IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1575 OF 2026

1. Sumit Lahu Borkar
2. Apurva Girish Bhale
3. Vishal Madhukar Ghawale
4. Nagesh Kisan Bhise
5. Swapnil Ashok Khedekar
6. Pune Mahanagarpalika Kamgar Union … Petitioners

Vs

1. The State of Maharashtra, through the Secretary, Urban Development Department
2. Municipal Corporation of the City of Pune
3. Municipal Commissioner, Pune Municipal Corporation … Respondents

WITH
WRIT PETITION NO. 2164 OF 2024

1. Vikas Mohan Salunke
2. Kamlakar Yuvraj Mane
3. Vinod Hanumant Biramane
4. Sangram Deshmukh
5. Wasim Mujawar
6. Swapnil Pandharinath Nimbalkar
7. Chhaya Vinaykumar Suryawanshi
8. Karan M. Konde
9. Viswajeet Sanjay Tagunde
10. Nilesh Kashinath Sable
11. Ankush Vilas Gaikwad
12. Rupesh Pandurang Alhat
13. Vijay Rajendra Guthal
14. Aditya Maruti Zarande … Petitioners

Vs

1. The Commissioner, Pune Municipal Corporation
2. The State of Maharashtra … Respondents

WITH
WRIT PETITION NO. 2217 OF 2024

Kunal Uttamrao Mate … Petitioner

Vs

1. The Pune Municipal Corporation
2. The Municipal Commissioner, Pune Municipal Corportion

3. The State of Maharashtra
4. The Principal Secretary, Urban Development Dept. … Respondents

WITH
WRIT PETITION NO. 16449 OF 2024

1. Tushar Tukaram Raut
2. Somnath Prakash Kasbe
3. Kamesh Rohidas Kshirsagar
4. Akash Tukaram Dhankavade
5. Devidas Tukaram Kamble
6. Mandar Nitin Choudhary … Petitioners

Vs

1. The Municipal Commissioner, Pune Municipal Corporation
2. The State of Maharashtra … Respondents

WITH
WRIT PETITION NO. 8496 OF 2025

1. Kunal Uttamrao Mate
2. Mayur Arun Mandhare
3. Rupesh Arjun Mate
4. Nitin Sandipan Lokhande
5. Amol Dilip Pawar
6. Dinesh Yashwant Tanksale
7. Anil Sandipan Lokhande
8. Shahu Sambhaji Pokale
9. Rajesh Prabhakar Raskar
10. Umesh Prakash Deokar
11. Bhushan Dhanaji Mahamuni
12. Chhaya Vijkumar Suryawanshi … Petitioners

Vs

1. The Pune Municipal Corporation
2. The Municipal Commissioner, Pune Municipal Corporation
3. The State of Maharashtra
4. The Principal Secretary, Urban Development Dept. … Respondents

WITH
WRIT PETITION NO. 846 OF 2024

1. Mayur Arun Mandhare
2. Rupesh Arjun Mate
3. Sharad Balasaheb Kanaskar
4. Nitin Sandipan Lokhande
5. Amol Dilip Pawar
6. Dinesh Yashwant Tanksale
7. Anil Sandipan Lokhande
8. Shahu Sambhaji Pokale

9. Rajesh Prabhakar Raskar
10. Umesh Prakash Deokar … Petitioners

Vs

1. The Pune Municipal Corporation
2. The Municipal Commissioner, Pune Municipal Corporation
3. The State of Maharashtra
4. The Principal Secretary, Urban Development Dept. … Respondents

WITH

WRIT PETITION NO. 1096 OF 2024

Sanjay Shendge & Ors. … Petitioners

Vs

The Commissioner, Pune Municipal Corporation & Anr. … Respondents

Mr. A.V. Anturkar, Senior Advocate a/w. Mr. Atharva Date, Ms. Poonam Pal for the petitioners in WP/846/2024, WP/2217/2024 and WP/8496/2025.
Mr. Abhijit P. Kulkarni a/w. Mr. Abhishek Roy and Ms. Sweta Shah for respondent-PMC in WP/2217/2024, WP/1575/2026 and WP/8496/2025.
Mr. Susheel Mahadeshwar i/b. Ranjana Todankar for the petitioners in WP/1575/2026 and WP/1096/2024.
Ms. Manisha S. Jagtap for the respondent in WP/1096/2024.
Mr. P.P. Kakade, Addl. G.P. a/w. Smt. P.N. Diwan, AGP and Mr. A.R. Deolekar, AGP for the State.

