



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3767 OF 2018

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| 1. Prajwalit Tularam Gaikwad & Ors. | ... Petitioners |
| Versus | |
| 1. Hindustan Petroleum Corporation Ltd. | |
| 2. Ministry of Petroleum & Natural Gas | |
| 3. Directorate General of Training (DGT) | |
| Ministry of Skill Development and | |
| Entrepreneurship | |
| 4. Ministry of Human Resources Development | |
| 5. Central Apprenticeship Council | ... Respondents |

Mr. Rakesh Upadhyay a/w. Mr. Subhash V. Gutte, Ms. Aarti U. Mishra, Ms. Sayali Gutte, Mr. Harsh Som, Mr. Vishal Chauhan, Mr. Saurabh S. Gutte for the petitioners.

Mr. Lancy D'souza a/w. Deepika Agarwal i/b. V.M. Parkar for respondent no.1
Mr. N.R. Prajapati a/w. Mr. Anil Yadav for respondent nos. 2 to 4/UOI.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

RESERVED ON: 4 FEBRUARY 2026
PRONOUNCED ON : 9 MARCH 2026

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

1. The petitioners, who were appointed as Apprentices by respondent no. 1- Hindustan Petroleum Corporation Ltd. (HPCL) have filed this petition under Article 226 of the Constitution of India, praying for a direction against HPCL to consider the petitioners for absorption on regular posts as Grade "A" officers. The petitioners also seek a direction that HPCL be directed to frame the policy of absorption/recruitment of Graduate Apprentices as per Section 22(1) of the Apprentices Act, 1961 (for short "**Apprentices Act**"), by setting aside their automatic termination of the contract appointment, as apprentices.

2. At the outset, the prayers as made in the petition are required to be noted, which read thus:

“(a) This Hon’ble Court may be pleased to issue an appropriate order/direction/writ in the nature of mandamus to direct the respondent Hindustan Petroleum Corporation Ltd. to consider the petitioners to absorb/appoint them on the regular Post Grade “A” officer.

(b) This Hon’ble Court may be pleased to issue an appropriate order/direction/writ in the nature of mandamus to direct the respondents including Hindustan Petroleum Corporation Ltd. to frame the Policy of absorption/recruitment of Graduate Apprentice as per Section 22(1) Apprentices Act, 1961.

(c) This Hon’ble Court may be pleased to issue an appropriate order/direction/writ in the nature of mandamus to direct the respondents including Hindustan Petroleum Corporation Ltd. to consider petitioners for absorption/appointment to the post of Grade “A” officer, w.e.f. the date on which they have completed one year’s training.

(d) This Hon’ble Court may be pleased to issue an appropriate order/direction/writ in the nature of mandamus to quash the termination of petitioners issued by HPCL to the reporting officer on completion of their one year training one such letter of HPCL (Exhibit-U).

(d)(i) This Court may be pleased to issue appropriate order/direction/writ in the nature of mandamus/certiorari to quash the said so called policy dated 01.06.2018 of HPCL annexed as annexure with sur-rejoinder affidavit dated 05.06.2018 filed by HPCL in this Hon’ble Court.

(d)(ii) This Hon’ble Court may be pleased to issue appropriate order/direction/writ in the nature of mandamus to direct the HPCL that the said so called policy dated 01.06.2018 has no application to the petitioners & the petitioners Apprentices be appointed/absorbed to the Entry Level Management Position as about 250 Entry Level Management Positions are vacant.

(d)(iii) This Hon’ble Court may be pleased to issue appropriate order/direction/writ in the nature of mandamus to recruit/absorb the petitioner apprentices on the entry level posts of officer/engineer Grade A, from themselves, without subjecting them to written test, on the basis of interview and/or quarterly assessments already conducted by respondent HPCL;”

3. The relevant facts are: The petitioners claim to be graduates in Engineering, i.e., B.E./B.Tech from Civil & Mechanical streams. The petitioners contend that those belonging to the general category have scored more than 60% marks and the petitioners from the reserved category have secured 50% marks at

the graduation level. The petitioners setting out the historical background have stated that in the year 2003-04, the HPCL recruited Graduate Engineer Trainees directly from the Engineering Colleges, without holding any All India examination. It was learnt by the petitioners that after successful completion of one year training by the said trainees, HPCL did not absorb them, which led such trainees to raise grievances before the government forums to absorb them by giving them preference under the policy of Government of India in force at the relevant time, i.e., the policy dated 6 May, 1997. Such trainees are stated to have been absorbed.

4. Insofar as the petitioners are concerned, in the year 2006, it is stated that the Board of Apprenticeship Training (BOAT) screened & shortlisted the names of the petitioners & recommended them to the HPCL. The petitioners also received an e-mail in the month of September 2016 from the HPCL informing them that they have been shortlisted as eligible candidates appearing in an All India Competitive Examination known as Computer Based Test (CBT).

5. It is the petitioners' case that the e-mail provided a link for making an application, which also contained the advertisement for appointment of Graduate Apprentice Trainees (Engineering) 2016. The advertisement provided for one year training & the maximum age limit as provided was 25 years. The monthly stipend was fixed at Rs.25,000/-. The advertisement also provided for All India Examination (CBT) & the eligibility qualification prescribed was Engineering Graduation (Mechanical /Civil) from the general category with 60% marks and

minimum 50% marks required insofar as the reserved categories are concerned. The HPCL also provided terms of contract, which according to the petitioners, postulated that if there is any recruitment in future, then HPCL shall formulate its own policy for recruiting Apprentices who have completed the period of Apprenticeship training. The petitioners have contended that the process of selection as spelled out in the advertisement involved an All India Computer based Test (CBT), followed by an interview & a Medical Test. The advertisement also stipulated that if the apprentice accepts gainful employment, then he will have to leave the Apprenticeship Training and, therefore, there was an embargo on the petitioners accepting any other employment during the term of apprenticeship.

6. It is the case of the petitioners that they were influenced to make an application as HPCL is a Nav Ratna Govt. of India Enterprise, there was a legitimate expectation of absorption of the petitioners, considering the provisions of Section 22(1) of the Apprentices Act. The petitioners also contend for the reason that similarly circumstanced Public Sector Undertaking under the Ministry of Petroleum & Natural Gas like Indian Oil Corporation Ltd. (IOCL), the apprentices were given regular employment, as per their respective Policy. It is further contended that the IOCL invited applications from Ex-Apprentices in respect of its different establishments, like, Haldia Refinery. Thus, the petitioners' contention is that there was a policy in IOCL to recruit Graduate Apprentice Trainee and IOCL firstly recruits the Officers/Engineers from All India GATE Examination upto a particular merit position and the candidates,

who are below the said merit position in GATE Examination, such candidates are recruited as apprentice under the Apprentices Act & thereafter they are absorbed on regular post of Officers Engineers. The trainees/apprentices were imparted training for one year and thereafter they were recruited as Officers. The information in this regard was obtained by the petitioners under the Right to Information Act, 2005.

7. The petitioners next contend that both the GATE Examination (Graduate Engineers) & GAT Examination (Graduate Engineers) are All India based examinations. It is stated that the HPCL resorted to absorb Graduate Apprentice Trainees (Engineers) for the first time in the year 2016 and as such the All India Examination was most competitive and tough due to the candidates with highly meritorious marks being available. It is stated that out of 15,000 screened candidates, 204 candidates were finally selected and therefore, the success rate was less than even 1.5%.

