



2026:CGHC:3713-DB

**AFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPS No. 6899 of 2024**

- 1** - Bashil Minj S/o Shri Daud Minj Aged About 33 Years R/o H.No. 751 Baba Lal Gali, Vrindawan Colony, Jagdalpur, District Bastar Chhattisgarh Presently Working On The Post Of Tracer (Civil) At The Office Of Executive Engineer, Public Work Department, Division No. 2, Jagdalpur, Chhattisgarh
- 2** - Roshandeep Markam S/o Shri Ram Prasad Markam Aged About 35 Years R/o Infront Of Maheshwari Bhawan, Government Quarter No. 07 T.S.D. Colony, Kumharpra, Jagdalpur, District Bastar Chhattisgarh Presently Working On The Post Of Tracer (Civil) At The Office Of Executive Engineer, Public Work Department (B And R), Division No. 1, Jagdalpur, Chhattisgarh
- 3** - Abhishek Vishwakarma S/o Shri S.B. Vishwakarma Aged About 30 Years R/o Kalpana Chavala Ward No. 15, Sanjaypara, Tehsil Bhairamgarh, District Bijapur Chhattisgarh, Presently Working On The Post Of Tracer (Civil) In Public Work Department, Sub-Division No. 2, Bijapur, District Bijapur, Chhattisgarh
- 4** - Vinay Kumar Jaiswal S/o Shri Pradeep Jaiswal Aged About 34 Years R/o Village And Post Pandari, Tehsil Roghuth Nagar, District Balrampur Chhattisgarh Presently Working On The Post Of Tracer (Civil) In Public Work Department, Sub-Division Wadrafnafar, District Balrampur Chhattisgarh
- 5** - Mohnish Chandel S/o Shri Rajesh Chandel Aged About 33 Years R/o Motitalab Para, Rawaiya Ward Pwd Quarter No. I-1, Jagdalpur, District Bastar Chhattisgarh, Presently Working On The Post Of Assistant Draftsmen (Civil) At The Office Of Executive Engineer, Public Work Department, North Bastar, Division No. 1, Jagdalpur, Chhattisgarh
- 6** - Swati Singh Chandel S/o Shri Mohnish Chandel Aged About 33 Years R/o Motitalab Para, Rawaiya Ward Pwd Quarter No. I-1, Jagdalpur, District Bastar Chhattisgarh, Presently Working On The Post Of Assistant Draftsmen (Civil) At The Office Of Chief Engineer, Public Work Department, Bastar Zone, Jagdalpur, Chhattisgarh
- 7** - Ankur Vishwakarma S/o Shri Ramesh Vishwakarma Aged About 32 Years R/o Pratap Dev Ward, Near Maa Jagdamba Chowk, Jagdalpur,

District Bastar Chhattisgarh Presently Working On The Post Of Assistant Draftsmen (Civil) In Public Work Department, Sub-Division Lohandiguda, District Bastar Chhattisgarh

... **Petitioners**

**versus**

**1** - State of Chhattisgarh Through The Secretary General Administration Department, Mantralaya, Mahanadi Bhawan Atal Nagar, Nava Raipur, District Raipur Chhattisgarh

**2** - Secretary Public Work Department, Mantralaya, Mahanadi Bhawan Atal Nagar, Nava Raipur, District Raipur Chhattisgarh

**3** - Engineer-In-Chief Public Work Department, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh

**4** - Chief Engineer Public Work Department, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh

**5** - Satyajit Nandi Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Rastriya Rajmarga, Division Jagdalpur, District Bastar - Jagdalpur Chhattisgarh

**6** - Bisoha Ram Korte Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department Bijapur, Division Bijapur, District Bijapur Chhattisgarh

**7** - Sabalram Sonwani Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department Ramanujganj, Division Ramanujganj, District Ramanujganj Chhattisgarh

**8** - Smt. Seema Singh Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Ramanujganj, Division Ramanujganj, District Ramanujganj Chhattisgarh

**9** - Lakhan Ram Kurre Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Mungeli, Division Mungeli, District Mungeli Chhattisgarh

**10** - P.S. Chouhan Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Bemetara, Division Bemetara, District Bemetara Chhattisgarh