CORAM : G. S. KULKARNI &
AARTI SATHE, JJ.
RESERVED ON : 30 JUNE, 2026.
PRONOUNCED ON : 2 JULY, 2026.

Judgment (Per G.S. Kulkarni, J.)

1. This is a batch of petitions which involves common issue of law and fact and hence they are being disposed of by this common judgment.

2. We refer to the relevant facts from Writ Petition No. 1575 of 2026 – Sumit Lahu Borkar & Ors. vs. State of Maharashtra & Ors.

3. The petitioners are employees of the respondent-Pune Municipal Corporation. They are holding Class IV posts. The primary grievance of the petitioners as raised in these petitions is to the decision of the Pune Municipal Corporation (PMC) to cancel the Select list for promotion to the posts of Junior

Engineer (Civil), after the recruitment process had substantially progressed and prior to the issuance of appointment orders.

4. It is the petitioners case that the PMC Service Rules, 2014 provided 75% quota for direct recruitment and 25% quota for promotion to the post of Junior Engineer (Civil). The educational qualifications for direct recruitment and promotion were similar, namely, Degree or Diploma in Civil Engineering. For direct recruitment, three years experience of engineering work was required, while for promotion the experience required was of 5 years service in the PMC. These rules provided that promotion to the post of Junior Engineer (Civil) shall also be on the basis of seniority-cum-merit. A copy of the PMC Service Rules dated 26 August, 2014 are part of the record.

5. In regard to the selection process in question, the petitioners have contended that by Circular dated 29 January, 2021, the PMC invited applications from Class-III and Class-IV employees for promotion to the post of Junior Engineer (Civil). The said circular stated that Class-III and Class-IV employees who are appointed in the Corporation prior to 31 December, 2015 and who possessed the prescribed qualification and who had five years uninterrupted service with the PMC shall be eligible to apply for promotion to the post of Junior Engineer (Civil). It is contended that consequent to the said procedure being set into motion, by a further Circular dated 3 December, 2021, PMC published the draft Seniority List of eligible employees who had applied for promotion to the post of Junior Engineer (Civil). Despite such publication, it is the petitioners' case that PMC was not taking any steps to complete the recruitment process for promotion to the post of Junior

Engineer(Civil). Being so aggrieved, on 17 November, 2022, Pune Mahanagarpalika Kamgar Union, a Trade Union of the employees of PMC, approached this Court by filing Writ Petition No. 15966 of 2022 praying for a relief that the PMC may be directed to make promotion to the post of Junior Engineer (Civil) as per the Circular dated 29 January, 2021.

6. Thereafter, the PMC issued a notice dated 31 May, 2023 publishing a further Draft Seniority List of 20 eligible candidates for being considered for promotion to the post of Junior Engineer (Civil). On 17 June, 2023, PMC filed its reply affidavit in Writ Petition No. 15966 of 2022. In the said reply affidavit, in paragraph 13, a categorical statement was made on behalf of the PMC that the PMC is in the process of making promotion to the post of Junior Engineer (Civil) (Class-III) by following the due process of law.

7. It so happened that before the process could attain finality, the State Government by Government Resolution dated 14 December, 2023 amended the PMC Service Rules, 2014. By the said amendment dated 14 December, 2023, the Government changed the quota, the eligibility criteria and also the procedure, i.e., the method and manner of selection for promotion to the post of Junior Engineer (Civil). By such Government Resolution, the quota for promotion to the post of Junior Engineer (Civil) was reduced from 25% to 15%. Further, the educational qualifications were also amended from "Degree/Diploma in Civil Engineering" to "Full-Time Degree/Diploma in Civil Engineering". Also the amended rules as notified in the Government Resolution changed the method and manner of

selection from "seniority cum merit" to "determination of merit through an examination".

