

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**O.A No.2274/2017
MA No.3732/2017 & 4591/2017
with
O.A. No. 2128/2017
MA No.2436/2017 & 4592/2017**

**Reserved On: 26.03.2018
Pronounced on: 03.04.2018**

**Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

OA No.2274/2017

1. Sushant Rao (Appointment), Group 'C',
Aged about 31 years
S/o Sshri Kaka Singh Yadav,
R/o 339, Main Road, Haider Pur,
Delhi-110088.
2. Anoop Kumar (Appointment) Group 'C',
Aged about 32 years,
S/o Shri Banwari Lal
R/o H.No. 409, Gopal Nagar, Najafgarh,
New Delhi-110043.
3. Sunny Arneja (Appointment) Group 'C',
Aged about 29 years,
S/o Shsri Ashok Kumar Arneja,
R/o 1/7228, Shivaji Park, Shahdara,
Delhi-110032.
4. Rakesh Panchal (Appointment) Group 'C',
Aged about 28 years,
S/o Shri Vijender Panchal
R/o Near Syndicate Bank & Post Office
VPO Hiran Kunda., HPO Nangloi,
New Delhi-110041.
5. Bhupender Kumar Kain, (Appointment), Group 'C',
Aged about 30 years,
S/o Shri Karan Singh
R/o B-69, Mangalam Part Extn.,
Budh Vihar, Phase-II, Delhi-110086.

6. Naveen (Appointment), Group 'C',
Aged about 31 years,
S/o Shri Ranbir Singh
R/o H.No.41-A Ext. IC, Nangloi,
Delhi-110041.
7. Gaurav Kumar Maan, (Appointment), Group 'C',
Aged about ____ years,
S/o Shri Ashok Kumar Maan,
R/o D-97, Ganga Vihar, Delhi-110094.
8. Rakesh Malik, (Appointment), Group 'C',
Aged about 29 years,
S/o Shri Devender Singh
R/o 393, Gali No.2, Mukt Nagar,
Delhi-110094.
9. Neera Kumar Tomar, (Appointment), Group 'C',
Aged about 30 years,
S/o Shri Rajveer Singh Tomar,
R/o 28-E, Police Colony, Model Town-2,
Delhi-110009.
10. Vikas, (Appointment), Group 'C',
Aged about 31 years,
S/o Shri Sukhveer Singh,
R/o 42, Ist Floor, Sector-24, Rohini,
Delhi-110085.
11. Rinku Kumar (Appointment), Group 'C',
Aged about 34 years,
S/o Shri Surender Kumar
R/o 7/320, Jwala Nagar, Shahdara,
Delhi-110032.
12. Vikas (Appointment), Group 'C',
Aged about 33 years,
S/o Shri Virender Singh
R/o 141/1, D-12, Sector-7, Rohini,
Delhi.
13. Sumit Kumar, (Appointment), Group 'C',
Aged about 30 years,
S/o Shri Shriniwas,
R/o 342, Mangol Pur Kalan,
Delhi-110085.

14. Naveen Kumar, (Appointment), Group 'C',
Aged about 31 years,
S/o Shri Trilok Chand,
R/o H.No.157-A, Moti Bagh,
New Delhi.

.Applicants

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. Chief Secretary,
Govt. of NCT of Delhi,
New Secretariat,
I.P. Estate,
New Delhi.
2. The Principal Secretary (Services),
Govt. of NCT of Delhi,
New Secretariat, IP Estate,
New Delhi.
3. Delhi Subordinate Services Selection Board
Through its Chairman,
FC-18, Institutional Area Karkardooma,
Delhi.
4. Sh. Devendra Chaudhary,
Aged 32 years,
S/o Sh. Gajraj Singh,
R/o C-1036, LIG DDA Flats,
East of Loni Road,
Shahdara, Delhi-110093.
5. Sh. Sushant P. Singh,
Aged 32 years,
S/o Sh. Amar Singh,
R/o 11-ARD Complex, Sector-13,
R.K.Puram, New Delhi-110066.
6. Sh. Hari Mohan Meena,
Aged 33 years,
S/o Sh. Ramesh Chand Meena,
R/o Flat No.149, Pocket-7,
Sector-12, Dawarka, Delhi.