**11** - Alok Kumar Jain Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Rastriya Rajmarga, Division Jagdalpur, District Bastar-Jagdalpur Chhattisgarh **(died and deleted)**

**12** - Manoj Kumar Verma Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Ramanujganj, Division Ramanujganj, District Ramanujganj Chhattisgarh

- 13** - Dinesh Kumar Jaiswal Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Pathalgaon, Division Pathalgaon, District Jashpur, Chhattisgarh
- 14** - Ashok Kumar Tiwari Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Division Ramanujganj, District Ramanujganj Chhattisgarh
- 15** - K. K. Dharai Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Rastriya Rajmarga, Division Jagdalpur, District Jagdalpur Chhattisgarh
- 16** - Devendra Kumar Satpathi Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Setu Division Raipur, District Raipur Chhattisgarh
- 17** - Ramesh Kumar Pandey Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Kawardha, Division Kawardha, District Kawardha Chhattisgarh
- 18** - Ravindra Singh Jadon Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Setu Division Ambikapur, District Surguja Chhattisgarh
- 19** - Narendra Kumar Dewangan Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Ramanujganj, Division Ramanujganj, District Ramanujganj Chhattisgarh
- 20** - Smt. Anupama Dubey Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Surajpur, Division Surajpur, District Surajpur Chhattisgarh
- 21** - Mulchand Kaushik Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Kawardha, Division Kawardha, District Kawardha Chhattisgarh
- 22** - Ishwari Lal Banchor Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Khairagarh, Division Khairagarh, District Khairagarh-Chhuikhadan-Gandai Chhattisgarh
- 23** - Anil Kumar Soni Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Bemetara, Division Bemetara, District Bemetara Chhattisgarh
- 24** - Ritesh Singh Chouhan Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Division-2 Jagdalpur, District Bastar-Jagdalpur Chhattisgarh
- 25** - Nomesh Kumar Sahu Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Setu Division Durg, District Durg Chhattisgarh

**26** - Tarun Kumar Sen Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Division-1 Raipur, District Raipur Chhattisgarh

**27** - Vivek Kumar Patel Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Balodabazar, Division Balodabazar, District Balodabazar Chhattisgarh

**28** - Vijay Kumar Chandrakar Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department Vidhansabha, Division Raipur, District Raipur Chhattisgarh

**29** - Bhupendra Kumar Verma Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department Division-2, Raipur, District Raipur Chhattisgarh

**30** - Duryodhan Korram Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Division-1, Jagdalpur, District Bastar-Jagdalpur Chhattisgarh

**31** - Indra Kumar Netam Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department Kanker, Division Kanker, District Kanker Chhattisgarh

**32** - Ajay Kumar Bhatt Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department Kondagaon, Division Kondagaon, District Kondagaon Chhattisgarh

**33** - Baldhari Singh Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department, Ramanujganj, Division Ramanujganj, District Ramanujganj Chhattisgarh

**34** - Shailesh Choudhary Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department Kawardha, Division Kawardha, District Kawardha Chhattisgarh

**35** - Ajay Sharma Presently Working As Sub-Engineer (Civil) In The Office Of Executive Engineer, Public Work Department Sukma, Division Sukma, District Sukma Chhattisgarh

### ... Respondents

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For Petitioners	:	Mr. Mateen Siddiqui, Advocate
For Respondent Nos.1 to 4 /State	:	Mr. Shashank Thakur, Additional Advocate General
For Respondent Nos. 5, 6, 9, 10, 13, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 34	:	Mr. Chandresh Shrivastava, Advocate
For Respondent Nos. 7, 8, 14, 20, 33 and 35	:	Mr. Pawan Shrivastava, Advocate

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**Hon'ble Mr. Ramesh Sinha, Chief Justice**  
**Hon'ble Mr. Ravindra Kumar Agrawal, Judge**

**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**21.01.2026**

1. Heard Mr. Mateen Siddiqui, learned counsel for the petitioners.  
 Also heard Mr. Shashank Thakur, learned Additional Advocate General, appearing for the State / respondent Nos. 1 to 4, Mr.Chandresh Shrivastava, learned counsel, appearing for respondent Nos. 5, 6, 9, 10, 13, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 34 and Mr. Pawan Shrivastava, learned counsel, appearing for respondent Nos. 7, 8, 14, 20, 33 and 35.
2. It has been pointed out by learned State counsel that during pendency of present petition, respondent No.11, namely Alok Kumar Jain, has died.
3. In that view of the matter, the name of respondent No.11, namely Alok Kumar Jain is deleted from the array of parties.
4. The present petition has been filed by the petitioners under Article 226 of the Constitution of India, seeking following reliefs :-