8. On the aforesaid backdrop, it is the petitioners' case that they were fully qualified for the appointment to the post of (Junior Engineer Class III) under the selection process as the petitioners have passed the diploma in Civil Engineering (Part-time) from the Government Polytechnic, Pune, which is recognized by the All India Council for Technical Education (AICTE), to which the Maharashtra State Board of Technical Education (MSBTE) has granted equivalence to part-time diploma in Civil Engineering run by the Government Polytechnic, Pune with the diploma in Civil Engineering Course offered by MSBTE and hence under the 2014 Rules being applicable to the petitioners selection, the petitioners ought to have been granted an appointment order.

9. However, in pursuance of the Government Resolution dated 14 December, 2023 amending the Pune Municipal Corporation Service Rules, 2014, the PMC issued a Circular dated 20 December, 2023 thereby announced a written examination for selection to the post of Junior Engineer (Civil) by promotion to be held on 28 January, 2024.

10. The petitioners have contended that in view of the change in the Rules for promotion to the post of Junior Engineer (Civil), this Court disposed of Writ Petition No. 15966 of 2022 by an order dated 11 January, 2024 keeping open all contentions. Also the employees who were adversely affected by the Government Resolution dated 14 December, 2023, approached this Court by filing Writ Petition

No. 1096 of 2024 assailing the said Government Resolution and seeking the reliefs that the promotion process which was initiated by PMC by Circular dated 29 January, 2021 be completed by applying the unamended PMC Service Rules, 2014.

11. In the aforesaid factual backdrop, the petitioners contend that it is a settled principle of law that the eligibility criteria and the method and manner of selection cannot be changed after the recruitment process has commenced. This more particularly relying on the recent decision of the Constitution Bench of the Supreme Court in the case of **Tej Prakash Pathak & Ors. vs. Rajasthan High Court & Ors.**[1]. It is contended by the petitioner that after the promotion process in question had commenced, the PMC could not have reduced the quota of promotion and thereby reduce the number of posts available for promotion. Also after the promotion process had commenced and was on the verge of completion, the PMC could not have changed the eligibility criteria from "Degree/Diploma in Civil Engineering" to "Full-Time Degree/Diploma in Civil Engineering", as also the PMC could not have changed the method and manner of selection from "seniority cum merit" to "merit determined through an examination", for the reason that the selection on the basis of seniority cum merit does not require comparative assessment of merit.

12. The PMC , however, by the impugned order dated 11 June, 2025 cancelled the promotion process for the post of Junior Engineer (Civil) as initiated by Circular dated 29 January, 2021, in respect of which even the draft Select list was published on 3 December, 2021 and thereafter on 31 May, 2023. The only reason as set out in the impugned order to cancel the promotional / selection process was to enable the

1 (2025) 2 SCC 1

PMC to carry out recruitment in accordance with the amended rules as notified in Government Resolution dated 14 December, 2023 (supra), i.e., to change the quota , the eligibility criteria and the method and manner of promotion to the post of Junior Engineer (Civil). It is the petitioners' case that the impugned cancellation of the promotion exercised vide order dated 11 June, 2025 is patently illegal and violative of the petitioners right under Articles 14 and 16 of the Constitution of India.

13. The petitioners have also contended that the PMC, prior to the amendment to the Pune Municipal Corporation Service Rules, 2014, has issued an advertisement dated 20 July, 2022 *inter alia* to carry out direct recruitment in 75% quota to the post of Junior Engineer (Civil), so as to have appointments to 135 posts of Junior Engineer (Civil). In pursuance of the said advertisement, the selection process was undertaken and by an order dated 30 December, 2022, the Corporation made appointments and filled up 135 posts of Junior Engineer (Civil). Insofar as the promotional exercise in regard to 25% of posts of Junior Engineer (Civil) was kept in a limbo although the process had commenced on 29 January, 2021 and finally aborted by the impugned order dated 11 June, 2025.

