

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

C.P. No.310/00049/ 2015
in
O.A. No.1570 of 2010
&
C.P. No.310/00050 of 2015
in
O.A. No.286 of 2013

Dated Tuesday the 6th day of October, Two Thousand Fifteen

P R E S E N T

HON'BLE MR. JUSTICE B. SESHASAYANA REDDY, Member (J)
&
HON'BLE DR. P. PRABAKARAN, Member(A)

C.P.310/00049/2015
in
O.A. 1570/2010

R.Tota Vinod Kumar, S/o. Ramamurthy,
Working as Wireman, Electricity Department,
Yanam Union Territory of Puducherry.

....Applicant

[By Advocate:M/s. V. Ajaya Kumar]

Vs.

Thiru K. Mathivanan,
Superintending Engineer-I,
Electricity Department,
Puducherry.

... Respondent

[By Advocate:Mr. R. Syed Mustafa]

1. R. Inbassegarane, S/o. Ramalingam,
Hindu, aged 54 years, working as
Junior Engineer, Electricity Department,
Puducherry;
2. Z. Cloude, S/o. Zeinulla Boudin,
Christian, 54 years, Working as
Junior Engineer, Electricity Department,
Puducherry;
3. S. Sakthivelu, S/o. Shanmugam,
Hindu, aged 48 years, Working as
Junior Engineer, Electricity Department,
Puducherry;
4. T. Ravichandran, S/o. C. Thangavelu,
Hindu, aged 45 years, Working as
Junior Engineer, Electricity Department,
Puducherry;
5. M. Guilbert James, S/o. Mariapragasam,
Christian, aged 45 years, working as
Junior Engineer, Electricity Department,
Puducherry.

....Applicants

[By Advocate:M/s. V. Ajaya Kumar]

Vs.

1. T.M. Balakrishnan, I.A.S.,
Secretary to Govt. (Power),
Chief Secretariat, Puducherry.
2. K. Mathivanan,
Superintending Engineer-I,
Electricity Department,
Puducherry.

... Respondents

[By Advocate:Mr. R. Syed Mustafa]

ORDER

(Pronounced by Hon'ble Mr. Justice B. Seshasayana Reddy, Member(J))

These two Contempt Petitions are filed by the applicants in O.A. Nos. 1570/2010 and 286/2013 respectively complaining dis-obedience of the common order dated 22.09.2014.

2. Respondents filed reply statement in the respective Contempt Petitions.
3. It is stated in the reply statement that respondents passed speaking order pursuant to the direction given by this Tribunal in common order dated 22.09.2014 passed in O.A.Nos. 1570/2010 and 286/2013 and therefore, the Contempt Petitions are liable to be dismissed.
4. Heard learned counsel appearing for the parties.
5. It is contented by the learned counsel for the applicants that the direction given by this Tribunal in O.A. No. 1570/2010 and 286/2013 are two fold. Firstly, the respondents have to address a letter to the concerned Agencies/Institutions - AICTE, Distance Education Council of IGNOU and UGC in the matter and ascertain the necessary advice and based on their advice, the respondents should take a decision on the prayer of

B. Seshasayana Reddy

the applicants. Secondly, in case the response from those bodies is not helpful in taking a decision in the matter, the respondents should consider holding of written and practical examinations, as indicated in the noting in the file of MHRD referred in the order.

6. According to the Learned counsel for the applicants, hearing of both the Associations while giving effect to the order is not the direction given by this Tribunal in the common order passed in O.A. Nos. 1570/2010 and 286/2013 and therefore the respondents over stepped the direction which is not warranted. It is also contended by the counsel that once the institution is recognized, it is deemed that the courses offered by the institution is also recognized. Learned counsel for the applicants refers the letter date 01.01.2015 addressed to the Government of Puducherry by the Dy. Director (SKP), Univeristy Grants Commission, Distance Education Bureau, Camp Office, DEC Building, IGNOU Campus, New Delhi in support of his contention that Vinayaka Mission's Research Foundation and Institute of Advance Studies, Sardarshar, Rajasthan are recognized institutions and therefore courses offered by them are also deemed to be recognized, in which case, the diploma certificates awarded by the said institutions cannot be assailed.