*“10.1 This Hon'ble Court may kindly be pleased to set-aside/quash or declare the impugned amended notification dated 22.01.2022 (Annexure-P/1) as being ultra-vires viz-a-viz Article 14 & 16 of the Constitution of India;*

*10.2 This Hon'ble Court may kindly be pleased to quash the impugned promotion orders dated*

*14.07.2023 & 29.08.2023 (Annexure-P/2) issued by the Chief Engineer, Public Work Department, Raipur.*

*10.3 This Hon'ble Court may kindly be pleased to direct the respondents' authorities to consider the candidature of petitioners for promotion on the post of Sub-Engineer (Civil) from the date of private respondents promoted as Sub-Engineer (Civil) with all consequential benefits.*

*10.4 This Hon'ble Court may kindly be pleased to issue any other order or orders, writ or writs, direction or directions as this Hon'ble court may deem'fit in the facts and circumstances of the case in favor of the petitioners, in the interest of justice.”*

5. Facts of the case, in brief, are that the petitioners No.1 to 4 are working on the post of Tracer (Civil) and petitioners No.5 & 7 are working on the post of Assistant Draftsman (Civil) in the Public Work Department of State of Chhattisgarh. The service conditions of petitioners are governed by the rules of Chhattisgarh Public Work Department (Non-Gazetted) Service Recruitment Rules, 2016 (for short, 'Rules, 2016' and the promotional post of Tracer (Civil)/Assistant Draftsman (Civil) is Sub-Engineer (Civil). The Schedule-II of Rules, 2016 specified that the 95% posts of Sub Engineer (Civil) shall be filled up by direct recruitment and rest of 5% posts be filled up through promotion. The Schedule-III of rules, 2016, provides that 5% post of Sub-Engineer (Civil) shall be reserved for Tracer/Assistant Draughtman working on lower post and prescribed educational qualification for the post of Sub-Engineer (Civil) is passed minimum three years diploma in Civil, Electrical and Mechanical or equivalent Engineering from

recognized established by State Government. As per the Schedule-IV of Rules, 2016 the Diploma holder/Degree holder Tracer/Assistant Draftsman etc. working in lower post and having five years of experience are eligible for promotion to the post of Sub-Engineer (Civil).

6. Vide impugned notification dated 22.01.2022, the respondent authority has made amendment in column (2) of serial number 1 of Schedule-IV of Rules, 2016, after the words and symbol "Diploma holder/Degree holder Tracer/ Assistant Draftsman etc. working in lower post", the words and symbol "Diploma holder/Degree holder Field Assistant of Work Charged Establishment" has been added. By way of aforesaid impugned notification dated 22.01.2022, the respondent authority made the diploma/degree holder Field Assistant of Work Charged Establishment as eligible for promotion on the post of Sub-Engineer (Civil). Subsequently the respondent Engineer-in-Chief, Public Work Department, Raipur, vide orders dated 14.07.2023 & 29.08.2023, promoted the Field Assistant working under the Work Charged Establishment (private respondents) on the post of Sub-Engineer (Civil).
7. Being aggrieved by the same, the instant petition has been filed by the petitioners challenging the legality and constitutional validity of the impugned amended notification dated 22.01.2022, thereby Diploma holder/Degree holder Field Assistant of Work Charged Establishment have become eligible for promotion to the

post of Sub-Engineer (Civil). The petitioners are also challenging promotion order dated 14.07.2023 & 29.08.2023 issued by the Chief Engineer, Public Work Department, Raipur, whereby the private respondents/Field Assistant working under the work charged establishment have been promoted on the post of Sub-Engineer (Civil).