14. It is the petitioners' case, that in fact, again an advertisement dated 9 January, 2024 was issued for filling up another 113 posts of Junior Engineer (Civil) by direct recruitment. A corrigendum dated 12 August, 2025 was issued to the advertisement dated 9 January, 2024 whereby the said posts to be filled up were increased from 113 to 169 and accordingly a revised advertisement dated 1 October, 2025 was issued for enhancing the time period for making applications for the post of Junior Engineer

(Civil). Also a public notice dated 17 January, 2026 was issued announcing that the written examination for direct recruitment to the post of Junior Engineer (Civil) would be held on 25 January, 2026.

15. The petitioners have accordingly contended that on one hand the PMC did not carry out the promotion process for the post of Junior Engineer (Civil) pursuant to the Circular dated 29 January, 2021to fill up 25% of the posts, however, on the other hand, with substantial haste the PMC filled up 135 posts of Junior Engineer (Civil) by direct recruitment and again issued advertisement dated 1 October, 2025 for filling up additional 169 posts of Junior Engineer (Civil) by direct recruitment thereby bringing about a consequence that such posts may not at all be available for filling up by promotion.

16. It is also the petitioners contention that there is a common seniority list for direct recruits to the post of Junior Engineer (Civil), hence if the PMC carries out only direct recruitment to the post of Junior Engineer (civil) and does not fill up the promotional quota, the promotees would be rendered junior to the direct recruits and hence the action on the part of PMC in not filling up 25% posts by undertaking the promotional exercise which was initiated vide Circular dated 29 January, 2021, is highly arbitrary and illegal apart from the fact that it is opposed to the settled principles of law as laid down by the Constitution Bench in **Tej Prakash Pathak & Ors.** (supra) that once the selection process has commenced, the rules cannot be changed to the prejudice of the selected candidates.

17. Mr. Anturkar, learned senior counsel has also placed on record information

obtained by the petitioner under the Right to Information Act, 2005 wherein the department had taken a legal opinion from the Law Officers of the Pune Municipal Corporation as to whether a decision can be taken to cancel the selection process which was on the verge of completion, in which the legal opinion as placed on record of the Municipal Corporation was to the effect that such decision ought not be taken considering the principles of service jurisprudence for the reason that once the selection process had commenced, it was not acceptable that the terms and conditions of eligibility for appointment be changed. Thus, Mr. Anturkar's submission is that it is not the case that PMC was not guided properly on the position in law when such information was placed on record before the Municipal Commissioner on 11 June, 2025. He, however, submits that there is no reason, whatsoever much less acceptable, placed on record by the PMC, as to why the impugned decision is taken. This apart from the fact, according to Mr. Anturkar, looked from any angle, the impugned decision dated 11 June, 2025 cannot stand the test of law.

18. It is in these circumstances, the petitioners have filed the present petitions praying for the following substantive reliefs:

> "(a) This Hon'ble Court may be pleased to issue an appropriate writ, order or direction for quashing and setting aside the order dated 11.06.2025, (Exhibit-M issued by the Corporation whereby the Corporation has cancelled the promotion process for the post of Junior Engineer (Civil) initiated by Circular dated 29.01.2021;
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> (b) That this Hon'ble Court may be pleased to declare that the Government Resolution dated 14.12.2023, is not applicable to the promotion to the post of Junior Engineer (Civil) initiated by Circular dated 29.01.2021;
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> (c) That this Hon'ble Court may be pleased to issue a writ of mandamus, or a writ in the nature of mandamus or any other appropriate writ, order or direction for the from restraining Corporation making appointments

to the posts of Junior Engineer (Civil) by direct recruitment pursuant to the Advertisement dated 09.01.2024 read with revised Advertisement dated 01.10.2025, till promotion process pursuant to Circular dated 29.01.2021 is completed;

(d) That this Hon'ble Court may be pleased to issue a writ of mandamus, or a writ in the nature of mandamus or any other appropriate writ, order or direction directing the Corporation to complete the process of promotion to the post of Junior Engineer (Civil) initiated by Circular dated 29.01.2021 by applying the quota, eligibility and method and manner of promotion prescribed under the un-amended Pune Municipal Corporation Service Rules, 2014."