7. Sh. Praveen Kumar Dhankhar,
Aged about 47 years,
S/o Sh. Khazan Singh,
R/o H.No.453, Sector-21, Gurgaon.
8. Sh. Lalit Kumar,
Aged about 32 years,
S/o Sh. Tilak Ram,
R/o D-811, Ashok Kumar, Delhi-93.
9. Ms. Geetanjali
Aged about 30 years,
S/o Sh. Ashok Kumar,
R/o A-1075,
Jahangirpuri,
Delhi-110033.

...Respondents

(By Advocate: Shri Amit Anand for respondents 1 to 3
 Shri Arun Kumar Panwar with Shri Rajeev
 Khurana for applicants in MA No.4591/2017.
 Shri Ramesh Rawat with Shri Sudarshan Rajan for
 Applicants in MA No.4591/2017)

OA No. 2128/2017

Pooja Yadav
 D/o Shri Satpal Yadav
 R/o H.No.213, Ahir Mohalla, Nangloi
 (Near VPO), New Delhi-110041
 (Aged about 27 years)
 (Group 'B')

(Candidate towards the post of
 Grade-II (DASS), Post
 Code 40/13).Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. Govt. of NCT of Delhi,
Through its Chief Secretary,
A-Wing, 5th Floor,
Delhi Secretariat, I.P. Estate,

New Delhi.

2. Delhi Subordinate Services Selection Board (DSSSB)
Through its Chairman,
FC-18, Institutional Area Karkardooma,
Delhi-92.
3. The Secretary (Services),
GNCT of Delhi,
B-Wing, 7th Level, Delhi Secretariat, IP Estate,
New Delhi. ..Respondents

(By Advocate: Shri Amit Anand)

ORDER

By Ms. Nita Chowdhury, Member (A)

As identical questions of law and facts are involved in both the above Original Applications (OAs), they are being disposed by this common order. However, the facts have been extracted from OA 2274/2017 for convenience and ready reference.

2. In OA No.2274/2017, the applicants have prayed for the following reliefs:-

“(i) To quash and set aside the impugned order dated 02.06.2017, 29.06.2017 and 06.07.2017 annexed as Annexure A-1, A-2 and A-3 and direct the respondents to finalise the selection of DASS Grade-II as per the Examination Scheme made basis to issue advertisement No.3/13 as well as the criteria as provided in the said advertisement itself.

(ii) To declare the action in holding TIER-I Examination on the basis of the impugned Examination Scheme dated 02.06.2017 as illegal and direct the respondents to conduct the selection process/examinations for the post of Grade-II (DASS) Post Code 40/13 including TIER-I afresh in accordance with the original examination scheme and advertisement/vacancy notice issued in September, 2013.

(iii) Further consider and appoint the applicant to the post in question, in accordance with their merit position.

(iv) Accord all consequential benefits.

- (v) Award costs of the proceedings.
- (vi) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests".

Similarly, in OA No. 2128/2017, the applicant has claimed the following reliefs:-

- "(i) Quash and set aside the impugned order dated 02.06.2017 placed at Annexure A-1.
- (ii) Direct the respondents to conduct the selection process/examinations for the post of Grade-II (DASS) Post Code 40/13 in accordance with the examination scheme notified in the advertisement/vacancy notice issued in September, 2013.
- (iii) Further consider and appoint the applicant to the post in question, in accordance with their merit position.
- (iv) Accord all consequential benefits.
- (v) Award costs of the proceedings.
- (vi) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests".

3. The facts, in brief, are that the respondents-Delhi Subordinate Services Selection Board (DSSSB) notified various posts for the purposes of selection and appointment in various departments of GNCT of Delhi including the posts of Grade-II (DASS) Post Code 40/13. Thereafter, applicants applied and were issued admit cards by the respondents after being fully satisfied with their eligibility. In February, 2013, i.e., prior to the advertisement, respondents had notified its new examination scheme. The process of selection was initiated by the respondents (DSSSB) in September, 2013 did not make any headway for over more than 3 years until 12.05.2017 when they notified the date of examination for the instant post as

25.06.2017. The said notice dated 12.05.2017 was further followed by addendum issued on 13.05.20157 i.e., on the very next date clarifying that the admit cards could be generated with effect from 12.06.2017. However, vide notice dated 02.06.2017 (impugned Annexure A-2), DSSSB changed the examination scheme, only for the instant post code whereby the descriptive examination which was a mandatory examination earlier has been changed to option examination by the DSSSB. Earlier the marks in the descriptive examination had to be computed for determination of merit position, however, according to the new stipulations, it has been made a qualifying examination, if held at all. They have thus submitted that the same is arbitrary, illegal and smacks mala fide intention of the respondents, i.e. DSSSB.