8. Mr. Mateen Siddiqui, learned counsel for the petitioners vehemently argued that work-charged / contingency paid employees are not regular government servants and, therefore, are not eligible for promotion under the service rules. He further argued that Rule 2(d) of the Chhattisgarh Public Services (Promotion) Rules, 2003 expressly excludes work-charged, contingency paid, casual and daily wage employees from the cadre eligible for promotion. It is further contended that the private respondents were never regularized or confirmed in service and, therefore, do not fulfill the requirement of five years of regular service, making their promotion illegal and contrary to the Rules of 2016 and Promotion Rules, 2003. He also asserted that work-charged employees are governed by a distinct service regime and may claim protection under the Industrial Disputes Act, 1947, and thus cannot be equated with regular government employees. Treating them alike amounts to equal treatment of unequal classes, in violation of Articles 14 and 16 of the Constitution of India. It is further submitted that the private respondents were initially appointed as Timekeeper / Field



Assistant without following due process of selection, whereas the petitioners were appointed through a regular recruitment process, therefore, granting promotional parity is arbitrary and unconstitutional, as held by the Hon'ble Supreme Court in ***Uttar Pradesh Power Corporation Ltd. v. Ayodhya Prasad Mishra* (2008) 10 SCC 139**.

9. Mr. Siddiqui further submitted that the private respondents had earlier sought promotion after obtaining diploma qualifications through distance education, which was rejected by the department on 06.01.2018 on the grounds that such qualifications were not valid and that work-charged employees were not eligible for promotion under the Rules. He also submitted that as per the Rules, 2016, there are 1047 sanctioned posts of Sub-Engineer (Civil) and 5% post is reserved for promotion and 5% of 1047 post would become around 53 posts and out of 53 posts 31 work charged contingency paid employees have been promoted on the post of Sub-Engineer and earlier in 2008 about 23 regular employees were promoted and as on date 2-3 posts are lying vacant out of 53 posts and because of impugned notification the petitioners could not get promoted, therefore the petitioners by way of representation requested the authority to increase the promotion percentage, pursuant to which, the respondent Chief Engineer, PWD Raipur sent proposal to the Additional Chief Secretary, PWD, Raipur on 21.09.2023 for increasing the promotion quota of Sub-Engineer (Civil) from 5% to 10% and

further proposed to divide the said 10% posts into 3.5% for Assistant Draftsman (Civil), 1.5% for Tracer (Civil) and 05% Filed Assistant of Work Charged Establishment. He further rely upon similar instances in the State of Madhya Pradesh and in the School Education Department of Chhattisgarh, where promotion of contingency paid employees was denied or cancelled, reinforcing the settled position that work-charged employees cannot be promoted to regular cadre posts.

10. On the other hand, Mr. Shashank Thakur, learned Additional Advocate General, appearing for the State/respondents opposed the aforesaid submissions and submitted that the petitioners have no locus to challenge the Rules framed under Article 309 of the Constitution of India. The challenge is based merely on individual hardship and reduction in chances of promotion, which is impermissible in law. The amendment to the Rules, 2016 was notified on 22.01.2022 and promotion orders were issued on 14.07.2023 and 29.07.2023, whereas the petition was filed on 21.10.2024. Hence, the petition is liable to be dismissed at the threshold on the ground of delay and laches. He further submitted that under the Public Works Department (Non-Gazetted) Service Recruitment Rules, 2007, Rule 6(1)(b) and Schedule IV provided for promotion of Diploma/Degree Holder Tracer/Assistant Draftsman with five years' service to the post of Sub Engineer, including employees of work-charged and contingency establishments. Similar provisions existed in the

Rules of 2015. However, when the Rules, 2016 were notified in January 2017, the provision relating to work-charged and contingency employees was omitted. Upon representations from employees' unions, the parent department proposed an amendment, pursuant to which the Rules, 2016 were amended to substitute the eligibility criteria by including "Diploma Holder/Degree Holder/Field Assistant of work-charged establishment."

11. Mr. Thakur further submitted that it is the exclusive prerogative of the State to create posts, declare cadres, or frame service rules based on administrative necessity. The vires of rules can be challenged only on limited grounds, namely lack of legislative competence, excess of delegated power, conflict with the parent Act, or violation of constitutional provisions. None of these grounds are attracted in the present case. The State is fully competent under Article 309 of the Constitution to frame and amend service rules. Policy decisions cannot be invalidated merely because they cause inconvenience or loss to a few individuals. Judicial review of policy decisions is limited to the test of reasonableness, and the petitioners have failed to demonstrate any unreasonableness or arbitrariness in the Rules, 2016. It was emphasized that there is a presumption of constitutionality in favour of statutory rules, and the burden lies on the petitioners to prove otherwise. Reliance was placed on *G.D. Kelkar v. Chief Controller of Imports and Exports*, wherein it was held that the

onus to prove unreasonable classification lies on the person challenging it.