8. The petitioners contend that they had made applications against the advertisement for GAT (Engineers) issued by HPCL in August/September 2016, for which 15,000 candidates applied for the said advertisement. It is contended that on 9 October, 2016, the HPCL conducted the All India Computer Based Test (CBT), which was cleared by the petitioners and thereafter the petitioners were called for an interview and medical test. The petitioners were issued Advisory/Joining Letters in November/December 2016 upto July 2017 on various dates, indicating different locations where the petitioners would join their duties as apprentices. The first stream of joining with HPCL started from 29

November, 2016 and lasted upto July 2017. The training period stipulated was one year in respect of such apprentices. The petitioners have contended that the HPCL was in breach of stipulated working hours insofar as the apprentices are concerned, as the petitioners were called upon to work in shifts although under consent letters. The petitioners have made several allegations that the nature of the appointments were camouflaged by engaging the petitioners as apprentices, when in fact no such apprenticeship training was imparted to them and the petitioners were made to work as regular Officers performing duties of a regular permanent Officer Engineer and paying them a meagre stipend of Rs. 25,000/- per month.

9. The petitioners also contended that such illegality was repeated after a similar advertisement was issued by HPCL in July/August 2017, for engaging Graduate Apprentice Trainees (GAT) and due to shortage of manpower, such illegal methodology of camouflage appointments was being undertaken. In such context, briefly the case of the petitioners is that there were vacancies which were sought to be filled by making such appointments and not by regular appointments, when such appointments in fact resulted into petitioners' exploitation, as also loss of their chance to get appointed in regular employment.

10. It is also the petitioners case that on such backdrop, invoking the provisions of Section 22(1) of the Apprentices Act, the petitioners made representations, i.e., representation dated 21 December, 2017 of Mr. Rohit Sharma and representation dated 23 February, 2018 of Mr. Ankit Kumar Gautam made to the HPCL to absorb/recruit the apprentices on the Public Grievance

Portal. Also, a mass representation was made to HPCL through an e-mail dated 4 September, 2017.

11. The case of the petitioners is that HPCL is under an absolute mandatory obligation to absorb/appoint the petitioner apprentices to the Post of officers in the initial Grade "A" and frame the policy for such purpose as per Section 22(1) of the Apprentices Act. The petitioners contend that it is their legal right to be considered for absorption/appointment to such post and it is only to defeat such legal right, the petitioners were disengaged after completion of one year of the so-called training. This more particularly when there were vacant posts which were available with the HPCL, when the rights of the petitioners for regular appointment were denied. In such context, the petitioners contend that an advertisement was published in January, 2018 for filling up the post of Grade "A" officer through the GATE examination. The last date of making application was 16 February, 2018 and thereafter the result of the said examination was to be published. According to the petitioners, issuance of such advertisement would deny the rights accrued to the petitioners as apprentices. It is stated that in the said examination, there was no provision made for appointment of Graduate Apprentice Trainee (GAT) and no weightage was given to the training given to them nor any relaxation in age was provided to them. Such action on the part of HPCL was in total breach of the provisions of the Apprentices Act. The petitioners, therefore, made several representations not only to HPCL but also to the Government in the month of February, 2018.

12. It is also the petitioners case that the experience of one year which the petitioners have achieved, has no relevance when it comes to seeking appointment in non-Petroleum Companies. Also the HPCL is in breach of the provisions of Section 22 by not framing a policy regarding Graduate Apprentice Trainees as required under sub-section (1) of Section 22. By an amendment to the petition, the petitioners have contended that a policy dated 1 June, 2018 which was made available to the petitioners on 5 June, 2018 as framed by the HPCL was not applicable to the petitioners and that the said policy dated 1 June, 2018 has prospective effect and it will not be applicable to the petitioners, who were qualified/appointed as apprentices in the year 2016, hence, they requested that under the said policy, the petitioners' rights which accrued prior to the policy need to be recognized and the petitioners accordingly need to be absorbed/regularized. It is also contended that the policy dated 1 June, 2018 is illegal and arbitrary, and defeats the rights of apprentices, as HPCL resorts to only a lateral way of appointment of Officer Grade "A" Engineer's Post by way of campus selection. Despite the said policy, there are large number of vacancies and therefore, it is necessary for HPCL to appoint apprentices like the petitioners. The HPCL policy as framed is illegal and arbitrary, violative of Articles 14 and 16 of the Constitution. As per the terms and conditions of the agreement, HPCL in fact has set out that if there is any recruitment and any policy framed, then the apprentice would be considered for regular appointment. It is in these circumstances, the petitioners have prayed that they are entitled to the reliefs as prayed for.

13. Having noted the petitioners case as revealed in the petition, we now advert to the reply affidavit filed on behalf of the HPCL and further the rejoinder and other affidavits.

Reply affidavit on behalf of the HPCL

14. Shri Abhishek Datta, Executive Director, Human Resources (HR) of the HPCL has filed a detailed reply affidavit dated 19 April 2018, dealing with the petition paragraph wise *inter alia* contending that the petition is not maintainable on several grounds including on suppression of facts as also that petitioners are not entitled to the discretionary reliefs as prayed for when the Court exercises its jurisdiction under Article 226 of the Constitution. This setting out requirements of the Apprenticeship Act, 1961 and the Apprenticeship Rules, 1992.

15. The reply affidavit has stated that in order to implement the amended provisions of the Apprentices (Amendment) Act, 2014 and Rules, the officials of HPCL met officials of Board of Apprenticeship Training (Western Region), Mumbai on 30 June 2016 to enquire and ascertain the modalities for the implementation of the provisions of the amended Act/Rules. It is stated that in line with the discussions with the officials of the Board at Mumbai, HPCL addressed a letter dated 28 July 2016 to the Deputy Central Apprenticeship Advisor of the said Board requesting him to sponsor a list of Engineers, so that HPCL may engage them as 'Graduate Apprentice Trainees' for imparting them Apprenticeship Training, after their shortlisting as per their guidelines/standards, in the various establishments of the HPCL across the country. It is stated that the

said letter of HPCL had annexed a list consisting of the number of employees in various streams/categories such as Engineers (Managerial staff), Non-Engineers, (Managerial Staff), Clerical and Labour (Skilled, Semiskilled & Unskilled).

16. It is stated that as per the said list, the total number of employees were 7939 in the marketing establishments of HPCL across the country, as on the date of the said letter. It is stated that HPCL had requested the Authority to provide a list of engineers for engaging about 140 Graduate Apprentice Trainees at the initial phase after their shortlisting. In response to the aforesaid letter of the HPCL, the Regional Central Apprenticeship Advisor vide its communication dated 12 August 2016, provided the list of 2026 candidates. It was also mentioned in the said letter that HPCL was required to engage 312 number of apprentices for its units located at Mumbai.

17. It is stated that thereafter, HPCL addressed a letter dated 19 August 2016 to the Regional Central Apprenticeship Advisor requesting him to provide / sponsor the maximum number of engineer graduates (Mechanical/Civil) registered with the Board, as HPCL wished to engage Graduate Apprenticeship Trainees, on an all India basis and to give equal opportunities to all eligible candidates. It is stated that HPCL clearly stated in the said letter that the Graduate Apprenticeship Trainees (Engineers) will be engaged only “for one year” and they will be paid stipend in the tune of Rs.25,000/- per month. It is stated that the applicable stipend for the Graduate Apprenticeship Trainee, as fixed by the appropriate government was Rs.4984/- only during the relevant period.