4. They have further submitted that changing the scheme of examination just few days before the holding of examination is not permissible and such a change is unfair and highly prejudicial to the interest of the candidates including the applicants. It is relevant to mention here that the post in question is a ministerial post at the level of UDC/Head Clerk and in view of the job profile, Essay (in English) 50 marks and letter writing/expansion of ideas (in English) 25 marks where drafting of briefs and letters are of paramount importance.

5. The applicants have further submitted that DSSSB has no competence of its own to introduce, alter, amend or modify an examination scheme since DSSSB is merely an attached office of the Services Department where the said department is headed by a Principal Secretary. In this context, applicants are relying on the notification of the years 1996 and 2008 in respect of DSSSB's powers and norms (Annexure A-9). Hence, DSSSB has no power to alter the scheme in any manner as the same does not lie within the domain, competence and jurisdiction of DSSSB. However, the applicants challenged the said action of the respondents before the Tribunal in OA No.2128/2017 and the Tribunal on 23.06.2017 passed the following order:-

“ Heard the parties on interim relief.

2. Learned counsel for the applicant, Sh. Ajesh Luthra submitted that the applicant was seeking cancellation of the selection process as the respondents have committed a grave error by changing the scheme of examination after commencement of the selection process.

3. Learned counsel Sh. Amit Anand has appeared for the respondents. He submitted that the grievance of the applicant relates only to TIER 2 Examination. He further submitted that only TIER 1 Examination is scheduled for 25.06.2017 and since the applicant has no grievance with regard to TIER 1 Examination, that can be allowed to proceed as scheduled. The respondents undertake not to conduct the TIER 2 Examination without taking leave of the Court. Sh. Ajesh Luthra submitted that he was challenging the entire scheme of examination which has been changed by order dated 02.06.2017. In the aforesaid order, the respondents have themselves mentioned both the TIERs of the examination. Consequently severing of TIER 1 from TIER 2 Examination is not possible.

4. I have heard both the sides. I find that the applicant has made out a *prima facie* case for interference by this Tribunal. However, there is merit in the contention of the respondents that the grievance of the applicant does not relate to

TIER 1 Examination. Consequently, no purpose would be served by cancelling or postponing the TIER 1 Examination. Thereafter, if the applicant succeeds in the OA, direction can always be given to the respondents to hold TIER 2 Examination as per the earlier notified scheme.

5. Accordingly, I deny the interim relief prayed for by the applicant. TIER 1 Examination may be held as scheduled. However, the respondents shall not hold TIER 2 Examination without taking leave of this Tribunal or till the disposal of this OA.

6. The respondents may file their reply within four weeks. Rejoinder may be filed within two weeks thereafter. List the OA for consideration on 11.08.2017.

6. Dissatisfied by the above order, some of the similarly placed persons filed Writ Petition before the Hon'ble High Court of Delhi for modification of the said interim order passed by the Tribunal holding that TIER-I was independent as such the same was not affected by the impugned action of the respondents in changing the examination scheme. The Hon'ble High Court was pleased to hold that the validity of TIER-I Examination shall also be examined by the Hon'ble Tribunal while deciding the said OA. In view of the order passed by the High Court on 05.07.2017, the respondents proceeded further and declared the result of TIER-I Examination and that too on the basis of defective answer key which was finalised by violating the terms & conditions prescribed in Notice dated 18.5.2017.

7. The applicants have thus prayed that the illegality committed by the respondents in changing the entire Scheme has not only affected the TIER-1, but TIER-II as well as proposed TIER-III and

they be estopped from doing so and the OAs be allowed and the revised examination scheme be quashed.

8. The respondents No.1 to 3 have filed their counter and pleaded that applicants No.1 to 9 have qualified the TIER-I examination of Post Code 40/13. They have also submitted that there is a misjoinder of parties, i.e., successful and unsuccessful candidates cannot come together in the same OA as they have no locus standi.

9. They have further submitted that respondents cannot cancel the whole examination of TIER-1 in which 3000 candidates have been declared successful as that would ruin of career of many persons who are waiting to appear in TIER-II. Non-impleadment of successful candidates cannot be permitted at this stage.

10. The respondents have also submitted that there is no change in TIER-I examination as per newly issued 2017 examination scheme, then also the question paper of TIER-I would have been the same which is evident from the fact that the Scheme and syllabus of TIER-I in the amended 2017 scheme is a copy paste of earlier 2013 examination scheme. The mere purpose of mentioning the same Scheme and syllabus for TIER-I examination in 2017 examination scheme is to give the candidates the examination scheme of Grade-II (DASS) in a consolidated manner rather than referring to two different schemes to make a meaning out of it.