12. Mr. Thakur also submitted that the petitioners have failed to show violation of any vested right under Articles 14 or 16 of the Constitution. While the right to be considered for promotion is a condition of service, mere chances of promotion are not, as held by the Supreme Court in ***State of Maharashtra v. Chandrakant Anant Kulkarni, (1981) 4 SCC 130***. The authority competent to frame rules is equally competent to amend them, and mala fides cannot be attributed to the legislature. Lastly, it was submitted that the post of Field Assistant is a 100% direct recruitment post under the work-charged and contingency establishment. Based on AICTE's clarification dated 25.11.2020 and subsequent State Government decision dated 10.05.2023, degrees/diplomas obtained through IGNOU (2011–2012 session) were recognized, and eligible employees were duly promoted. Therefore, the promotions granted suffer from no illegality or infirmity.
13. In reply to the submissions advanced by learned State counsel, Mr. Siddiqui, learned counsel for the petitioners, submitted that under the Chhattisgarh Public Works Department (Non-Gazetted) Service Recruitment Rules, 2007 and the Rules of 2015, there was no provision for promotion of work-charged contingency paid employees to the post of Sub Engineer. Prior to the coming into force of the Rules, 2016, not a single work-charged contingency paid employee was ever promoted to the post of Sub Engineer.

Hence, the State's contention that such a promotional provision existed in earlier rules is factually incorrect and misconceived. It was further submitted that the eligibility conditions for promotion to the post of Sub Engineer as contained in Schedule-IV of the Rules, 2007 and the unamended Rules, 2016 are identical. Therefore, the State's assertion that the promotion provision was omitted in the Rules, 2016 and later restored by the impugned notification is incorrect and has been made only to justify the promotions of private respondents. The State has failed to place on record copies of the Rules of 2007 and 2015 to substantiate its claim, whereas the petitioners have filed the Rules of 2007 as Annexure-P/11.

14. Mr. Siddiqui also submitted that the State has not denied that the services of the private respondents were never confirmed or regularized, nor that they do not possess five years of regular service. These facts, therefore, stand admitted. As per the Chhattisgarh Public Services (Promotion) Rules, 2003, work-charged contingency paid employees are not eligible for promotion. Consequently, the impugned amendment notification dated 22.01.2022 is contrary to the Promotion Rules, 2003 and violative of Articles 14 and 16 of the Constitution of India. He lastly submitted that the State has also not disputed that the private respondents, being work-charged contingency paid employees, were governed by the Industrial Disputes Act, 1947, whereas the petitioners are governed by the Rules, 2016 and

were appointed through a regular recruitment process. The private respondents were appointed as Timekeeper/Field Assistant without following due process of selection. By treating these two distinct classes as equals through the impugned notification, the State has violated the constitutional mandate of equality. Reliance was placed on ***Uttar Pradesh Power Corporation Ltd. v. Ayodhya Prasad Mishra (2008) 10 SCC 139***, wherein the Hon'ble Supreme Court held that unequals cannot be treated equally, and such treatment offends Articles 14 and 16 of the Constitution.

15. Mr. Chandresh Shrivastava, learned counsel, appearing for private respondents opposes the submissions advanced by learned counsel for the petitioners and submitted that the writ petition is not maintainable at the outset. A bare perusal of relief clause 10.1 shows that the petitioners have not challenged the impugned notification dated 22.01.2022 on the grounds of legislative incompetence or lack of jurisdiction. The pleadings disclose only a grievance against amendment in Schedule IV, yet the entire notification has been challenged without laying any foundational facts. On this ground alone, the petition deserves dismissal. He further submitted that the petition also suffers from gross delay and laches. The impugned notification came into force on 22.01.2022, whereas the petition was filed on 21.10.2024 after more than two and a half years, without any explanation. The combined eligibility list was published on 24.01.2023, followed by

