

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2072/2001

New Delhi this the 25th day of September, 2002.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Shri Jagpervesh Singh
S/o Shri Kamaljit Singh
R/o 100/C, L.I.G. Flats
Rampura
Delhi-110035. Applicant

(By Shri B.B.Raval, Advocate)

-versus-

1. Union of India through
the Secretary
Department of Atomic Energy
North Block
New Delhi.
2. The Administrative Officer-II
Nuclear Fuel Complex
Department of Atomic Energy
Heavy Water Board Training School
Government of India
ECIL Post
Hyderabad-62. Respondents

(By Shri Adish C.Agarwal, Advocate)

O R D E R

Justice V.S.Agarwal:-

By virtue of the present application, the applicant (Jagpervesh Singh) seeks a direction to be given to the respondents to treat him as having qualified in the viva on the basis of the academic qualifications.

2. It is asserted that the applicant had passed his Degree in Engineering from Associated

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Member of Institute of Engineers (AMIE). Based on the said passing of the examination, the applicant was admitted to the First Semester of M.Tech (Mechanical Engineering) (Heat Power) Examination 2000-01 in Banaras Hindu University. An advertisement was issued by the Nuclear Fuel Complex- Heavy Water Board- Training School Orientation Course in the Hindustan Times dated 10.3.2001. The eligibility criteria was minimum qualification as B.E./B.Tech/B.Sc.(Engineering)/B.Sc.(Tech.). The applicant claims that he possessed the necessary qualifications. He had applied and was issued an Admit Card for Discipline Code 04. The applicant had done well in the written test and was declared qualified. He was called to appear in the interview on 8.8.2001 at Nuclear Fuel Complex, Hyderabad.. When the applicant reached the place of interview, he was not permitted to participate therein on the ground that he was not a Graduate of Engineering and that AMIE was not a recognised degree in Engineering. Asserting that the applicant was duly qualified, the present application for the abovesaid reliefs has been filed.

3. In the reply filed, the application as such has been contested. It is insisted that the applicant was not qualified to take the test. According to the respondents, as per the

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advertisement, membership of Professional Bodies in the field of Engineering does not qualify a candidate to apply unless he/she has basic Engineering Degree like B.E./B.Tech./B.Sc.(Engg.)/(B.Sc.(Tech.) from a recognised University/Institution. Due to oversight, the applicant was allowed to appear in the written test conducted on 20.5.2001 and was called for interview on 8.8.2001. It was noticed that the applicant was not fulfilling the eligibility criteria and, therefore, had not been allowed to take part in the interview.

4. The first and foremost question keeping in view the above controversy that comes up for consideration is whether the applicant was eligible to take the test or in other words, if he had the necessary educational qualifications or not. A copy of the advertisement that appeared in the Newspaper has been placed on record and it reads:-

"Membership of professional bodies in the field of engineering does not qualify a candidate who apply unless he/she has basic engineering degree like B.E./B.Tech/B.Sc.(Engg.)/B.Sc.(Tech) from a recognised university/institution."

5. It is well known that the advertisement or the prospectus as the case would be would govern the admission and will have the force of law. It would govern the respondents in its strict letter

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and spirit. It clearly prescribes that the membership of professional bodies in the field of engineering does not qualify a candidate to apply. He must be holding a degree from a recognised University or Institution.

6. Our attention has been drawn towards a letter of the Government of India dated 16.8.1978 (Annexure A-7). It reads as under:-

" Subject: Recognition of Technical/
Professional Qualifications.

Sir,

I am directed to refer to your letter No.TH/158 dated 19th May, 1978 on the above subject and to state that a pass in Sections A & B of the Institution Examinations of the Institution of Engineers (India) is recognised by the Government of India at par with a Bachelor's Degree in the appropriate field of Engineering from a recognised Indian University for purpose of recruitment to superior posts and services under the Central Government.

This Ministry has no objection in your issuing a Certificate to any individual provided it is confined to the statement of facts only as mentioned above."

Relying the said letter it has been vehemently urged on behalf of the applicant that the aforesaid Institution of Engineers is recognised by the Government of India at par with a Bachelor's Degree. The respondent No.2 even is a body of the Government of India and, therefore, would be bound by the same in its letter and spirit. Once it is a recognised institute, we have no option but to hold that the applicant was qualified to take the test.

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7. On 20.8.2001, this Tribunal had directed that the respondents should interview the applicant provisionally and apprise this Tribunal about his performance to determine whether further directions have to be issued or not. On 3.9.2001, this Tribunal was informed that the interviews were held and the applicant's performance in the interview was below mark. This Tribunal had directed that the basis on which the interviews were held should be kept available on the next date of hearing.

8. A short affidavit on behalf of the respondents has further been filed pointing that the applicant had been interviewed in terms of the directions of this Tribunal and the selection committee used the grading system based on the performance of the candidates which is as under:-

<u>Grade Attribute</u>	<u>Illustrative marks (%)</u>
A 1 Exceptionally brilliant	96-100
A 1 Brilliant	91-95
A 1 Outstanding	86-90
A 2 Excellent	81-85
A 2 Very good	76-80
A 2 Good	71-75
A 3 Tending to Good	66-70
A 3 Well above average	61-65
A 3 Above average	56-60
B 1 Average	51-55
B 2 Below Average	36-50
C Poor	Less than 36"

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The applicant's grade was B 1 and his illustrative marks were 51-55%. The Orientation Training Committee, therefore, found him not qualified. It was below the minimum grading of A3U. There is little precious for us on the record to come to the conclusion that the applicant had been given intentionally low marks. We have nothing on record to support the plea of mala fides. In that event in the absence of any cogent reasons forthcoming, this Tribunal would not set aside the same. The said reasons are absent. Therefore, on that count, it cannot be held that the applicant was entitled to the reliefs claimed.

g. For these reasons, the application being devoid of any merit must fail and is dismissed. No costs.

V.K.Majotra
(V.K.Majotra)

Member (A)

V.S.Agarwal
(V.S.Agarwal)

Chairman

/sns/