11. Further, they have submitted that the question papers which come in TIER-I of the examination for the Post Code 40/13 would have been same even if TIER-II examination was proposed to be held as per the old Scheme of 2013. Hence, DSSSB has indicated the number of question to be prepared on each subject/discipline to the examiner who then sets up the paper keeping their guidelines.

12. As regards changes made in TIER-II examination part of the amended examination scheme of 2017, the comparison between the 2013 and 2017 examination scheme is as under:-

TIER-II of 2013 Scheme

TIER	Indicative Posts	Exam. Code	Time	Total Ques . (MC)	Total Marks (MCQ)	Total Marks (Descri pt)	Grand Total	Syllabus
Two TIER (General Posts)	Grade-II (DASS)/ Head Clerk, Assistants and equivalent posts	IIT-G	TIER -I 2Hrs	200	200	N.A.	200	1 General Awareness 2 General Intelligence & Reasoning ability. 3. Arithmetical & Numerical Ability. 4. Test of Hindi Language & Comprehension 5. Test of English Language & Comprehension. (40 Marks each).
			TIER -II 3Hrs	200	200	75	275	Part-I: 1. General Intelligence & Reasoning 2. Quantitative Abilities, 3. General awareness with special emphasis on the History, Culture, Demography, Geography & Economy of Delhi, Administrative set up and Governance in

								NCT of Delhi 4. English Language and comprehension. (50 Marks each) Part-II: (Descriptive) (75 Marks) Essay (In English) : 50 Marks Letter writing/Expansion of ideas (In English): 25 Marks
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TIER-II of 2017 Scheme

TIER	Indicative Posts	Exam. Code	Time	Total Ques . (MC)	Total Marks (MCQ)	Total Marks (Descri pt)	Grand Total	Syllabus
Two TIER (General Posts)	Grade-II (DASS)	IIT-G	TIER -I 2Hrs	200	200	N.A.	200	1 General Awareness 2 General Intelligence & Reasoning ability. 3. Arithmetical & Numerical Ability. 4. Test of Hindi Language & Comprehension 5. Test of English Language & Comprehension. (40 Marks each).
			TIER -II 3Hrs	300	300	NA	300	(i) English Language and comprehension – 75 marks (ii) Mental Ability – 75 marks (iii) General Awareness – 75 marks (iv) Numerical Aptitude & Data Interpretation – 50 marks (v) General Computer Knowledge – 25 marks

EXIT EXAM An optional Exit Examination of qualifying nature, if Board so decides, may be conducted for shortlisted candidates

{ of TIER-II exam for resting minimum standards in writing skills by means of an essay or expansion of ideas.

13. The respondents have further submitted that the reason for change of TIER-II is that descriptive test has been removed from the TIER-II examination to avoid any human intervention (which may affect the merit of a candidate) in the evaluation. Further, Exit Exam has been made qualifying to ensure that human interference/intervention may not affect the merit of the candidate. Therefore, this amendment in the examination scheme will ensure fair selection and will avoid any change in the merit of a candidate so it will be beneficial to the meritorious candidates. Keeping the TIER-II MCQ based will speed up the evaluation process and descriptive Exit Exam, if required would be done only in respect of limited number of meritorious students. Further, the change in the said examination scheme has been done after the resolution of the Board was passed on 25.05.2017, that too, strictly in terms of domain and competence of DSSSB to meet the changes in the functional/job requirement of the post. The Chairman of the Board has been empowered to exercise Administrative and Financial powers of the Principal Secretary/Secretaries to the Government vide Resolution No.F.3(24)/DSSSSB/2008-S-III/2338-40 dated 13.10.2015 and the same reads as under:-

“Will exercise administrative and financial powers of Principal Secretaries/Secretaries to the Government on behalf of the Board to take into account the recommendations of the Controller of Examinations and the Secretary of the Board”.

Moreover, it is not only the DSSSB to carry out such changes but well reputed and organised central recruitment agencies like the UPSC and SSC had also carried out such changes in their examinations. Hence, the DSSSB reserves the right to cancel or modify the advertisement or part of it at any stage. Thus, they have prayed that the OAs be dismissed.