18. It is next stated that on 8 September 2016, the Board of Apprenticeship Training, Western Region, Mumbai provided the list of 49219 candidates of Mechanical and Civil Engineers for all four regions of the Board of Apprenticeship Training in the country. It is stated that upon review and correction of data of 49219 candidates, it was found that there were only 37010 correct record i.e. actual candidates. It is stated that accordingly, vide letter dated 13 September 2016, HPCL informed the status of the said entries to the Deputy Central Apprenticeship Advisor, Board of Apprenticeship Training.

19. It is next stated that in order to ensure an efficient, time bound and transparent selection process, HPCL decided to conduct the entire selection process online. Accordingly, since the selection of candidates was to be made from the candidates sponsored by the Board of Apprenticeship Training, HPCL sent e-mails to all 37010 candidates on their e-mail IDs, advising them to login and apply online. It is stated that the entire procedure was followed in regard to the online application to be made between 12 September 2016 and 22 September 2016.

20. It is next stated that in response to the e-mails and reminders through e-mails/SMS, only 11202 candidates submitted their applications online. Further procedure was followed and admit cards were issued to these candidates. A Computer Based Test (CBT) was held on 9 October, 2016 and a total of 5945 candidates appeared for the test. It is stated that upon collating the results and analysis of the same, it was found that very few candidates had scored above the cut-off marks required to qualify for personal interviews, the cut-off marks being

60% for General/OBC-NC and 54% for SC/ST/PWD. It is next contended that HPCL had already approached all the candidates as sponsored by Board of Apprenticeship Training, who were registered with them, and that HPCL was under a statutory obligation as per the Act to engage a certain number of Apprentices in a financial year. It is stated that HPCL decided to reduce the cut-off marks in order to get sufficient number of candidates for the interviews in the ratio of 1:7. It is stated that accordingly 1375 candidates with relaxed norms were shortlisted for Interviews. Thereafter, interview call letters for all candidates were hosted on the online link and all shortlisted candidates were advised through e-mails / SMSs to login to the portal and download the Interview Call Letters. That the interviews were conducted in 7 cities at Mumbai, Kolkata, Chennai, Vishakhapatnam, Lucknow, Delhi and Bengaluru by 23 Interview Panels consisting of 97 officers on 21st & 22nd October, 2016. Thereafter an All India Merit list was drawn as per the prescribed norms by assigning 85% weightage to 'Computer Based Test Scores' and 15% weightage to 'Interviews Scores'. The said merit list was posted on the website of HPCL, in which total 240 candidates were finally shortlisted for engaging them as 'Graduate for Apprentices Trainees for the period of one year. It is stated that subsequent thereto, pursuant to the said merit list, 'Advisory Letters' for all the 240 candidates were hosted on the website and intimation e-mails/ SMSs were sent to the candidates advising them to download the 'Advisory letters'.

21. It is next stated that as required under the said Act/Rules, a contract for 'Apprenticeship Training' was signed between HPCL and the Graduate

Apprentice Trainee. It is stated that as per the terms and conditions of the contract as provided in Schedule VI (Under Rule 6) of the said Rules, the first and foremost condition was that HPCL shall not be under an obligation to offer employment to the 'Graduate Apprentice Trainees' by incorporating the following clause: "It shall not be obligatory on the part of the employer to offer an employment to the apprentice on completion of period of his apprenticeship training in his establishment nor shall it be obligatory on the part of the apprentice to accept an employment under the employer".

22. It is stated that after joining of service by the 240 shortlisted candidates as 'Graduate Apprentice Trainees, for a period of one year, as required under the Act/Rules, HPCL arranged two days' classroom training on 29 November, 2016 and 30 November, 2016 in Chennai (for 46 GATs), Kolkata (for 33 GATs), Lucknow (for 64 GATs), Mumbai (for 67 GATs), Mumbai (for 67GATs) and Vishakhapatnam (for 30 GATs). The candidates were informed of the requirements *inter alia* of specific operating procedures. They were also called upon to undergo practical job training. They were provided with individual assignment diaries, which they were required to maintain for recording their learnings. Thereafter the said Graduate Apprentice Trainees were sent to their assigned establishments of HPCL on 1 December, 2016 for their further 'On Job Training'.

23. It is next stated that on such backdrop, 41 'Graduate Apprentice Trainees' were engaged from the 'Waitlist' candidates *inter alia* against dropouts. It is stated

that in order to expedite the payment of stipend to the said GATs, online modules/software were developed by HPCL to record their attendance and process the payments of benefits within stipulated timelines. It is stated that 71 petitioners are among the 240 & 41 apprentices engaged by HPCL for a period of one year 'on the Job Apprenticeship Training'. It is stated that the tenure of Apprenticeship Training' of the petitioners from Sr. No. 1 to 67 was already over as on April, 2018 and by June/July, 2018, the apprenticeship training of the petitioners from sr. nos. 68 to 71 was over as per the contracts signed with the respective petitioners.

24. It is on such premise, the reply affidavit has dealt with the Writ Petition parawise *inter alia* to contend that the petitioners are not entitled to seek a relief as prayed for considering the provisions of Section 20 of the Apprentices Act, which provides for an alternate remedy to the petitioners.

25. There is a rejoinder affidavit filed on behalf of the petitioner of Mr. Bhanu Pratap Yaduvanshi disputing the case of the respondents *inter alia* stating that HPCL had made a statement before the Court at the hearing of the proceedings on 20 April, 2018, that the vacancies of the post of Officer Grade 'A' Engineer, i.e., entry level post in HPCL are about 250 and that the HPCL is in the process of recruitment and appointment of the said posts through the candidates appearing in the GATE examination and also through campus placement. It is stated that Government of India, Department of Public Enterprises had issued a letter dated 25 February, 2018 setting out the vision, which was addressed to all

the departments of the Government as also the Public Sector Undertakings, which includes HPCL. It is stated that the said letter did not approve of the recruitment to such entry level posts through GATE examination, as the same was primarily for higher studies and not for recruitment to jobs/posts in Public Sector Enterprise, which brought about a situation that the posts remained vacant. Accordingly the Government has cautioned the Board of the Public Sector Enterprises that such position would be kept in view, while making recruitment to CPSEs.

26. It is further stated that in terms of the contract of apprenticeship training as entered into by HPCL, if there is any recruitment, employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship Training in his establishment as per sub-section (1) of Section 22 of the Apprenticeship Act, which would mandate HPCL to be bound by the terms and conditions of the contract. It was hence an obligation of the HPCL to recruit/absorb such apprentices, who completed their training. It is stated that majority of the petitioners had successfully completed their training with remarks from the higher superior authorities stating them to be very good/excellent and fit to be recruited in HPCL. It is hence contended that as per section 22(1) and (2) of Apprentices Act read with the contract and contractual clause, the petitioners were entitled for recruitment/absorption on the post of Officer Grade 'A' Engineers in the HPCL.

27. The rejoinder affidavit filed on behalf of the petitioners is responded on

behalf of HPCL by an affidavit of Shri R. Elango, Chief General Manager, Employee Relations of HPCL. The affidavit contends that the petitioners are seeking enforcement of provisions of Section 22(1) of the Apprentices Act for claiming employment with HPCL. It is stated that Section 22(1) applies to Apprentices who have successfully completed their training. It is stated that the petitioners have contended in the petition that no training was provided at all and they were made to work like any other employee of the respondents, hence the petitioners in any event cannot claim the benefit of Section 22(1) of the Apprentices Act. Hence, on this count alone, the petition deserves to be dismissed. It is next stated that on the date of the recruitment notification, i.e., 13 September, 2017, the petitioners were not eligible for consideration under Section 22(1) of the Apprentices Act.

