petitioner was holding the post of In-charge Executive Engineer and as per the exclusion clause (Rider) contained in the respective clause, the person who is holding the higher post than that of Assistant Engineer, is not eligible to apply for the post. Shri Jain, further submits that petitioner retired when he was performing his duties as In-charge Executive Engineer and therefore, he was rightly denied from participating in the interview.

Although, from the perusal of respective clause, I am not convinced with the submissions of Shri Jain because in my view, the interpretation of the relevant portion of the clause which makes the petitioner eligible for submitting an application is as under :-

"ऐसे सेवानिवृत्त सिविल डिग्रीधारी सहायक यंत्री, जिन्हें 15 वर्षो का अनुभव सहायक यंत्री के रूप में हो, जिसमें से 10 वर्षों का फील्ड का अनुभव हो।"

On a careful reading of this portion, it can be gathered that the requirement is that the candidate should be retired Assistant Engineer with the Civil Degree. This fact is not disputed that the petitioner was retired Assistant Engineer with a civil degree.

The subsequent portion of clause 2 reads as under :-

"जिन्हें 15 वर्षो का अनुभव सहायक यंत्री के रूप में हो, जिसमें से 10 वर्षों का फील्ड का अनुभव हो।"

This clause indicates the 15 years experience of working as Assistant Engineer (के रूप में) but that does not mean that the candidate must have substantively held the post of Assistant Engineer. This is not disputed as the petitioner worked as an Assistant Engineer for a period of 15 years, although, in the later period of his service, he worked as an Incharge Executive Engineer but that cannot be a ground to deny the claim of the petitioner because it was a higher qualification for the petitioner to hold the post of In-charge Executive Engineer because he was substantively promoted to the post of Assistant Engineer w.e.f. 29.08.2013. I am not convinced with the submissions made by learned counsel for the respondents that the claim of the petitioner can be denied and he can be held ineligible merely because he has worked as In-charge Executive Engineer. The basic object of the clause can be interpreted that the requirement was of experience of 15 years as an Assistant Engineer and merely because petitioner being an Assistant Engineer performed

his duties for some period as In-charge Executive Engineer, it cannot be a disqualification for the petitioner.

The Supreme Court in the case of Jyoti K.K. and others vs. Kerala Public Service Commission and others (2010) 15 SCC 596 has observed as under :-

> "7. It is no doubt true, as stated by the High Court that when a qualification has been set out under the relevant Rules, the same cannot be in any manner whittled down and a different qualification cannot be adopted. The High Court is also justified in stating that the higher qualification must clearly indicate or presuppose the acquisition of the lower qualification prescribed for that post in order to attract that part of the Rule to the effect that such of those higher qualifications which presuppose the acquisition of the lower qualifications prescribed for the post shall also be sufficient for the post. If a person has acquired higher qualifications in the same Faculty, such qualifications can certainly be stated to presuppose the acquisition of the lower qualifications prescribed for the post. In this case it may not be necessary to seek far.
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> 8. Under the relevant Rules, for the post of Assistant Engineer, degree in Electrical Engineering of Kerala University or other equivalent qualification recognised or equivalent thereto has been prescribed. For a higher post when a direct recruitment has to be held, the qualification that has to be obtained, obviously gives an indication that such qualification is definitely higher qualification than what is prescribed for the lower post, namely, the post of Sub-Engineer. In that view of the matter the qualification of degree in Electrical Engineering presupposes the acquisition of the lower qualification of diploma in that subject prescribed for the post, shall be considered to be sufficient for that post."
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> (emphasis supplied)

The Supreme Court reiterated its view in the case of Chandrakala Trivedi vs. State of Rajasthan and others reported in (2012) 3 SCC 159 and opined as under :-

> "7. In the impugned judgment, the High Court has given a finding that the higher qualification is not the substitute for the qualification of Senior Secondary or Intermediate. In the instant case, we fail to appreciate the reasoning of the High Court to the extent that it does not consider higher qualification as equivalent to the qualification of passing Senior Secondary Examination even in respect of a candidate who was provisionally selected.
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> 8. The word "equivalent" must be given a reasonable meaning. By using the expression "equivalent" one means that there are some degrees of flexibility or adjustment which do not lower the stated requirement. There has to be some difference between what is equivalent and what is exact. Apart from that, after a person is provisionally selected, a certain degree of reasonable expectation of the selection being continued also comes into existence."

However, the exclusion clause reads as under :-

"इसके अतिरिक्त इससे उच्च पद पर कार्यरत रहते हुये सेवानिवृत्त शासकीय सेवक"

This clause clearly indicates that any candidate who has retired from the higher post than that of Assistant Engineer (कार्यरत रहते हुये), however, the petitioner was never promoted to the post of Executive Engineer and this exclusion clause would not be

applicable to him because he retired as an Assistant Engineer although he was In-charge Executive Engineer at the time of retirement. There is a drastic difference in the first part of the qualification and the part of exclusion clause. The first part clearly indicates 'सहायक यंत्री के रूप में' whereas exclusion clause provides 'उच्च पद पर कार्यरत रहते हुये'. Thus, it is clear that experience of working of a Assistant Engineer but retired from the higher post than that of Assistant Engineer. The petitioner having an experience of Assistant Engineer for more than 15 years and retired from the post of Assistant Engineer but not from the post of Executive Engineer, therefore, in my opinion, the petitioner was wrongly declared ineligible to participate in the interview. The interpretation as has been made by the respondents, in my opinion is not proper and denying petitioner from participating in the interview is also not proper. His qualification of working on higher post of Executive Engineer cannot be treated to be a disqualification for him. The exclusion clause clearly meant that a person holding a higher post than that of Assistant Engineer cannot apply meaning thereby that any candidate holding a post higher than that of Assistant Engineer would not be eligible to apply but that exclusion clause is not applicable to the petitioner because he was not holding the higher post as he was never promoted to the post of Executive Engineer.