DPC and promotion orders dated 14.07.2023 and 29.08.2023. Despite full knowledge, the petitioners approached this Court belatedly, and even falsely pleaded absence of delay. Such stale claims are barred by settled principles of law. Reliance was placed on ***Tridip Kumar Dingal v. State of W.B.*, (2009) 1 SCC 768; *Karnataka Power Corporation Ltd. v. K. Thangappan*, (2006) 4 SCC 322; and *Chennai Metropolitan Water Supply v. T.T. Murali Babu*, (2014) 4 SCC 108.** The belated challenge to promotion orders is also impermissible in view of ***P.S. Sadasivaswamy v. State of Tamil Nadu*, AIR 1974 SC 2271.**

16. Mr. Shrivastava further submitted that the amendment has been made in exercise of powers under the proviso to Article 309 of the Constitution and carries a strong presumption of constitutionality. The petitioners have failed to establish any of the recognized grounds for invalidating subordinate legislation, namely lack of competence, constitutional violation, or manifest arbitrariness. Reliance was placed on ***Dental Council of India v. Biyani Shikshan Samiti*, (2022) 6 SCC 65 and *Dr. Jaya Thakur v. Union of India*, 2023 SCC OnLine SC 813.**
17. On merits, it was submitted by Mr. Shrivastava that under the PWD (Non-Gazetted) Service Recruitment Rules, 2007 and 2015, employees of work-charged establishment recruited through limited competitive examination formed part of the PWD (Non-Gazetted) Service and were promoted to the post of Sub Engineer, as evident from promotion orders issued in 2009 and

2016. Though the Rules, 2016 omitted the method of recruitment under Rule 6, Rule 4 clearly included persons recruited prior to commencement of the Rules within the constitution of service. The omission resulted in stagnation of eligible employees, which was rectified by the impugned amendment restoring the promotional avenue. The amendment is therefore rational, corrective, and non-arbitrary. The reliance placed by the petitioners on the Chhattisgarh Public Services (Promotion) Rules, 2003 is misconceived. The said Rules apply to “establishment”, which expressly includes work-charged and contingency paid establishment, and are always subject to the relevant Recruitment Rules. The private respondents fall within the feeder category and fulfill the eligibility conditions as per the Recruitment Rules, making them lawfully entitled to consideration and promotion.

18. Mr. Shrivastava also submitted that the petitioners themselves were aware of the legality of the amendment and never challenged it initially. Instead, they sought enhancement of promotional quota vide representation dated 15.05.2023, which clearly shows acquiescence and lack of bona fides in filing the present writ petition. Lastly, it was contended that fixation of promotional avenues and inclusion of feeder cadres is a policy matter within the exclusive domain of the employer. Courts do not interfere with such policy decisions unless there is clear constitutional violation. Reliance was placed on ***Dwarka Prasad***



***v. Union of India, (2003) 6 SCC 535 and Dilip Kumar Garg v. State of U.P., (2009) 4 SCC 753.***

19. In reply to the submissions advanced by learned counsel appearing for the private respondents, Mr. Siddiqui, learned counsel for the petitioners, submitted that the private respondents have neither denied nor disputed that their services were never regularized and that they do not have five years of regular service. Under the Chhattisgarh Public Service (Promotion) Rules, 2003, work-charged and contingency-paid employees are explicitly ineligible for promotion. The impugned notification of 22.01.2022, which makes them eligible, is therefore arbitrary, discriminatory, and violative of Articles 14 and 16 of the Constitution, as it treats unequals permanently appointed petitioners and irregular work-charged employees as equals. The petitioners were appointed through due process under the 2016 Recruitment Rules, whereas the private respondents were not, further highlighting this inequality.
20. Mr. Siddiqui further submitted that the private respondents' claim of delay is misconceived. The petition challenges the vires of a rule, which is always maintainable. Petitioners filed promptly after receiving assurances and correspondence from the authorities, and the period for considering representations is yet to elapse. Additionally, the prior rules of 2007 and 2015 do not provide any promotion channel for work-charged employees; the documents relied on by the respondents are merely appointment orders via

departmental examinations, not promotions. Work-charged employees are governed under separate rules of 1977 and 1979 and are materially different from regular employees, both in service conditions and responsibilities.