28. It is next stated that at the hearing of the present proceedings on 20 April, 2018, HPCL had informed the Court that HPCL was in the process of formulating a suitable policy as provided in Section 22(1) of Apprentices Act with regard to the apprentices who would successfully completed the Apprenticeship training in the Corporation's establishment and accordingly the policy was framed on 4 May, 2018 , the salient features of which are set out in paragraph 7 of the affidavit. The contents of paragraph 7 of the affidavit are required to be noted, which reads thus:

"7. I say and submit that on 04/05/2018, Respondent No. 1 has formulated the said policy. I say and submit that the salient features of the said Policy are as under:

(A) RELAXATION WITH REGARD TO ELIGIBILITY:

- The Graduate Apprentice Trainees (who has successfully completed Graduate Apprenticeship Training in any of the establishment of the Corporation) would be eligible to apply for the regular position in Management Cadre in entry level Grade, as declared from time to time.
- While computing the eligibility of a candidate (Graduate Apprentice Trainee) who would apply for said regular position in the Corporation, relaxation in age would be given to the extent of the period for which the concerned applicant Graduate Apprentice Trainee had undergone Graduate apprenticeship training in any of the Corporation's establishment, not exceeding one year.
- It is also clarified that except the aforesaid relaxation pertaining to age as has been specifically mentioned, the Graduate Apprentice Trainee applying against said regular position in the services of Corporation, needs to meet the other eligibility criteria as mentioned in the advertisement / notification.
- In the event, any apprentice applies against any regular vacancy / position in the Corporation which requires post qualification experience, the period for which such apprentice had successfully undergone the training in the Corporation would be reckoned.

(B) RELAXATION WITH REGARD TO PROCESS OF SELECTION:

- In the event, any Graduate Apprentice Trainee (who had successfully completed apprenticeship in the Corporation) appears in the qualifying test (GATE exam, as prevalent presently for recruiting Engineers), such Graduate Apprentice Trainee would be accorded additional 5% of the marks, he secures in the GATE exam. Such grace marks alongwith the marks secured by the candidates in the GATE exam shall be reckoned while shortlisting candidates for subsequent stage of selection ie. group discussions / tasks and interview. The final merit list of the successful candidates would be drawn reckoning such grace marks accorded in the GATE Score while shortlisting the candidates post-written test.
- The reservations in line with the applicable Presidential Directives for the aforesaid selection process and other extant recruitment norms, at the relevant point of time / selection, would continue to be applicable during the process of selection / recruitment.”

29. It is hence stated that since HPCL has formulated the aforesaid policy, which provides for preference to the Graduate Apprentice Trainee in its employment, there is no other obligation on part of HPCL under the Apprentices Act to grant any permanent employment to the petitioners of their absorption. Also, for this reason, the petition deserves to be dismissed.

30. On behalf of the Government of India, an affidavit of Chandrakant M. Diggewadi, Assistant Director is placed on record to contend that the petitioners were registered as Graduate Apprentices under the provisions of the Apprentices Act for the period of one year. It is stated that the apprentices have to undergo the training, as per the training programme chalked out by the establishment. That one year of apprenticeship training does not guarantee any job/appointment after completion of training. It is stated that as per Section 22(1) of the Apprentices Act, 'Every employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in the establishment.' It is further stated that communication of Ministry of Human Resource Development, Government of India dated 6 May, 1997 did not state anything about the absorption after completing apprenticeship training of one year. It is further stated that on terms and conditions of the contract of Apprenticeship for Graduate/Technician apprentices, it is clearly mentioned that it shall not be obligatory on the part of the employer to offer an employment to the apprentice on completion of the period of his apprenticeship training in the establishment.

31. On the backdrop of the aforesaid pleadings, we have heard learned counsel for the parties.

Submission on behalf of the petitioners

32. Mr. Upadhyay, learned counsel for the petitioners has made extensive

submissions. He has reiterated the submissions as urged by the petitioners in the memo of the petition as noted by us hereinabove. It is his submission that a harmonious reading of Section 22(1) and (2) of the Apprentices Act leads to the inescapable conclusion, that the petitioners who had successfully completed apprenticeship training had a legal right to be considered for appointment to the post of Graduate Engineers. It is submitted that the specific case of the petitioners is that HPCL having not framed any policy of recruitment of apprentices as contemplated under Section 22(1) of the Apprentices Act. That such inaction on the part of HPCL in not framing a policy of recruitment does not negate the legal right of the petitioners to be considered for regularization on the post of Graduate Engineers – Group ‘A’. It is hence submitted that the Board of Directors cannot frustrate the legal statutory right accrued to the petitioners under Section 22(1) of the Apprentices Act, under the garb of their inaction in not framing the said policy.

33. It is next submitted that prior to 2014 [i.e. before the 2014 Amendment], Sections 22(1) and 22(2) of the Apprentices Act, were contradictory to each other inasmuch as Section 22(1) provided that an employer is not under an obligation to provide employment to an apprentice trainee, and further in Section 22(2), a non obstante clause was provided to the effect that when there was a contract of service between the employer and employee, the employer is bound to provide employment to an apprentice. It is submitted that however, in view of the 2014 amendment, the situation drastically changed inasmuch as Section 22(1) provided for consideration of an apprentice for a permanent employment, as per the policy

framed by an employer, and hence, the legal right of an apprentice of such consideration of appointment, as per the policy had accrued to the petitioners-apprentices in view of the fact that Section 22 (2) became in conformity with Section 22 (1), for the reason that even if an apprentice failed to get employment as per the policy, and if there is a contract of service between employer and apprentice for giving employment, then despite the failure of such an apprentice to get an employment as per Section 22 (1), he is entitled for employment as per section 22 (2) of the Act. In supporting such contention, reliance is placed on the decisions in **Narender Kumar & Ors. Vs. State of Punjab & Ors.**¹, **UP State Road Transport Corporation & Anr. vs Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh & Ors,**² and **Ex-Apprentices Association Vs Union of India & Anr**³.

34. It is next submitted that the action of HPCL in not framing any policy and not considering the petitioners against the available vacancies was arbitrary, illegal and in contravention to the Article 14 and 16 of the Constitution of the India. This is for the reason that other similar corporations like IOCL framed its policy for recruiting similar Graduate Apprentices Trainees (GAT) as mandated under Section 22 (1) of the Apprentices Act and in fact appointed them on the post of Engineers Group 'A' in the organization after successful completion of training. However, HPCL avoided the same although there was an obligation on HPCL to frame such policy. The reason being that for the first time in the year 2016, HPCL

1 1985 (1) SCC 130

2 (1995)2 SCC 1

3 2016 SCC OnLine Mad 33612

advertised 204 posts of Graduate Apprentices Trainee (GAT) on which the petitioners were appointed and had completed their training successfully. It is hence submitted that the action of HPCL in not appointing a single GAT from 2016 till date to the post of Graduate Engineers Group 'A', is arbitrary.