"The advertisement (Annexure P/1), in my opinion, is lacking in clarity, precision and is couched in a language which keeps the candidates guessing as to its true impact cannot be countenanced in law. Any advertisement creating ambiguity in regard to the qualification and taking shelter of the same, denial of liberty to the candidate, in my opinion does not seem to be proper. It is expected from the authority to make the clause clear and if prescribed qualification in the advertisement gives vague and ambiguous meaning emanating varying interpretations about the qualification criteria, the benefit should always be given to the candidate but not to the employer especially under the existing circumstance when apparently the basic object of the respondents is that the said post is available for the retired Assistant Engineer having Degree of Civil and 15 years of work experience as an Assistant Engineer. Thus, denying a candidate on the basis of vague interpretation of prescribed qualification, in any manner, cannot be said to be proper.

Accordingly, I am of the opinion that petitioner was eligible to apply for the said post and he ought to have been called for interview.

The petition is, accordingly, allowed directing the respondents to accept the application of the petitioner and arrange a fresh interview for him in which he may be called and thereafter final decision be taken for selecting him to the post which has been advertised as per Annexure P/1. The aforesaid exercise be completed expeditiously before making appointment of other eligible candidates considered in the interview in response to Annexure P/1."

4. अतः प्रकरण में मान. उच्च न्यायालय द्वारा पारित आदेश के परिपालन में आपको साक्षात्कार हेतु आमंत्रित किये जाने का प्रशासकीय अनुमोदन प्राप्त किया गया।

5. मान. उच्च न्यायालय के आदेश एवं प्राप्त प्रशासकीय अनुमोदन के परिपालन में प्राधिकरण द्वारा **दिनांक 23.12.2024 को व्यक्तिगत साक्षात्कार म.प्र. ग्रामीण सड़क विकास प्राधिकरण, तृतीय तल, विकास भवन, भोपाल (म.प्र.) में प्रातः 11:00 बजे आयोजित किया जा रहा है।**

6. अतः आपको निर्देशित किया जाता है कि उक्त आयोजित व्यक्तिगत साक्षात्कार में निर्धारित दिनांक, स्थान पर **प्रातः 10:30 बजे** उपस्थित होना सुनिश्चित करें। साथ ही निर्देशित किया जाता है कि संदर्भित विज्ञप्ति के क्रम में वांछित अभिलेखों की मूल प्रति, मूल पद पर सीधी नियुक्ति के शासनादेश, वरिष्ठ पदों पर पदोन्नति संबंधी आदेशों की प्रति एवं संपादित किए गए मैदानी/कार्यालयीन कार्यों की आवेदन पत्र में दर्शित अवधि के अनुभव/पदस्थीकरण/सेवानिवृत्ति संबंधी दस्तावेज एवं एक स्व–प्रमाणित प्रति (छायाप्रति सहित) उपस्थित होवें। मूल प्रति से सत्यापन हेतु आदेशों की प्रति प्रस्तुत न किये जाने अथवा अभ्यर्थी साक्षात्कार हेतु पात्र नहीं होंगे तथा व्यक्तिगत साक्षात्कार में शामिल नहीं किए जायेंगे।

7. प्राधिकरण में महाप्रबंधक के पद हेतु आयोजित व्यक्तिगत साक्षात्कार की सूचना श्री यादव को Voice call के माध्यम से दी जा रही है तथा प्राधिकरण की वेबसाईट www. https://www.mprrda.org/default.html पर भी उपलब्ध है।

(मुख्य कार्यपालन अधिकारी द्वारा अनुमोदित)

(अर्चना सोलंकी)
मुख्य महाप्रबंधक (प्रशा.)
म.प्र. ग्रामीण सड़क विकास प्राधिकरण
भोपाल

क्र.15377 /22/वि–12/प्रशा/Advt.06/2024 भोपाल, दिनांक 19/12/2024

प्रतिलिपि –

1. विशेष कर्तव्यस्थ अधिकारी, मान. मंत्री जी, म.प्र. शासन, पंचायत एवं ग्रामीण विकास विभाग, मंत्रालय, भोपाल। कृपया माननीय मंत्री जी को अवगत कराने हेतु।
2. निज सचिव, प्रमुख सचिव, म.प्र. शासन, पंचायत एवं ग्रामीण विकास विभाग, मंत्रालय, भोपाल।
3. मुख्य महाप्रबंधक–वित्त, म.प्र. ग्रामीण सड़क विकास प्राधिकरण, भोपाल।
4. प्रमुख अभियंता, म.प्र. ग्रामीण सड़क विकास प्राधिकरण, भोपाल।
5. प्रमुख अभियंता, ग्रामीण यांत्रिकी सेवा, विकास भवन, पंचम तल, भोपाल।
6. श्री सुरेश झारिया, प्रभारी अधिकारी (विधि), म.प्र. ग्रामीण सड़क विकास प्राधिकरण, मुख्यालय भोपाल की ओर आवश्यक कार्यवाही हेतु।
7. श्री गोविंद पंचोली, प्रबंधक (आई.टी.), म.प्र. ग्रामीण सड़क विकास प्राधिकरण, भोपाल की ओर भेजकर लेख है कि कृपया प्राधिकरण की वेबसाईट के होमपेज पर आज ही अपलोड करें।
8. गार्ड नस्ती।

19/12/2024
मुख्य महाप्रबंधक (प्रशा.)
म.प्र. ग्रामीण सड़क विकास प्राधिकरण
भोपाल