19. On behalf of the Municipal Corporation, reply affidavit has been filed by Mr. Vijaykumar Thorat, Deputy Municipal Commissioner opposing the reliefs as prayed for in these petitions. The reply affidavit is a common affidavit in all these petitions. In the reply affidavit, it is not disputed that the petitioners are employees of the PMC working on different posts such as Sanitary Inspector/allied cadres and are aspiring for promotion to the post of Junior Engineer (Civil) (Class III). The affidavit sets out the comparative chart showing difference between the 2014 rules and fresh rules as notified under Government Resolution dated 14 December, 2023, which are now sought to be applied. However, what is significant to be noted is that in paragraph 8 of the reply affidavit, the Municipal Corporation has categorically conceded that the process of appointment was almost 99% completed prior to the amendment of the Service Rules. It is stated that however the fact remains that no final promotion orders were issued and the vacancies continued to remain vacant. It is contended that once the vacancies were not filled, the governing rule at the time of consideration applies and hence the applicable rule would be the amended Service Rules brought into force by Government Resolution dated 14 December, 2023. In supporting such contention, reliance is placed on the decision of Supreme Court in

State of Himachal Pradesh & Ors. vs. Raj Kumar & Ors.[2] to contend that the vacancies occurring prior to amendment must be filled under old rules, no longer reflects the correct position in law. It is also contended that thus the PMC had taken a valid decision to apply the Service Rules of 2023 and the said policy decision cannot be challenged by the petitioners considering the settled principles of law.

Analysis

20. We have heard learned counsel for the parties and have perused the record. At the outset, we note some of the admitted facts. The selection process was initiated by the PMC vide Circular dated 29 January, 2021. It is not in dispute that the petitioners, who were employees of PMC, were eligible to participate in the selection procedure. It is also not in dispute that at the relevant time, the Service Rules, which were invoked and applied for the selection in question, were the PMC Service Rules 2014, which categorically provided for 75% quota for direct recruitment and 25% quota for promotion to the post of Junior Engineer(Civil). There is no dispute in regard to the educational qualification for direct recruitment and promotion to be similar, namely, Degree or Diploma in Civil Engineering. Also, there is no dispute in regard to the criteria being followed, namely, that the promotion to the post of Junior Engineer (Civil) shall be on the basis of seniority-cum-merit. Further, it is not in dispute that on 3 December, 2021, PMC published a draft seniority list of eligible employees for promotion to the post of Junior Engineer (Civil) in which the names of the petitioners were included. It is also not in dispute that PMC thereafter proceeded to notify a further list of 20 eligible candidates on 31

2 (2023) 3 SCC 773

May, 2023 for promotion to the post of Junior Engineer (Civil). PMC has also not disputed that insofar as 75% posts are concerned, all steps are taken as noted by us herein to fill up 135 and 113 posts respectively.

21. The aforesaid admitted facts clearly indicate that the PMC had wielded two standards/yardsticks in its approach to fill up 75% posts by direct recruitment to hastily make such appointments, whereas insofar as 25% promotional post of its own employees were concerned, the same was kept in a limbo for a substantial period, i.e., from the commencement of the said process on 29 January, 2021 till the entire process which was 99% complete, was cancelled almost after four years on 11 June, 2025. We find from the reply affidavit that there is not a whisper of justification in regard to such delay and/or PMC not completing the promotional process for the said 25% posts. It is significant to note from the impugned order dated 11 June, 2025, as also supported by reply affidavit in paragraph 13, as noted by us hereinabove, that the only reason to cancel the promotional selection which had almost attained finality, was on the ground that the new rules are brought into force on 14 December, 2023 as notified under the Government Resolution. If in the normal course, once under the promotional process qua the petitioners had commenced on 29 January, 2021, it was certainly a legitimate expectation of the petitioners that same would be taken to its logical conclusion under the extant Rules (i.e. the 2014 Rules) and more particularly when on 3 December, 2021, a draft seniority list of eligible employees for promotion to the post of Junior Engineer (Civil) was notified and a further draft seniority list of 20 eligible candidates was notified on 31 May, 2023. At such point of time, it can never have been a

contemplation that much later to such finality to be achieved to the selection process, sometime in December, 2023, new rules would be notified. Thus, there was no basis whatsoever for the PMC not to complete the promotional exercise within such legitimate period which was commenced as far back in 2021.