35. It is next submitted that the policy dated 1 June 2018 framed by the HPCL had no application to the petitioners and the same has been framed arbitrarily and with ulterior motives. It is next submitted that the said policy dated 1 June 2018 has no application to the advertisement of the year 2016 and completion of training by the petitioners in the year 2017, and in any event such policy decision cannot be retrospectively applied. It is submitted that the petitioners are 71 in number and therefore, they are required to be considered for appointment to the post of Graduate Engineer Group A. It is next submitted that the HPCL's contention that the contract between the HPCL and the apprentices does not contain the recruitment of apprentices, as per policy, in terms of Section 22(1), is not correct inasmuch as the proviso below sub-section (1) of Section 22 stipulated an obligation on the HPCL to formulate its own policy in granting employment to the apprentices, who have completed the period of apprenticeship training in the establishment. It is next submitted that such obligation would be required to be complied when there was a vacancy, and as admittedly there were large number of vacancies with the HPCL, merely because HPCL failed to formulate any policy, the petitioners could not have been deprived of the opportunity of a permanent employment with the HPCL. The petitioners have stated in the petition that they have successfully completed the training and are entitled to be considered for

appointment as per Section 22(1) of the Apprentices Act. It is submitted that the HPCL's contention that it was filling up the post through GATE examination, when the same was discouraged by the Government of India, this was clear from the advertisement issued in the year 2021, 2023 and 2025.

36. It is next submitted that the right of the petitioners to seek a relief of regularization flows from Section 22(1) of the Apprentices Act coupled with the terms and conditions of the contract, which is independent of whether HPCL recruits the posts through GATE examination or otherwise. It is submitted that the petitioners are more meritorious, having passed the B.E. examination with more than 60% marks, and having stood in the merit in the apprenticeship competitive examination and interview, hence HPCL's case in regard to attracting the best talent, was also factually incorrect. It is next submitted that the HPCL is recruiting the posts in question by conducting a Competitive Examination (CBT) and interview akin to the selection process as undergone by the petitioners, and therefore, the petitioners ought not to be subjected to further examination. It is next contended that the petitioners in frustration made an argument that they have not been imparted apprenticeship training to the petitioners, this is factually not correct as the petitioners have been granted certificate by the HPCL for successful completion of apprenticeship training, as also in case of some of the candidates the remark "Fit to recruit in HPCL" is also given. The petitioners had also become entitled for a preference in the employment, as 50% posts became vacant for them. It is accordingly submitted that the petition be allowed.

37. On behalf of the respondents, learned Counsel Mr.Lancy D'Souza has made the following submissions:-

At the outset, Mr. D'Souza referred to the detailed reply affidavit filed on behalf of the HPCL, to contend that the petitioners are not entitled to any relief in the present proceedings filed under Article 226 of the Constitution, much less of the nature of any absorption and of any permanent employment. According to Mr. D'Souza, such relief is contrary to the tenets of law which are required to be followed in the recruitments to be made by any public sector undertaking, in making regular appointments. It is submitted that even the general conditions of the advertisement issued by the HPCL clearly stipulated that they did not give any commitment of providing permanent/ temporary employment to apprentices on successful completion of apprenticeship period. Thus, there was no contract between the petitioners and the respondent to provide employment to the apprentices on completion of their apprenticeship.

38. Dr. D'souza had drawn the Court's attention to the averments in paragraphs 1, 15, 16, 18 of the Writ Petition and ground 14 thereof, to contend that the petitioners themselves claim that they have not undertaken training and therefore, they cannot claim preferential rights of employment with the respondent. It is submitted that the pleadings and prayers are at variance and mutually destructive.

39. It is next submitted that as the petitioner's case is that there is contravention of the contract of apprenticeship, the remedy for such alleged

violation is as provided in Section 30(2)(d) of the Apprentices Act, as also there is an alternative remedy available to the petitioners under Section 20 of the Apprentices Act which provides for settlement of disputes by approaching the appropriate forum. It is next submitted that the HPCL being an employer has a prerogative to decide the qualifications and the competitive examinations that prospective employees need to undergo and accordingly HPCL decides to recruit officers through GATE Examinations. It is submitted that the petitioner Nos.1 to 67 have contended that already they have completed their training well before the GATE 2018 examination and petitioner Nos.68 to 71 were to complete their one year training in the month of June/July, 2018, and thus, the petitioners were not prevented from appearing in GATE 2018 examinations. It is next contended that even the Indian Oil Corporation Ltd. (IOCL) has also issued an advertisement for recruitment of Engineers/Officers through GATE 2018.

40. Mr. D'souza has next submitted that the contention that the HPCL has violated the Apprentices Act in the matter of engaging and training the petitioners, is denied by HPCL in totality. It is contended that the HPCL has formulated the required policy under Section 22(1) of the Apprentices Act with effect from 1 June 2018 providing for relaxation in age to the extent of the period for which the trainee had undergone apprenticeship training not exceeding one year. It is contended that the policy also provides for granting of additional 5% of the marks secured in GATE examination as grace marks. It is submitted that the petitioners, in these circumstances, would not be entitled to any reliefs.

41. In supporting his contentions, Mr. D'souza has placed reliance on the

decision of the Supreme Court in “**Chairman/Managing Director, Mahanadi Coalfields Ltd. vs. S. Behra**”⁴.

42. Having heard learned counsel for the parties and having perused the records, we proceed to record our reasons.

Reasons and conclusion

43. At the outset, we may observe that the principal contention of the petitioners is in the context of appointment/absorption to the regular posts grade (A) Officer, as seen from prayer clause (a) & (c) (supra). By an amended prayer, the policy dated 1 June 2018 is assailed on the ground that it is not applicable to the petitioners who were appointed as apprentice prior thereto. The petitioners, accordingly, also have prayed for dispensing the petitioners with any written test and granting appointment only on the basis of their assessment already having taken place.

44. It is not in dispute that the petitioners in pursuance of an advertisement issued by the HPCL for appointment of Graduate Apprentice Trainees (in 2016) applied for appointment as apprenticeship, which was for a training period of one year and a maximum age limit provided was 25 years, with a monthly stipend of Rs.25,000/-. The petitioners contend that they were selected, and appropriate appointment orders were issued to them. The petitioners who are 71 in number are part of the 204 candidates who were finally selected. Considering the nature of controversy, we may note the contents of the advertisement issued by the

4 2005(2) SCC 396

HPCL. The relevant extract of the advertisement reads thus:

***“ENGAGEMENT OF GRADUATE APPRENTICE TRAINEES
(ENGINEERING) AS PER THE APPRENTICES ACT, 1961***

HPCL is a Government of India Enterprise under the Ministry of Petroleum and Natural Gas (MOP&NG), Government of India. It is engaged in Refining, Storage, Distribution and Marketing of Petroleum Products. HPCL's has two major Refineries at Mumbai and Vishakhapatnam and vast marketing network consisting of Zonal offices, Regional Offices, Terminals, Pipeline networks, Aviation Service Stations, LPG Bottling Plants, Inland Relay Depots etc. spread across India.

HPCL. proposes to engage Graduate Apprentice Trainees (Civil / Mechanical Engineering) at Locations spread across India, for a period of one year as per provisions of Apprentices Act. 1961 and Rules thereof.

Engagement of Graduate Apprentices (Engineering)			
Post Name	Age Limit	Qualification criterion	Monthly Stipend
Graduate Apprentices Engineering (Only Civil/ Mechanical Engineering)	Min. 18 yrs. And max. 25 yrs. As on 01.09.2016 Age relaxation by 5 yrs. For SC/ST, 3 yrs. For OBC-NC and 10 yrs. For PWD	Engineering Graduation in (Mechanical Civil only) with 60% aggregate marks all semesters years. 50% for SC/ST/OBC & PWD candidates.	Rs. 25,000/-

ELIGIBILITY REQUIREMENTS

Only Indian nationals are eligible to apply.