14. Applicant in MA No.4591/2017 have filed their separate reply and submitted that they want the TIER-II examination to be conducted in a fair and legal manner and in accordance with law so that further litigation does not ensue and the result of TIER-I be not cancelled at any cost. They have also submitted that once a candidate had taken part in the selection process knowing full well of the procedure, he cannot be permitted to challenge the same. In this regard they have relied upon the judgment of the Hon'ble Supreme Court in the case of **Union of India Vs. S. Vinodh Kumar 2007 (5) 8 SCC 100**. They have thus prayed that the TIER-II examination be held as per 2013 examination.

15. The respondents have filed separate counter in OA No.2128/2017 – Pooja Yadav and submitted that she had scored only 28.75 marks out of 195 whereas the cut-off marks for OBC category has been 71.25 and, therefore, as per the examination scheme, she is not eligible for taking TIER-II examination. Thus there is no change in the scheme of examination with respect to

TIER-I and she would have failed to qualify for TIER-II even if the same is held as per old scheme. Moreover, the amendment in the examination process has been done after the approval of the Board in its meeting held on 25.10.2017. Hence, it is totally wrong to say that the alteration in the scheme in any manner does not lie within the domain and competence of the board. They have thus prayed that the applicant is not entitled for any relief.

16. We have heard the learned counsel for the parties and perused the pleadings and judgments.

17. During arguments learned counsel for all the applicants and learned counsel for the respondents admitted that the TIER-I exam which was held by DSSSB has been done according to the original scheme of examination. Counsel for all the parties agreed that as the result of TIER-I had already been declared they are now confining their arguments to the proposed changes in the TIER-II examination. The respondents have clearly brought out that the result of TIER-I examination had been declared and about 3000 persons have already been declared qualified including applicant no.1 to 9. They have shown the result of the applicants no.1 to 9 from the Result Notice dated 06.07.2017 (Annexure A-2). Now the only remaining question with regard to the result of the TIER-I examination is as to whether the remaining four applicants who have not cleared TIER-I examination can be allowed to challenge the

results of the examination after they have participated in it. Clearly, the contention of the respondents is that once applicants have appeared in TIER-1 examination on their own, they cannot raise any objection to the same. It is pertinent to mention here that applicants No.1 to 9, who had qualified the TIER-I examination are seeking cancellation of the same which is not permissible as after qualifying TIER-I they can appear in TIER-II. This only reflects the mala fide intention of the applicants to somehow scuttle the whole examination process of Post Code-40/13 which is against the judgment of the Apex Court in the case of **Prashant Ramesh Chakkarwar Vs. UPSC & Others (2013) 12 SCC 489.**

18. Hence, this argument of the respondents on this point is upheld.

19. Both the parties after arguments have accepted that the addendum dated 13.05.2017, which gave the new scheme of the examination did not have any change/difference with regard to the TIER-I examination with respect to syllabus or the disciplines or the number of questions in the disciplines and, therefore, the paper of TIER-I would have been same irrespective of the 2013 or 2017 examination scheme for Grade-II (DASS) examination. The contention of the respondents in this regard is accepted as it is in the light of the judgment of the Hon'ble Apex Court. Accordingly, the TIER-I exam and its results are not proposed to be disturbed.

20. Now we come to the next contentious issue which is with regard to the proposed change in the TIER-II examination as per the newly issued 2017 examination scheme. In this regard, the applicants have contended that the respondents have committed a grave error by changing the scheme of examination after commencement of the selection process.

21. We proceed now to examine the issue whether the respondents are required to hold the TIER-II examination as per the earlier notified scheme or as contended by them they can change the scheme of examination for TIER-II. The TIER-II examination of 2013 scheme and the changes therein have been given in detail on pages 11 & 12 of this order. The respondents were called upon to address the issue as to whether they can make changes in the scheme of the TIER-II examination as they have proposed and in view of the changes which are listed on pages 11 & 12 of this order. We find that in the facts of this case it can be said that DSSSB notified various posts for selection and appointment in various departments of Govt. of NCT of Delhi (GNCTD). Later, after about three years, they notified the date of the examination as 25.06.2017. The said notice dated 12.05.2017 was further followed by an addendum dated 13.05.2017 i.e., on the very next day clarifying that the admit cards could be generated with effect from 12.06.2017. However, vide notice dated 02.06.2017 (impugned