22. In our opinion, things do not stop at this, inasmuch as almost for a substantial period of 18 months after the notification of new rules, the PMC instead of completing the selection process on the basis of extant rules, namely, PMC Service Rules, 2014, merely on a purported reason of notification of new rules (2023 Rules), the impugned decision dated 11 June, 2025 was taken to cancel the selection process.

23. In the aforesaid circumstances, in our opinion, there is much substance in the contention of the petitioner that there was a legitimate expectation on the part of the petitioners that the selection process which had commenced on 29 January, 2021 with notification of two seniority lists of employees / petitioners who would be granted promotion, would be taken to its logical conclusion and promotional order would be issued. It was also a legitimate expectation of the petitioners that the PMC Service Rules, 2014 would be applied and that such completion of the selection exercise, would not be governed by any new rules which, in any case, at the relevant time were not in existence.

24. In such context, the petitioners have rightly placed reliance on the decision of the Constitution Bench of the Supreme Court in **Tej Prakash Pathak & Ors.** (supra)

to contend that the issue being canvassed by the petitioner in the present proceedings would stand squarely covered by the said decision of the Supreme Court. In such case, the reference before the Constitution Bench of the Supreme Court was in pursuance of the order passed by the three-Judge Bench while accepting the salutary principle that once the recruitment process commences, the State or its instrumentality cannot tinker with the "rules of the game" insofar as the prescription of eligibility criteria is concerned. The referral Bench wondered whether that should apply to the procedure for selection. While doubting the correctness of the decision of Supreme Court in **K. Manjusree vs. State of Andhra Pradesh**[3] for not having noticed an earlier decision in **State of Harayana vs. Subash Chander Marwaha**[4] the proceedings were placed before the Hon'ble the Chief Justice of India for constituting a larger Bench for an authoritative pronouncement on the issue. The Constitution Bench held that the law is well settled that after commencement of the recruitment process, the eligibility criteria is not to be altered because candidates even if eligible under the altered criteria might not apply by the last date under the belief that they are not eligible as per the advertised criteria. It was held that such alteration/change, therefore, deprives a person of the guarantee of equal opportunity in matters of public employment provided by Article 16 of the Constitution. In considering the question, the Court delved on the issues of -i) when the recruitment process commences and comes to an end, (ii) basis of the doctrine that "rules of the game" must not be changed during the course of the game, or after the game is played; (iii) whether the said doctrine applies with equal strictness

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3 (2008) 3 SCC 512

4 (1974) 3 SCC 220

qua method or procedure for selection as it does qua eligibility criteria and (iv) whether appointment could be denied by change in the eligibility criteria after the game is played. It is in such context, considering the decision in K. Manjusree (supra) and State of Harayana vs. Subash Chander Marwaha (supra) and referring to the observations as made by the Court in the case of **Sivanandan C.T. vs. High Court of Kerala**[5] in which the Constitution Bench held that for a public authority to frustrate a claim of legitimate expectation, it must objectively demonstrate by placing relevant material before the Court that its decision was in the public interest, it was held that this standard is consistent with the principles of good administration which require that State actions must be held to scrupulous standards to prevent misuse of public power and ensure fairness to citizens. The Constitution Bench also held that the doctrine of legitimate expectation lays emphasis on predictability and consistency in decision making which is a facet of non-arbitrariness, when the Court observed that the underlying basis for the application of the doctrine of legitimate expectation has expanded and evolved to include the principles of good administration. It was also held that the principles of good administration require that the decisions of public authorities must withstand the test of consistency, transparency and predictability to avoid being regarded as arbitrary and therefore violative of Article 14. Thus, taking a review of the legal position as reflected in several decisions, the Constitution Bench reached to the following conclusions in **Tej Prakash Pathak & Ors.** (supra), which in our opinion, is squarely applicable in the facts of the present case:

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5 (2024) 3 SCC 799

"65. We, therefore, answer the reference in the following terms:

65.1. Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

65.2. Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

65.3. The decision in K. Manjusree lays down good law and is not in conflict with the decision in Subash Chander Marwaha. Subash Chander Marwaha deals with the right to be appointed from the select list whereas K. Manjusree deals with the right to be placed in the select list. The two cases therefore deal with altogether different issues;

65.4. Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved;

65.5. Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the rules are non- existent, or silent, administrative instructions may fill in the gaps;

65.6. Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list.

(emphasis supplied)

25. It is thus clear from what has been held by the Constitution Bench that the eligibility criteria in the present case which was prevalent at the time of commencement of selection process on 29 January, 2021 could not have been changed midway through the recruitment process unless the said rules so permitted, and merely because new rules which were prospectively issued would not make them applicable to the selection process in question which was almost at the verge of completion. Thus as held in paragraph 65.4 of the decision of the

Constitution Bench in **Tej Prakash Pathak & Ors.** (supra) the extant rules that is PMC 2014 rules as applied in notifying the seniority list for promotion dated 3 December, 2021 and 31 May, 2023 were required to be followed and the appointment / promotion to fill up 25% posts, by the in-service candidates namely of the petitioners ought to have been taken to the logical conclusion. Such process in no manner has been contended to be not transparent and not in accordance with the extant rules, even by the PMC. Thus, the 2014 rules have been observed in breach by the PMC. As held by the Constitution Bench in **Tej Prakash Pathak & Ors.** (supra), the extant statutory rules (2014 Rules) in force were binding on the PMC both in terms of procedure and eligibility. Thus, there was no warrant for the PMC to change the rules midway through the recruitment process on the eligibility criteria being applied under the 2023 Rules, more particularly when admittedly the vacancies existed. It was hence arbitrary for the PMC not to appoint the petitioners when they were placed in the selection list.

26. We may also observe that on behalf of PMC, reliance is placed on the decision of the Supreme Court in **State of Himachal Pradesh vs. Raj Kumar & Ors.** (supra). In this decision, the Supreme Court was considering a case where directions were issued by the High Court to consider the case of the writ petitioners/respondent nos. 1 and 3 to the said proceedings, for promotion under the rules that existed when the vacancies arose and not as per the subsequently amended Rules. Such directions were issued by the High Court on the basis of the decision of Supreme Court in **Y.V. Rangaiah vs. J. Sreenivasa Rao**[6]. The question posed before the Supreme Court was

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6 (1983) 3 SCC 284

whether appointments to the public posts that fell vacant prior to the amendment of the Rules would be governed by the old Rules or the new Rules. It is in such context, the Supreme Court took a review of about 15 decisions that have distinguished **Rangaiah**'s case to hold that the Court had consistently carved out exceptions to the broad proposition formulated in **Rangaiah** (supra). The following observations have been made by the Supreme Court having a direct bearing on the proposition formulated by **Rangaiah,** as set out in paragraphs 82, 83, 84, 85 and 85.1 of the said decision, which read thus:

> "**82.** A review of the fifteen cases that have distinguished *Rangaiah* would demonstrate that this Court has been consistently carving out exceptions to the broad proposition formulated in *Rangaiah*. The findings in these judgments, that have a direct bearing on the proposition formulated by *Rangaiah* are as under:
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> > **82.1.** There is no rule of universal application that vacancies must be necessarily filled on the basis of the law which existed on the date when they arose, *Rangaiah case* must be understood in the context of the rules involved therein.
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> > **82.2.** It is now a settled proposition of law that a candidate has a right to be considered in the light of the existing rules, which implies the "rule in force" as on the date consideration takes place. The right to be considered for promotion occurs on the date of consideration of the eligible candidates.
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> > **82.3.** The Government is entitled to take a conscious policy decision not to fill up the vacancies arising prior to the amendment of the rules. The employee does not acquire *any vested right to being considered for promotion in accordance with the repealed rules in view of the policy decision taken by the Government*. There is no obligation for the Government to make appointments as per the old Rules in the event of restructuring of the cadre is intended for efficient working of the unit. The only requirement is that the policy decisions of the Government must be fair and reasonable and must be justified on the touchstone of Article 14.
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> > **82.4.** The principle in *Rangaiah* need not be applied merely because posts were created, as it is not obligatory for the appointing authority to fill up the posts immediately.
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> > **82.5.** When there is no statutory duty cast upon the State to consider appointments to vacancies that existed prior to the amendment, the State cannot be directed to consider the cases.
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> **83.** The above-referred observations made in the fifteen decisions that have distinguished *Rangaiah case* demonstrate that the wide principle enunciated therein is substantially watered-down. Almost all the decisions that distinguished *Rangaiah* hold that there is no rule of universal application to the effect that vacancies must