Engineering Graduates in Civil / Mechanical streams who have not completed 3 years after date of completion / passing the qualifying examinations are only eligible to apply.

Candidates belonging to General Category must have 60% aggregate whereas candidates belonging to SC/ST/OBC shall have 50% aggregate marks in all years/semesters in the qualifying examination.

All the qualifications specified above should be recognized by Board of Technical Education /UGC/AICTE

Age Limit: Minimum 18 years and maximum 25 years as on 01.09.2016. Max. Age relaxation by 5 yrs. for SC/ST, 3 yrs. for OBC and 10 yrs. for PWD candidates.

Relaxations in Eligibility criterion, Age and Reservations will be as per Government Guidelines /Apprentices Act, 1961.

Candidates who have been engaged previously as Apprentice or are undergoing Apprenticeship training elsewhere under the Apprentices Act, 1961 are not eligible to apply.

Candidates who have got one year or more of work experience are not eligible to apply.

SELECTION METHODOLOGY

Candidates fulfilling all the above mentioned eligibility criteria will be called for

Computer Based Written Test (CBT) and only the candidates passing the CBT will be called for the Personal Interview.

Management reserves the right to restrict the number of candidates to be called for Personal Interviews.

While drawing merit list of successful candidates, 85% weightage would be given to written test and 15% to Personal Interview.

Final appointment would be subject to clearing the Medical Test as per HPCL standards and Submission of all documents / certificates as proof of Age, Qualifications, Caste, Medical certificate of PWD and Medical fitness etc...as may be applicable.

GENERAL CONDITIONS

The engagement will be governed by the Apprentices Act, 1961/Apprentices Amendment Act, 1973,

The engagement as Apprentice will be purely for training for one year only and it will be terminated on completion of one year.

HPCL does not give any commitment on providing permanent/temporary employment to Apprentices on successful completion of Apprenticeship period.

The place of engagement as Apprentice will be at locations spread across India.

Candidates selected as Apprentice shall be paid monthly stipend of Rs.25000/-/(Rupees Twenty Five Thousand Only).

Any request for change in Category (UR/SC/ST/OBC-NC/ PWD) once filled in the Online Application Form, will not be considered and accordingly concession/relaxation applicable will not be extended.

The reserved category candidates are required to submit the Caste/ PWD certificate/s in prescribed format applicable as present after logging in the below link.<http://jobs.hpcl.co.in/Recruit New/login form.jsp>

(emphasis supplied)

45. In the context of the prayers for absorption, the provisions of the Apprentices Act are required to be considered. As seen from the long title of the Act, it is an enactment which provides for the regulation and control of training of apprentices and matters connected thereunder. The “Statement of Objects and Reasons” of the Act is required to be noted which reads thus:

“Statement of Objects and Reasons, "The question of undertaking legislation for regulating the training of apprentices in industry has been under the consideration of the Government for a long time. Expert committees which went into the question have recommended such legislation. Although certain establishments in the public and private sectors have been carrying out programmes of training of skilled workers on a systematic basis, industry in general has not as yet fully organised such programmes. In the context of the Five Year Plan and the large scale industrial development of the country, there is an increasing demand for skilled craftsmen. The Government consider that it is necessary fully to utilise the facilities available for the training of apprentices and to ensure their training in accordance with the programmes, standards and syllabi drawn up by expert bodies. The Bill is intended to give effect to these objectives.”

46. There were substantive amendments to the Act by Amendment Act 41 of

1986, Amendment Act, 37 of 2007, Amendment Act 29 of 2014. Each of these amendments has independent statement of objects and reasons which clearly demonstrate that the object and intention of the legislation is to facilitate training of apprentices in the industry and regulation and control in that regard, and not in relation to creating/granting any regular employment in the public sector undertaking. The statement of objects and reasons of the amendment Act 29 of 2014 also indicates that it is for the employers to formulate their own policy for recruiting apprentices.

47. It is with such legislative object and intention, the provisions of the Act would be required to be considered. Section 2 is the dictionary clause which defines ‘Apprentice’ under Section 2(aa) to mean a person who is undergoing apprenticeship training under a contract for apprenticeship. The definition of ‘apprenticeship training’ therein is provided for in Section 2(aaa). The said definitions are required to be noted which read thus:

“2. Definitions. -----

(aa) “apprentice” means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship;

(aaa) “apprenticeship training” means a course of training in any industry or establishment undergone in pursuance of a contract of apprenticeship and under prescribed terms and conditions which may be different for different categories of apprentices;”

48. A ‘graduate or a technician apprentice’ is defined under Section 2(j). A ‘technician (vocational) apprentice’ is defined under Section 2(pp), and a ‘trade apprentice’ is defined under Section 2(q). The said definitions are also required to be noted which read thus:

“2(j) **“graduate or technician apprentice”** means an apprentice who holds, or is undergoing training in order that he may hold a degree or diploma in engineering or non-engineering or technology or equivalent qualification granted by any institution recognised by the Government and undergoes apprenticeship training in any designated trade;

2(pp) **“technician (vocational) apprentice”** means an apprentice who holds or is undergoing training in order that he may hold a certificate in vocational course involving two years of study after the completion of the secondary stage of school education recognized by the All-India Council and undergoes apprenticeship training in any designated trade;

2(q) **“trade apprentice”** means an apprentice who undergoes apprenticeship training in any designated trade;”

49. The scheme of the legislation as contained in its different chapters can also be examined. Chapter-II of the Act provides for ‘Apprentices and their training’, making provisions for qualifications for being engaged as an apprentice in Section 3. Section 3-A provides for “reservation of training places for the Schedule Castes and the Schedule Tribes in designated trades’. Section 3-B provides for ‘reservation of training places for Other Backward Classes in designated trades’. Section 4 provides for ‘Contract of Apprenticeship’. Section 5 provides for ‘Novation of Contract of Apprenticeship’. Section 6 provides for ‘period of apprenticeship training’. Section 7 provides for ‘termination of apprenticeship contract’. Section 4, 5, 6 & 7 read thus:

“**4. Contract of apprenticeship.** - (1) No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade unless such person or, if he is a minor, his guardian has entered into a contract of apprenticeship with the employer.

(2) The apprenticeship training shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into under sub-section (1).

(3) Every contract of apprenticeship may contain such terms and conditions as may be agreed to by the parties to the contract:

Provided that no such term or condition shall be inconsistent with any provision of this Act or any rule made thereunder.

(4) Every contract of apprenticeship entered into under sub-section (1) shall be sent by the employer within thirty days to the Apprenticeship Adviser

until a portal-site is developed by the Central Government, and thereafter the details of contract of apprenticeship shall be entered on the portal-site within seven days, for verification and registration.

(4-A) In the case of objection in the contract of apprenticeship, the Apprenticeship Adviser shall convey the objection to the employer within fifteen days from the date of its receipt.

(4-B) The Apprenticeship Adviser shall register the contract of apprenticeship within thirty days from the date of its receipt.]

(6) Where the Central Government, after consulting the Central Apprenticeship Council, makes any rule varying the terms and conditions of apprenticeship training of any category of apprentices undergoing such training, then, the terms and conditions of every contract of apprenticeship relating to that category of apprentices and subsisting immediately before the making of such rule shall be deemed to have been modified accordingly.]