21. Mr. Siddiqui finally submitted that the 2015 and 2016 Recruitment Rules explicitly provide that only 5% of Sub-Engineer (Civil) posts are for promotion, and contingency-paid employees are eligible only through direct recruitment, not promotion. The impugned notification thus violates these rules and undermines the principle of rewarding permanent, responsible service. In view of the settled legal position that unequals cannot be treated as equals, it is respectfully submitted that the notification is unconstitutional and the petition deserves to be allowed.
22. We have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
23. The primary issue before this Court is the constitutionality of the amendment to the Rules, 2016, which extends eligibility for promotion to the post of Sub-Engineer (Civil) to work-charged employees. The petitioners argue that the inclusion of work-charged employees as eligible for promotion violates the principles of equality under Articles 14 and 16 of the Constitution. They contend that work-charged employees are not regular government servants and cannot be treated as equals to

permanent employees, as they are governed by different service rules.

24. The respondents, however, argue that the amendment is a policy decision made in exercise of the State's power under Article 309, and that such decisions are generally not subject to judicial review unless they are found to be unreasonable or arbitrary. It is well-established that in matters involving policy decisions, especially related to service conditions and promotions, courts generally refrain from interfering unless there is a clear violation of constitutional principles or a manifest injustice.
25. In the present case, the State has provided a rational explanation for the amendment, stating that it was intended to rectify the stagnation of eligible work-charged employees who had been left out of the promotional channel. The amendment aims to include those employees who were working in the Public Works Department but had been excluded from promotion opportunities due to the exclusionary language of the previous rules.
26. The petitioners have also raised the issue that the private respondents were not regularized in service and have not completed five years of regular service, which is a prerequisite for promotion to the post of Sub-Engineer (Civil) as per the Rules, 2016. The respondents counter this argument by asserting that the private respondents, despite being work-charged employees, were duly qualified and had the requisite educational

qualifications for promotion. The private respondents further argue that they were included in the feeder category for promotion under the revised rules.

27. While it is true that the work-charged employees may not have the same status as regular employees, the State has the discretion to amend service rules to accommodate the inclusion of work-charged employees in the promotion process. The inclusion of work-charged employees as eligible for promotion is a corrective measure aimed at addressing the administrative necessity of ensuring that all qualified employees have an opportunity for career advancement, provided they meet the eligibility criteria.
28. The petitioners' challenge to the promotion orders and the amendment to the rules has been delayed by over two years. The petitioners were aware of the amendment and the promotions granted to the private respondents, yet they filed the petition in October 2024, well after the amendment was made in January 2022 and the promotions were issued in mid-2023. The respondents argue that this delay renders the petition liable to be dismissed on the grounds of laches.
29. The impugned amendment to the Rules, 2016 was notified on 22.01.2022. The consequential promotion orders were issued on 14.07.2023 and 29.08.2023. The present writ petition has been filed only on 21.10.2024, i.e., after more than two and a half years from the date of amendment and over one year after the

promotions.

30. The petitioners were admittedly aware of the amendment and promotions. In fact, instead of challenging the amendment at the earliest, the petitioners chose to submit representations seeking enhancement of promotional quota, thereby accepting the validity of the amendment. Such conduct clearly amounts to acquiescence.
31. The law on delay in service matters is well settled. In ***P.S. Sadasivaswamy v. State of Tamil Nadu*, AIR 1974 SC 2271**, the Supreme Court held that stale claims relating to promotion should not be entertained. Similarly, in ***Karnataka Power Corporation Ltd. v. K. Thangappan*, (2006) 4 SCC 322**, it was held that delay defeats equity and courts should not unsettle settled service positions.
32. In ***Chennai Metropolitan Water Supply v. T.T. Murali Babu*, (2014) 4 SCC 108**, the Supreme Court reiterated that belated service claims disrupt administrative certainty and deserve outright rejection.
33. Applying the aforesaid principles, this Court finds that the writ petition is liable to be dismissed on the ground of delay and laches alone.
34. The impugned amendment has been made by the State in exercise of its powers under the proviso to Article 309 of the Constitution of India. It is a settled principle of constitutional law

that the authority competent to frame service rules is equally competent to amend them. Judicial review of subordinate legislation is confined to limited grounds, namely:

- (i) lack of legislative competence,
- (ii) violation of fundamental rights,
- (iii) repugnancy to parent statute, or
- (iv) manifest arbitrariness.