necessarily be filled on the basis of law that existed on the date when they arose. This only implies that decision in *Rangaiah* is confined to the facts of that case.

84. The decision in *Deepak Agarwal* is a complete departure from the principle in *Rangaiah* inasmuch as the Court has held that a candidate has a right to be considered in the light of the *existing rule*. That is the *rule in force* on the date the consideration takes place. This enunciation is followed in many subsequent decisions including that of *Union of India* v. *Krishna Kumar*. In fact, in *Krishna Kumar* Court held that there is only a "right to be considered for promotion in *accordance with rules which prevail on the date on which consideration for promotion takes place*".

85. The consistent findings in these fifteen decisions that *Rangaiah case* must be seen in the context of its own facts, coupled with the declarations therein that there is no rule of universal application to the effect that vacancies must necessarily be filled on the basis of rules which existed on the date on which they arose, compels us to conclude that the decision in *Rangaiah* is impliedly overruled. However, as there is no declaration of law to this effect, it continues to be cited as a precedent and this Court has been distinguishing it on some ground or the other, as we have indicated hereinabove. For clarity and certainty, it is, therefore, necessary for us to hold:

> **85.1.** The statement in *Y.V. Rangaiah* v. *J. Sreenivasa Rao* that, "*the vacancies which occurred prior to the amended Rules would be governed by the old Rules and not by the amended Rules*", does not reflect the correct proposition of law governing services under the Union and the States under Part XIV of the Constitution. It is hereby overruled."

27. Considering the aforesaid observations of the Supreme court in **State of Himachal Pradesh vs. Raj Kumar & Ors.** (supra), we wonder as to how in the facts of the present case the law as laid down in the said case would become applicable to the facts of the present case. The decision in fact supports the case of the petitioners, this, moreover, when the present case as observed by us in the foregoing paragraphs stands squarely covered by the decision of the Constitution Bench of Supreme Court in **Tej Prakash Pathak & Ors.** (supra).

28. In the light of the above discussion, we have no manner of doubt that the present petitions needs to succeed. We, accordingly, allow these petitions in terms of the following order:

ORDER

(i) The impugned order dated 11 June, 2025 passed by the Pune Municipal Corporation cancelling the promotion process for the post of Junior Engineer (civil) initiated under Circular dated 29 January, 2021 is quashed and set aside;

(ii) It is declared that the promotional process in question initiated under Circular dated 29 January, 2021 shall be governed by the PMC Service Rules, 2014 in regard to filling up of 25% promotional posts of in-service candidates qua the applicability of the eligibility criteria/qualifications, as available under such extant rules;

(iii) Consequent to the above, the PMC is directed to conclude the process of appointment/promotion to the post of Junior Engineer (Civil) under the selection process initiated for 25% of the in-service candidates vide Circular dated 29 January, 2021 under which the Seniority lists dated 3 December, 2021 and 31 May, 2023 were notified, and take the same to the logical conclusion by following further procedure and by issuance of appointment orders with the seniority of the relevant date to be conferred on the promoted candidates. Let this exercise be completed within a period of three weeks from today.

29. Writ Petitions are allowed in the aforesaid terms. No costs.

(AARTI SATHE, J.) (G. S. KULKARNI, J.)