5. Novation of contract of apprenticeship.- Where an employer with whom a contract of apprenticeship has been entered into, is, for any reason, unable to fulfil his obligations under the contract and with the approval of the Apprenticeship Adviser it is agreed between the employer, the apprentice or his guardian and any other employer that the apprentice shall be engaged as an apprentice under the other employer for the unexpired portion of the period of apprenticeship training, the agreement, on registration with the Apprenticeship Adviser, shall be deemed to be the contract of apprenticeship between the apprentice or his guardian and the other employer, and on and from the date of such registration, the contract of apprenticeship with the first employer shall terminate and no obligation under that contract shall be enforceable at the instance of any party to the contract against the other party thereto.

[5-A. Regulation of optional trade. The qualification, period of apprenticeship training, holding of test, grant of certificate and other conditions relating to the apprentices in optional trade shall be such as may be prescribed.

5-B. Engagement of apprentices from other States. The employer may engage apprentices from other States for the purpose of providing apprenticeship training to the apprentices.]

6. Period of apprenticeship training. The period of apprenticeship training, which shall be specified in the contract of apprenticeship, shall be as follows:-

(a) in the case of trade apprentices] who, having undergone institutional training in a school or other institution recognised by the National Council, have passed the trade tests for examinations] conducted by [that Council or by an institution recognised by that Council], the period of apprenticeship training shall be such as may be prescribed];

"[(aa) in the case of trade apprentices who, having undergone institutional training in a school or other institution affiliated to or recognised by a Board or State Council of Technical Education or any other authority or courses approved under any scheme which the Central Government may, by notification in the Official Gazette specify in this behalf, have passed the trade tests or examinations conducted by that Board or State Council or authority or by any other agency authorised by the Central Government, the period of

apprenticeship training shall be such as may be prescribed;]

(b) in the case of other [trade apprentices], the period of apprenticeship training shall be such as may be prescribed;

[(c) in the case of graduate or technician apprentices, [technician (vocational) apprentices], the period of apprenticeship training shall be such as may be prescribed.]

7. Termination of apprenticeship contract.-(1) The contract of apprenticeship shall terminate on the expiry of the period of apprenticeship training.

(2) Either party to a contract of apprenticeship may make an application to the Apprenticeship Adviser for the termination of the contract, and when such application is made, shall send by post a copy thereof to the other party to the contract.

(3) After considering the contents of the application and the objections, writing, terminate the contract, if he is satisfied that the parties to the contract or any of them have or has failed to carry out the terms and conditions of the contract and that it is desirable in the interests of the parties or any of them to terminate the same:

Provided that where a contract is terminated -

(a) for failure on the part of the employer to carry out the terms and conditions of the contract, the employer shall pay to the apprentice such compensation as may be prescribed;

(b) for such failure on the part of the apprentice, the apprentice or his guardian shall refund to the employer as cost of training such amount as may be determined by the Apprenticeship Adviser.

[(4) Notwithstanding anything contained in any other provision of this Act, where a contract of apprenticeship has been terminated by the Apprenticeship Adviser before the expiry of the period of apprenticeship training and a new contract of apprenticeship is being entered into with a new employer, the Apprenticeship Adviser may, if he is satisfied that the contract of apprenticeship with the previous employer could not be completed because of any lapse on the part of the previous employer, permit the period of apprenticeship training already undergone by the apprentice with his previous employer to be included in the period of apprenticeship training to be undertaken with the new employer.]”

50. Chapter-II also makes other provisions, *inter alia* in regard to the obligations of employers, obligations of apprentices, and most importantly, recognizing the status of apprentices to be “trainees” and not workers as provided for in Section 18. Section 20 provides for ‘settlements of disputes’. The provisions

of Section 18 and 20 read thus:

“18. Apprentices are trainees and not workers. -Save as otherwise provided in this Act, -

(a) every apprentice undergoing apprenticeship training in a designated trade in an establishment shall be a trainee and not a worker; and

(b) the provisions of any law with respect to labour shall not apply to or in relation to such apprentice.

.....

20. Settlement of disputes. -(1) Any disagreement or dispute between an shall be referred to the Apprenticeship Adviser for decision.

(2) Any person aggrieved by the decision of the Apprenticeship Adviser under sub-section (1) may, within thirty days from the date of communication to him of such decision, prefer an appeal against the decision to the Apprenticeship Council and such appeal shall be heard and determined by a Committee of that Council appointed for the purpose.

(3) The decision of the Committee under sub-section (2) and subject only to such decision, the decision of the Apprenticeship Adviser under sub-section (1) shall be final.”

51. In the context of the dispute in hand, the most debated provision is Section 22 which is in relation to ‘offer and acceptance of employment’ for recruiting any apprentice who has completed the period of apprenticeship training in his establishment. The said provision is required to be noted which reads thus:

“22. Offer and acceptance of employment-[(1) Every employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in his establishment.]

(2) Notwithstanding anything in sub-section (1), where there is a condition in a contract of apprenticeship that the apprentice shall, after the successful completion of the apprenticeship training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract:

Provided that where such period or remuneration is not, in the opinion of the Apprenticeship Adviser, reasonable, he may revise such period or remuneration so as to make it reasonable, and the period or remuneration so revised shall be deemed to be the period or remuneration agreed to between the apprentice and the employer.”

(emphasis supplied)

52. Insofar as the terms and conditions of the contract of apprenticeship in regard to the petitioners employment are concerned, the following conditions are relevant and on which submissions were advanced on behalf of the parties:

“SCHEDULE VI

(See Rule 6)

TERMS AND CONDITIONS OF THE CONTRACT OF
APPRENTICESHIP FOR GRADUATE, TECHNICIAN AND TECHNICIAN
(VOCATIONAL) APPRENTICES

1. The period of training shall be one year (in the case of Sandwich Students, the period of training shall be as stipulated in the curriculum).

2. It shall not be obligatory on the part of the employer to offer an employment to the apprentice on completion of period of his apprenticeship training in his establishment nor shall it be obligatory on the part of the apprentice to accept an employment under the employer.

Provided that if there is any recruitment, employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in his establishment in terms of sub-section (1) of section (22) of the Act.”

(emphasis supplied)

53. It is thus clear that in the advertisement itself the applying candidates/petitioners were given clear indication that they were being engaged as apprentice trainees at different locations spread across India and for a period of one year as per the provisions of the Apprentices Act with a monthly stipend of Rs.25,00/-. It was also categorically informed that HPCL does not give any commitment for providing permanent/temporary employment to apprentices on successful completion of the apprenticeship period. Under Schedule VI Rule 6, which is part of the terms and conditions of the contract of apprenticeship, the apprentice must be a graduate technician, and technician (vocational) apprentice which was part of the advertisement published by HPCL for appointment of petitioners as apprentice. It was also clearly provided that the period of training

shall be one year and that it shall not be obligatory on the part of the HPCL to offer an employment to an apprentice on completion of period of apprenticeship training in the establishment. Further, nor shall it be obligatory on the part of the apprentice to accept an employment under the employer. It was also specifically provided that if there is any recruitment, the employer (HPCL) would formulate its own policy, for recruiting any apprentice who has completed the period of apprenticeship training in the establishment in terms of sub-section (1) of Section 22 of the Apprentices Act. Also, Section 22 clearly provides that every employer (in the present case the HPCL) shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in the establishment and only where there is a condition in the contract of apprenticeship that the apprentice shall, after the successful completion of apprenticeship training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract. With a further proviso, that where such period or remuneration is not, in the opinion of the Apprenticeship Advisor, reasonable, he may revise such period or remuneration so as to make it reasonable, and the period of remuneration so revised shall be deemed to be the period or remuneration agreed to between the apprenticeship and the employer, as provided for under sub-section (2) of Section 22 of the Apprentices Act. Thus, even under sub-section (2), it does not categorically speak about a regular/permanent employment but only a contract post completion of the

apprenticeship training.