**[*State of M.P. v. Rakesh Kohli*, (2012) 6 SCC 312]**

35. The petitioners have failed to establish any of the aforesaid grounds. No lack of competence or excess of delegation has been demonstrated.
36. In ***Dr. Jaya Thakur v. Union of India*, 2023 SCC OnLine SC 813**, the Supreme Court reiterated that courts do not sit in appeal over policy decisions reflected in statutory rules unless the policy is manifestly arbitrary or unconstitutional.
37. Therefore, the challenge to the amendment on the ground of legislative incompetence is **wholly misconceived**.
38. It is well settled that no government servant has a vested right to promotion. At best, an employee has a right to be considered for promotion in accordance with the rules prevailing on the date of consideration.
39. In ***State of Maharashtra v. Chandrakant Anant Kulkarni*, (1981) 4 SCC 130**, the Supreme Court categorically held:

“Mere chances of promotion are not conditions of service and can be altered by amending the rules.”

40. Similarly, in ***Union of India v. Pushpa Rani*, (2008) 9 SCC 242**, it was held that reduction of chances of promotion does not amount to violation of Articles 14 or 16.
41. The petitioners’ grievance is essentially that inclusion of another feeder category has reduced their promotional prospects, which in law does not confer any enforceable right.
42. The principal contention of the petitioners is that work-charged employees constitute a distinct class and cannot be treated at par with regular employees. This Court finds no merit in the said submission. The classification introduced by the impugned amendment is educational qualification-based and experience-based, and not solely dependent on the nature of establishment. The Field Assistants of work-charged establishment have been included only if they possess the same diploma/degree and experience as prescribed under the Rules.
43. In ***G.D. Kelkar v. Chief Controller of Imports & Exports*, AIR 1967 SC 839**, the Supreme Court held that the burden of proving hostile discrimination lies heavily on the person alleging it.
44. Further, in ***Dilip Kumar Garg v. State of U.P.*, (2009) 4 SCC 753**, it was held that the State has wide latitude in determining feeder cadres and courts should not interfere unless the classification is palpably arbitrary.

45. The reliance placed by the petitioners on ***U.P. Power Corporation Ltd. v. Ayodhya Prasad Mishra, (2008) 10 SCC 139***, is misplaced. The said judgment reiterates that unequals cannot be treated equally, but it equally recognizes that classification is permissible when founded on intelligible differentia having nexus with the object sought to be achieved.
46. In the present case, the object of the amendment is to remove stagnation, provide career progression, and utilize qualified technical manpower. The classification, therefore, satisfies the twin test under Article 14.
47. The petitioners' reliance on Rule 2(d) of the Chhattisgarh Public Services (Promotion) Rules, 2003 is also misconceived. The Promotion Rules, 2003 are subject to the relevant Recruitment Rules governing a particular service. Once the Recruitment Rules themselves include a feeder category, the Promotion Rules cannot be read in isolation to defeat the statutory scheme. This position stands clarified in ***Biyani Shikshan Samiti v. Dental Council of India, (2022) 6 SCC 65***, wherein it was held that delegated legislation must be read harmoniously with the parent framework.
48. In view of the foregoing discussion and findings, this Court concludes that the writ petition suffers from gross delay; the impugned amendment dated 22.01.2022 has been validly made in exercise of powers under Article 309 of the Constitution; the



petitioners have no vested or accrued right to promotion, and mere reduction of chances of promotion does not attract Articles 14 or 16; the inclusion of Field Assistants of work-charged establishment as a feeder category is a policy decision, based on rational classification, and does not suffer from arbitrariness or unconstitutionality and the promotion orders dated 14.07.2023 and 29.08.2023 are legal and call for no interference and as such, the writ petition fails both on merits and on the ground of delay.

49. Accordingly, the writ petition is **dismissed**. No order as to costs.

Sd/-  
(Ravindra Kumar Agrawal)  
Judge

Sd/-  
(Ramesh Sinha)  
Chief Justice

**Head- Note**

If the Government takes a step to improve the efficiency of public service by amending the Promotion Rules in exercise of power conferred under Article 309 of the Constitution of India, such action cannot be held to be arbitrary or unreasonable.