Annexure-A/2), DSSSB changed the examination scheme, only for the instant post code whereby the descriptive examination which was a mandatory examination earlier has been changed to option examination by the DSSSB. Earlier the marks in the descriptive examination had to be computed for determination of merit position, however, according to the new stipulations, it has been made a qualifying examination, if held at all. The DSSSB, to justify the amendments made in TIER-II examination, have pointed out that a Resolution No.F.3(24)/DSSSSB/2008-S-III/2338-40 dated 13.10.2015 passed by them has empowered the Chairman of the Board of DSSSB to exercise Administrative and Financial powers of the Principal Secretary/Secretaries to the Government and the same reads as under:-

“Will exercise administrative and financial powers of Principal Secretaries/Secretaries to the Government on behalf of the Board to take into account the recommendations of the Controller of Examinations and the Secretary of the Board”.

22. This Resolution passed by the Board of DSSSB itself in no way can be read as authority of the GNCTD to delegate/authorize its powers of recruitment to the Principal Secretary giving him the authority to make any changes without the revised indents and changes in the examination being proposed by the Departments/Indenting Agencies for this examination. The respondents have not been able to clearly show on what authority given by the GNCTD, the DSSSB changed the scheme of the TIER-II

examination. They have produced some internal notings of GNCTD (Department of Services) but no Notification authorising the DSSSB to make any changes in the selection process/examinations for the post of Grade-II (DASS) Post code 40/13 other than as sought by the original Indenting Agencies. Hence, in the circumstances, any change made *suo moto* by the DSSSB to the original examination scheme and advertisement/vacancy notice issued in September, 2013 cannot be held to be as per rules and is without authority and hence the proposed changes to the Tier-II are struck down and set aside.

23. In this regard we may mention that the Hon'ble Apex Court in **Bishnu Biswas and Others Vs. Union of India and Other in Civil Appeal No.4255-58 of 2014** decided on 02.04.2014 has held that rules cannot be changed after conducting the written test. The operative para of the said order reads as under:-

“20. In the instant case, the rules of the game had been changed after conducting the written test and admittedly not at the stage of initiation of the selection process. The marks allocated for the oral interview had been the same as for written test i.e. 50% for each. The manner in which marks have been awarded in the interview to the candidates indicated lack of transparency. The candidate who secured 47 marks out of 50 in the written test had been given only 20 marks in the interview while large number of candidates got equal marks in the interview as in the written examination. Candidate who secured 34 marks in the written examination was given 45 marks in the interview. Similarly, another candidate who secured 36 marks in the written examination was awarded 45 marks in the interview. The fact that today the so called selected candidates are not in employment, is also a relevant factor to decide the case finally. If the whole selection is scrapped most of the candidates would be ineligible at least in respect of age as the advertisement was issued more than six years ago”.

Similarly, in case of K. Manjusree -vs- State of Andhra Pradesh & Another reported in (2008) 3 SCC 512, the Apex Court applied the ratio laid down in case of **Maharashtra State Road Transport Corporation and Others Vs. Rajendra Bhimrao Mandve, 2001 (10) SCC 51** (supra) and held that any change and/or alteration in the recruitment process is unacceptable and impermissible in these words:

"32. In Maharashtra SRTC v. Rajendra Bhimrao Mandve this Court observed that "the rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced". In this case the position is much more serious. Here, not only the rules of the game were changed, but they were changed after the game had been played and the results of the game were being awaited. That is unacceptable and impermissible."

24. In conclusion, we find that as TIER-I examination even in the revised advertisement of 2017 dated 13.05.2017 is the same as accepted by both parties in this OA, hence, it is directed that the TIER-I examination already conducted and the results already declared is found to be in order and will form the basis for the conduct of the TIER-II examination as originally proposed in the advertisement of 2013. It is found that DSSSB is only the exam conducting agency on behalf of the Indenting Departments and could not have any authority to make changes in the advertisements for the exams to be held as TIER-II.

25. Thus seen from any angle, we find merit in the OA No.2274/2017 and the same has to be partially allowed. Accordingly, the OA No.2274/2017 is allowed and the impugned orders are quashed. The applicants be allowed to take TIER-II examination in accordance with the old rules and respondents are directed to conduct the same for all those who have passed the TIER-I examination. However, we do not find any merit in the contention of the applicant in OA No.2128/2017, the same is dismissed. No costs.

26. In the circumstances, as both the OAs are heard and decided, all pending MAs also stands disposed of.

27. Let a copy of this order be placed in both the files.

(NITA CHOWDHURY)
MEMBER (A)

(RAJ VIR SHARMA)
MEMBER (J)

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