54. Thus, the petitioners' contention that there was any legal right or entitlement for the petitioners to be absorbed is totally untenable, considering the specific provisions of the Apprentices Act as also the terms and conditions of their appointment as apprentice. The petitioners contention is premised on the proviso to clause (2) of the Schedule-VI Rule 6 namely "terms and conditions of the contract of apprenticeship for a graduate, technician and technician (vocational) apprentices" wherein the proviso under clause (2) states that provided if there is any recruitment, employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in its establishment in terms of sub-section (1) of Section 22 of the Act. Thus, there is no legislative mandate in regard to any mandatory policy to be framed that those who are appointed as apprentices, on the completion of the apprenticeship would be entitled for any permanent employment or absorption, in the event the posts are available.

55. In the context of Section 22 and the policy as framed by the HPCL, it is the case of the petitioners that the petitioners were legally entitled of being granted a permanent employment. In our clear opinion, neither Section 22 recognizes any such legal right on any apprentice appointed by HPCL, nor it creates any statutory obligation on the employer (HPCL) to mandatorily absorb the apprentices who are appointed by such employer. This has been recognized by the Government of India in the communication dated 15 February 2018, in reply to the grievance from 79 graduate apprentices, to make a policy for mandatory

employment of apprentices, the said letter is required to be noted which reads thus :

“No. MSDE (DGT)-11(1)/2017

Government of India
Ministry of Skill Development & Entrepreneurship Directorate General of Training

2nd Floor PTI Building, Sansad Marg
New Delhi, Dated: February 15,2018

To

Shri Rohit Agarwal, Advocate
J-132, 2nd Floor, Rajouri Garden,
New Delhi-110027

Subject: Mass grievance from 79 Graduate Apprentice Trainee (GAT) against the gross violation of the apprentices Act, 1961 and make policy for mandatory employment of apprentices-regarding.

Sir,

I am directed to refer to your letter on subject cited above.

In this regard, it is to inform you that the provision has been made in sub section (1) of Section 22 of the Apprentice Act, 1961 that every employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in his establishment. Therefore, formulation of any policy relates to apprentices lies with the organization.

About the training aspects, the same representation is forwarded to Ministry of Human Resources Development for further necessary action, as the same is under the jurisdiction of Ministry of Human Resources Development.”

56. Thus in the absence of any legal right, as to how the petitioners’ could claim any absorption or permanent employment to be granted by HPCL cannot be understood. It is hence surprising as to how the petitioners could at all maintain such prayers. This more particularly when the petitioners were otherwise qualified to participate in a regular recruitment process undertaken by the HPCL or any other public sector enterprises. It was always open to them to participate in such recruitment process. However, merely as the petitioners were appointed as apprentices, this would not *per se* confer any legal right of any absorption. In fact recognizing such legal right would be recognizing a backdoor

entry in the employment of the public sector undertaking which is required to satisfy the basic tenets of Article 14, and 16 of the Constitution.

57. We accordingly find no merit in any of the contentions as urged on behalf of the petitioners. Thus under the scheme, no legal rights of the apprentices can be recognized. We accordingly find much substance in the contention as urged on behalf of the respondents in opposing the petition.

58. Now coming to the decisions which are being relied on behalf of the petitioners. Insofar as **Narender Kumar & Ors. Vs. State of Punjab & Ors.**(supra), **UP State Road Transport Corporation vs Uttar Pradesh Parivahan Nigam Shishukhs Berojgar Sangh**(supra) and **Ex-Apprentices Association Vs Union of India**(supra), decisions are concerned there is no dispute in regard to what has been held in the said cases. However, in the facts of the present case, the decisions are squarely not applicable as discussed hereunder.

59. The petitioners' reliance on the decision in **Narender Kumar v. State of Punjab** (supra) is not well founded in the facts of the present case. In such decision, the issue before the Supreme Court concerned the interpretation of a specific clause in the contract of apprenticeship which expressly provided that the apprentice "shall be absorbed" in the department on successful completion of training, if vacancies existed. The Court interpreted this clause as creating a binding obligation under Section 22(2) of the Apprentices Act, thereby mandating absorption upon availability of vacancies. In the present case, however,

no such clause exists in the contract as entered between the petitioners and the HPCL. On the contrary, the terms of apprenticeship specifically provide that it shall not be obligatory on the employer to offer employment.

60. In **UP State Road Transport Corporation v. UP Parivahan Nigam Shishukhs Berojgar Sangh** (supra), the issue before the Supreme Court concerned the directions issued by the Allahabad High Court granting preference in employment to trained apprentices in the light of certain government circulars and administrative instructions. In such context, the Supreme Court observed that, other things being equal, trained apprentices may be given preference over direct recruits, particularly having regard to the governmental circulars and policy considerations. However, the Court clarified that under Section 22(1) of the Apprentices Act it was not obligatory on the part of the employer to offer employment to an apprentice on completion of training. The Court further held that there was no clear and unequivocal promise of automatic absorption and, therefore, the principle of promissory estoppel was not attracted. The observations were made in the peculiar factual background of that Corporation and the administrative framework governing it. Hence, this decision would not be applicable to the present case.

61. In **Ex-Apprentices Association vs. Union of India** (supra), the Madras High Court was dealing with a writ petition filed by an association of ex-apprentices of a Cordite Factory who contended that, after the 2014 amendment to Section 22, the employer was obligated to formulate a policy before proceeding

with fresh recruitment to Group 'C' and 'B' posts. The grievance was that, despite the amendment making it obligatory on every employer to formulate its own policy for recruiting apprentices who had completed training, no such scheme had been framed and yet recruitment notifications had been issued. In that context, the Court observed that unless a scheme is framed, the members of the petitioner association have no right to claim absorption in regular posts, and therefore directed the employer to formulate a policy and frame a scheme in tune with Section 22(1), with selection thereafter to be made based on merit and by following the reservation rules and other conditions. Thus, even in such case, no automatic absorption was granted, only a direction to frame a policy was issued in light of the employer's inaction post-amendment. In the present case, when a policy has in fact been framed and the contract itself negates any obligation of absorption, the said decision does not advance the petitioners' claim.

62. We also do not find any substance in the contention as urged on behalf of the petitioners that the policy of the respondents dated 1 June 2018 is in any manner illegal, as it does not provide for any permanent absorption being granted in favour of the apprentices. There is no mandate under the provisions of sub-section (1) of Section 22 of the Apprentices Act, that such policy necessarily would require the employer to grant mandatory absorption to every apprentice as appointed by it. Such contention as urged on behalf of the petitioners would militate against the clear language of sub-section (1) of Section 22 of the Act, which itself does not create any embargo for the employer to have its own policy, if so framed.

63. Even assuming that a policy is framed, no policy, *de hors* the principles of an appropriate selection procedure as known to law to be followed, can create any legal right of appointment in any apprentices. The reasons being that mere completion of apprenticeship is only an added advantage to any such participation, however, the rigors of the rules, regulations and requirements necessary for permanent appointment as determined by the employer, in no manner can be diluted, even if such apprentices are considered for recruitment on permanent posts.

64. In the light of the aforesaid discussion, we find no merit in the petition. It is accordingly rejected. However, dismissal of this petition would not create any embargo on the petitioners participating in the selection process as initiated by the HPCL and/or in any other public sector enterprises and to participate in any selection process.

65. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)