



**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No.2738/2019 & M.A. Nos.1217 and 1221/2020 In
O.A.No.2738/2019**

and

O.A.No.2739/2019 & M.A. No.1214/2020 In O.A.No.2739/2019

Date of reserving for orders: 31.08.2020

Date of Pronouncement: 07.10.2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

O.A. No.2738/2019

In the matter of :

Rizwan afar, age 29 yrs,
(Designation – Chemical Asst, Group-B),
S/o Sharafat Hussan,
Village – Yak Bagri, Post –Gajraula,
Police Station – Rajabpur,
Dist.-Amroha, Uttar Pradsh -244 235. ...Applicant

(By Advocate: Shri Palash Maheshwari, Counsel for Applicant)

VERSUS

1. Central Revenue Control Laboratory
Through its Director, Hillside Road,
Pusa, New Delhi-110 012.
2. Staff Selection Commission,
Through its Chairman, Block No.12,
5th floor, CGO Complex,
New Delhi-110 003.
3. Ministry of Finance, Government of India,
Through Revenue Secretary,
Department of Revenue, 128-A, North Block,
New Delhi-110 001. ...Respondents

(By Advocate: Mr. Ashok Kumar, Counsel for Respondents)

O.A. No.2739/2019

In the matter of :

Vivek Kumar, age 29 yrs,
(Designation – Chemical Asst, Group-B),
S/o Sh.Milap Chand,
R/o C-246, Sector-1, Rohini,
Northwest Delhi, Delhi-110 085.

...Applicant

(By Advocate: Shri Palash Maheshwari, Counsel for Applicant)

VERSUS

1. Central Revenue Control Laboratory
Through its Director, Hillside Road,
Pusa, New Delhi-110 012.

2. Staff Selection Commission,
Through its Chairman, Block No.12,
5th floor, CGO Complex,
New Delhi-110 003.

3. Ministry of Finance, Government of India,
Through Revenue Secretary,
Department of Revenue, 128-A, North Block,
New Delhi-110 001. ...Respondents

(By Advocate: Mr. Hanu Bhaskar, Counsel for
Respondents)

ORDER

By Mr. Justice L. Narasimha Reddy, Chairman:

The subject matter of both these OAs is common.

Hence, they are heard and decided together.

2. The Central Revenue Control Laboratory (CRCL)
intended to fill up 151 vacancies of Chemical Assistant.





The selection process was entrusted to the Staff Selection Commission (SSC), the respondent no.2 herein. An advertisement was issued in the year 2017 by the 2nd respondent for this purpose. The qualification stipulated for the post is (a) a Bachelor's Degree in Chemistry from a recognised University or Institute; (b) 2 years experience in Chemical Analysis or Research in a Government Department or Autonomous or Statutory Body or Recognise Institution or University or Public Sector Organization (Undertaking) or Listed Private Sector Organization.

3. The applicants in both the OAs stated that they hold the prescribed educational qualifications and have experience of more than 2 years in the reputed Organizations. A written test was conducted and the dossiers of selected candidates were forwarded to the first respondent. The applicants secured the ranks of 38 and 2 respectively. However, they were not issued orders of appointment on the ground that they did not have two years of experience in the listed Private Sector Organization. The applicants challenge the action of the respondents in not treating them as qualified. They have also prayed for consequential reliefs.

4. It is stated that the applicant in OA.No.2738/2020 had experience of 3 years, 8 months and 23 days in four different Organizations like IOL Chemicals and



Pharmaceuticals Limited, Saurav Chemnicals Limited and Teva API India Pvt. Limited, and despite that he was treated as not qualified.

5. The applicant in OA.No.2739/2020 submits that he has to his credit, the experience of 4 years, 6 months, and 23 days, which includes 10 months of study/research while pursuing M.Sc. (Chemistry) and the working in M/s Jubilant Chemsys Limited and Jubilant Life Sciences Limited. It is stated that M/S Jubilant Life Sciences Limited is a subsidiary body of Jubilant Chemsys Limited, a registered company; and even if the experience in those two Organizations is taken into account, he would be qualified.

