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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1449/98

New Delhi this the 4th Day of February 1999

Hon'ble Shri T.N.Bhat, Member (J)
Hon'ble Shri R.K. Ahooja, Member (A)

B.P. Pandey,
R/o 22, Sector III,
Pushp Vihar, M.B. Road,
New Delhi.

Applicant

(By Advocate: Shri G.D. Bhandari)

-Versus-

1. Union of India through
The Secretary,
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.
2. The Director General
Employment & Training,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.
3. The Director of Training,
Director General of Employment & Training,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.

Respondents

(By Advocate: Shri K.C.D. Gangwani)

O R D E R

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant has been working as a Mechanic (Electronics) in National Vocational Institute of Women, New Delhi (hereafter referred to as NVI). He also worked in the next higher post of Store Keeper on an ad hoc basis w.e.f. 12.1.1987 to 23.12.1987. The post of Store Keeper was, thereafter, given on a regular basis to persons from outside the cadre on transfer on deputation basis. The applicant, however, represented that he being the senior most mechanic in the feeder cadre, and fulfilling all the essential qualifications, he should be promoted as Store Keeper

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on a regular basis. Since his representations did not evoke a favourable response, he filed an O.A. No. 627/91 which was disposed of by an order dated 24.3.1995. It was noted in that order that the present point to be filled for appointment to the post of Store Keeper was by way of direct recruitment and therefore the applicant could not aspire to fill the post in the promoted quota. The Tribunal, however, observed as follows:

".....It is for the department to consider this aspect taking into account that the applicant had already worked for considerable year and consider him as and when promotee quota vacancy occurs and may after taking due sanction for relaxation of the rules or if the applicant in the meantime obtain such certificate consider him on the post by promotional basis if he is otherwise fit, suitable according to rules."

2. The case of the applicant now is that the respondents have since created four posts of Store Keepers in various NVTIs and have decided that while in three as per recruitment rules direct recruitment will be made, at NVTI, Indore, the post will be filled by promotion and therefore he should be considered for that vacancy and the same may not be filled by transfer on deputation.

3. The respondents in their reply have contested the claim of the applicant stating that the applicant does not fulfill the required essential qualifications prescribed under the recruitment rules for promotion to the post of Store Keeper. The recruitment rules provide as follows:

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"Essential qualifications:

(a) Academic: 10th. aclass pass under 10+2 system or equivalent (Science and Maths as compulsory subjects in case of engineering trades).

(b) Technical:

(i) National Trade certificate or equivalent in appropriate trade or National Apprenticeship Certificate or equivalent in appropriate trade

or

Regular Advanced Skill Certificate awarded by National Vocational Training Institute for Women/Regional Vocational Training Institute for Women upto 1980 session and by National Council for Vocational Training thereafter

with

National Craft Instructors Certificate awarded by National Council for Vocational Training

or

(ii) Diploma of a recognised Board for Institute in appropriate branch of Engineer/Technology/Field.

4. We have heard the counsel. The applicant's counsel firstly contended that the prescription of condition of the National Craft Instructor Certificate awarded by the National Council for Vocational Training is illegal as it has no relation with job responsibility or purpose of the post of Store Keeper and therefore to that extant recruitment rules of 1987, copy of which has been annexed R-2 should be set aside. We agree with the learned counsel for the respondents that this point has already been settled by the Tribunal in its order dated 24.3.1995 in O.A. No. 627/91. The Tribunal's observation on this point is reproduced below:

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".....Regarding the position of recruitment rules, the position is evident that the court cannot tinker with the recruitment rules if they are statutory in nature. They have to be interpreted as per normal rules and have to be currently applied in respect of either the recruitment or promotion to the various posts mentioned in the recruitment rules."

5. We respectfully agree with the view expressed above. We are also of the opinion that the Tribunal cannot substitute its own judgement in place of that of the competent authority as how the recruitment rules should be framed and what qualification should be provided as essential for a person to become entitled for promotion

6. It was next contended by the learned counsel for the applicant that even if the recruitment rules are accepted in their present form, the fact remains that the respondents had at various times granted relaxation regarding the possession of various essential qualifications but this consideration had not been extended to the applicant despite the fact that he was the senior most mechanic; that he had already functioned as a full fledged Store Keeper for a year and that further he had almost continuously thereafter, been discharging at least part of the duties of the Store Keeper for which the respondents were paying an honorarium of Rs. 200/- per month. The learned counsel also pointed out that this point had been noted

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by the Tribunal in its order of March 1995 as would be apparent from the extract of that order reproduced above.

7. We find that Shri K.D. Ram to whose case a reference has been made in the Tribunal order was similarly situated and the applicant as Shri Ram also did not possess the Craft Training Certificate. We, however, find that Shri K.D. Ram had been promoted prior to the notification of 1985 recruitment rules wherein the qualification of National Craft Instructor Certificate was prescribed for the first time. The case of Shri K.D. Ram cannot, therefore, be taken as a precedent by the applicant, since in 1985, on his own admission, the applicant did not have the requisite experience of eight years for consideration for promotion to the post of Store Keeper.

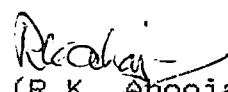
8. The applicant has also cited a number of other cases of appointment in the direct recruitment quota in Bangalore where persons without fulfilling essential qualifications have been promoted. The respondents in the reply have admitted that in Bangalore Institute, there were two direct appointments where the candidates concerned did not fulfil all the essential qualifications and it appeared that such appointments were irregularly made under a wrong interpretation and understanding of the recruitment rules. However, no right is created on the precedent of an irregular appointment and, no relief can be provided to the applicant on that basis.

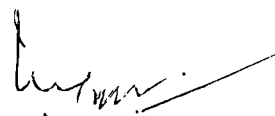
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9. The position is thus that the applicant does not possess the essential qualifications for promotion to the post of Store Keeper as he does not possess the National Craft Certificate. It has already been held by the Tribunal in its Order dated 24.3.1995 in O.A. No. 627/91 that this is an essential qualification and further that the Tribunal will not go into the question as to whether a particular qualification is necessary or not. In view of this position, the relief sought for by the applicant in regard to his consideration for the post of Store Keeper at Indore cannot be granted.

10. The learned counsel for the applicant has laid considerable emphasis that the applicant officiated as Store Keeper in the year 1987, and even thereafter is continuously working in the Stores Department. It was also pointed out that the applicant has reached the maximum of his pay scale in 1995 and has no other avenues of promotion. These aspects are, however, for the department to consider. No direction on that basis can be issued to the respondents either to amend the recruitment rules or to relax the same in a particular case.

In the light of the above discussion, the O.A. is dismissed. No order as to costs.


(R.K. Ahooja)
Member (A)


(T.N. Bhat)
Member (A)