6. Separate counter affidavits are filed in the OAs. As regards the facts in OA.No.2738/2019, it is stated that the applicant has mentioned his experience in 3 Organizations viz., M/s Teva ApI India Pvt. Limited, IOL Chemicals and Pharmaceuticals Limited and M/s Saurav Chemical Limited, and out of them only M/s IOL Chemicals and Pharmaceuticals Limited is a 'listed company', and the experience of the applicant in that organization was only one year. In relation to the applicant in OA.No.2739/2019, it is stated that he mentioned the experience in M/s Jubilant Life Sciences Limited and Jubilant Chemsys



Limited, and out of them the first one alone is the listed company and his experience in that is about 16 months. As regards, the contention of the applicants that their eligibility was verified by the 2nd respondent itself, it is stated that it was only for the limited purpose of issuing admit cards, and the actual verification from the Registrar of Companies and other important Agencies has taken place only by the first respondent at the time of issuing orders of appointment. It is stated that the stipulation in the advertisement as well as Recruitment Rules is very clear and the applicants did not satisfy the same.

7. Shri Talha Atul Rahman advanced arguments in favour of the applicant. He contends that it is only on being satisfied that the applicants are qualified in all respects, that the 2nd respondent permitted them to take the written examination. He submits that the applicants secured highly meritorious ranks and there was absolutely no basis for the first respondent in rejecting the candidature of the applicants. He contends that the expression “listed company” was interpreted by the respondents in a very restricted manner and it does not make any difference whether a private limited company is listed or not, as long as its activities are up to the prescribed level. He placed



reliance upon the judgment of the Hon'ble Supreme Court in (2015 (17) SCC 709).

8. The learned counsel for the Applicants further submits that this is a fit case for extending the benefit of relaxation provided for under the advertisement itself. They have also made written submission.

9. Sri Hanu Bhaskar, learned counsel for the Respondents, submits that the stipulation in the advertisement as well as the Recruitment Rules is very clear and the applicants did not have the requisite experience from the stipulated Institutions. He submits that the verification of the certificates or records by the 2nd respondent was for the limited purpose of issuing admit cards and that was not the stage to verify whether a particular candidate worked in a listed company or not. He contends that the interpretation placed on the expression "listed" by the applicants cannot be accepted at all and that would defeat the very purpose of the stipulation. He contends that if one takes into account, the type of institutions or organizations that are mentioned in the clause, the inescapable conclusion would be that an



unlisted private organization does not fit into class of the organizations mentioned in the rule.

10. The learned counsel for the Respondents submits that the question of relaxation would arise if only adequate number of candidates are not available in the relevant categories.

11. The 2nd respondent was entrusted with the process of selection for appointment to the post of Chemical Assistant in the year 2017 for the 151 posts in the first respondent Organization.

12. The qualifications for the post are prescribed as under:


*(a) a Bachelor' s Degree in Chemistry
from a recognised University or
Institute;*

*(b) 2 years experience in Chemical
Analysis or Research in a
Government Department or
Autonomous or Statutory Body or
Recognise Institution or University or
Public Sector Organization
(Undertaking) or Listed Private Sector
Organization.*




13. There is no dispute about the educational qualifications of the applicants. In fact, one of them is a Post Graduate in Chemistry. The whole controversy is as to whether they have to their credit, two years experience, in chemical analysis or research. Such an experience is required to be in the specified Institutions/ Organizations viz., (a) Government Department; (b) Autonomous or Statutory Body; (c) recognised Institution or University; (d) a Public Sector Organization (Undertaking) or (e) Listed Private Sector Organization.

14. Both the applicants stated that their experience is in the last category of Institutions viz., Listed Private Organizations. Their applications were processed to certain extent by the 2nd respondent before the examination was conducted. The applicants secured ranks of 38 and 2 respectively. In fact, the dossiers of the applicants, were also forwarded to the first respondent. It is there, that the scrutiny has taken place by addressing letters to the concerned Registrar of Companies and the Institutions where the applicants are said to have worked. The gist of experience of the applicants is furnished by the respondents as under:



S. No.	Name of the Candidate	Rank	Experience From Name of Companies	Response From the Companies/Registrar
	Shri Rizwan Zafar	38	(i)Teva API India Pvt. Ltd., A-2, A-2/1, A-2/2 UPSIDC Industrial Area, Bijnor Road, Gajraula, Dist. Amroha U.P.- 244235, (Period 06/2016 to 09/2017	Not Listed
			(ii)IOL Chemicals and Pharmaceuticals Lt.,85, Industrial Area, "A", Ludhiana, (Punjab)- 141003 (Period 07/2015 to 06/2016	Listed
			(iii)M/s. Saurav Chemical Ltd. Vill.Bhagwanpur, Barwala Road, Derabassi, Distt. Ajitgarh/S.A. S.Nagar, Mohali, Punjab-140507. (Period 11/2014 to 06/2015)	Not Listed

S. No.	Name of the Candidate	Rank	Experience From Name of Companies	Response From the Companies/Registrar
1.	Vivek Kumar	02	M/s JublantLife Science Limited	Listed



			04/2015 to 08/2016	
			M/s Jubilant Chemsys Limited 10/2012 to 02/2015	Not Listed

Though it is pleaded by the applicants that they could not mention the particulars of other institutions where they were working, for want of space in the column in the application, we are not impressed by them. They seem to have felt that the experience in the Institutions or Organizations mentioned by them is adequate to qualify.

15. The whole controversy is as to whether the Private Sector Organization must be one, which is 'listed' . The applicants contend that the listing of a company is for the limited purpose of procuring finances and investment by a Company; and in the context of experience, it should not make any difference whether it is listed or not, once the company is incorporated under the Act.

16. The first respondent has on its own purpose, when it stipulated that the Private Sector Organization must be the one which is listed. Listing is a phenomenon which occurs in



the Securities Contract (Regulation) Act, 1956. A separate chapter from Sections 21 to 22 (f) is devoted for that purpose.

17. A Company can get listed with a Stock Exchange only on fulfilling certain conditions. Once it is listed, it is required to abide by the conditions stipulated under that Act.

18. It is not uncommon that certain Companies Private or Public Limited, may not feel the necessity of getting them listed at all if they are otherwise financially sound. However, the Companies that are listed constitute an independent class. The inflow of their capital is subject to regulation by the Organizations like SEBI. It is not for the Tribunal to verify, muchless to decide as to what purpose would be served for the first respondent in case a Private Sector Organization is listed or not. It is always for the Department or Agency to stipulate its own conditions. The question as to whether such a stipulation was necessary or it has lead to any arbitrariness would have arisen had the applicants challenged the condition. That not having been done, the Tribunal cannot delve into the relevance of the stipulation at all.

19. At any rate, the inclusion of the listed Private Sector Organization in the concerned provision cannot be said to be



arbitrary or otherwise illegal. In fact, if one takes into account, the nature of Organizations that are mentioned in the seriatim, the one occurring at the end fits into the concept of *Ejusdem Generis*.

20. Reliance is placed upon the judgment of the Hon'ble Supreme Court in 2015 (17) SCC 709. That was a case in which the qualification stipulated for the post was B.Sc (Forestry) or its equivalent. The candidates therein studied B.Sc with Forestry, as one of the main subjects. However, that was not treated as equivalent. They approached the Courts. The Hon'ble Supreme Court held that once the study is in Forestry at the Graduation level and when the rule itself provides for equivalence, the candidates cannot be said to be not qualified. Here, the comparison is not about the qualifications held by the applicants. It is with reference to the experience, which is required to be for a period of 2 years in the specified Organizations. Once the experience of the applicants in the listed private organization fell short of two years, there is no way that they can be said to have fulfilled the requirement.

21. The respondents have clearly mentioned that they have taken into account, the experience of the applicants in the



listed Organization and not the others, and that was not adequate. It is a matter of record and there is no denial of that fact. Once that is the case, any amount of effort made by the applicants to convince the Tribunal that there existed some link between the listed and non-listed Organizations where they worked, would not be of much help. Similarly, their study or work that lead to the conferment of a Post Graduate Degree cannot be treated as experience, stipulated under the advertisement.

22. We do not find any merit in these OAs and the same are accordingly dismissed.

23. The MAs stand disposed of. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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