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7. Learned Government Pleader appearing for the respondents submit that the respondents corresponded with the institutions as directed by this Tribunal and ultimately the agencies left the matter to the discretion of the employer. Respondents considered the entire material on record and came to the conclusion that the diplomas obtained by the petitioners cannot be recognized since the institutions which offered the certificates have no valid recognition of the course. It is also submitted by the Learned Government Pleader that similar issue came for consideration before the High Court of Madras in W.P. Nos. 28309 and 24552 of 2013 (S. Sudhakaran v. Superintending Engineer-I, Electricity Department, Government of Puducherry and Anr.) dated 18.12.2014 wherein the High Court held that diplomas obtained after undergoing two years course and that too by correspondence cannot be said to be valid diplomas. The learned counsel took us to para 16 of the judgement passed by the High Court in the above referred judgement and it is thus:-

"16. It is also a matter of record that Diploma course in other recognised institutions are all of three years duration. However, the petitioner obtained Diploma after undergoing two years course and that too by correspondence. In fact the first respondent has taken a contention in the reply affidavit that there are several educational

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institutions imparting Technical Education in Pondicherry and in the neighbouring State of Tamil Nadu. The petitioner appears to have taken a different path by joining correspondence course rather than joining regular course. In fact there are institutions conducting Evening Classes for employed personnel. Nothing prevented the petitioner from undergoing regular course instead of correspondence course.

17. The Central Administrative Tribunal was perfectly correct in rejecting the contentions taken by the petitioner. The petitioner failed to fulfil the essential qualification as indicated in the Recruitment Rules and as such he was rightly denied promotion to the post of Junior Engineer. We do not find any reason to take a different view in the matter."

We have gone through the order passed by the respondents pursuant to the direction given by this Tribunal in O.A. Nos.1570/2010 and 286/2013. The direction given by this Tribunal in the above referred O.As reads as hereunder:-

"Although the above judgement was in a different context, the spirit of the judgement applies equally for determining equivalence of a qualification, that is Degree/Diploma. In the facts and circumstances of the case, it is necessary that the concerned Agencies/Institutions -AICTE, Distance Education Council of IGNOU and UGC- be addressed in the matter by the Government of Puducherry by a

Prof. [Signature]

self-contained letter within a period of a month from the date of receipt of this order to give their report/recommendation within the next 4 months and based on their advice, the Respondents should take a decision on the prayer of the Applicants. It is seen that although they were addressed in this regard in 2008, it appears to have been without any fruitful result. Considering that the matter has been pending for a very long time, it should be followed up by the Government of Puducherry at the highest level in right earnest so that there is no undue delay in taking a decision in the case. In case the response from those bodies is not helpful in taking a decision in the matter, the Respondents should consider holding of written and practical examinations, as indicated in the noting in the file of MHRD referred to above, to test whether the Applicants have acquired the proficiency supposed to be possessed by B.Tech/BE degree/ Diploma holders who undergo a regular course, subject to their being willing to take the examinations, and take further action accordingly in regard to the claim of the applicants for promotion."

8. Respondents addressed letters to the University Grants Commission and the All India Council for Technical Education . After receiving the response from the two agencies, respondents proceeded to pass order on 25.06.2015.. Before

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passing order dated 25.6.2015, respondents obtained legal opinion from the law department and taken all the care in scrutinizing the material placed on record. Indeed opportunity has been given to both the associations before passing order dated 25.6.2015. The said order is a conscious order and it is in due compliance of the direction given by this Tribunal in O.A. Nos. 1570 of 2010 and O.A. No. 286/2013. The order dated 25.6.2015 amounts to substantial compliance of the direction given by this Tribunal. Accordingly, we find that the applicants failed to make out any valid grounds that the respondents violated the direction given by this Tribunal in O.A.s 1570 of 2010 and O.A. No. 286/2013 dated 22.09.2014. However, the petitioners are at liberty to assail the order dated 25.06.2015 in accordance with law.

9. In the result, the Contempt Petitions are dismissed. No order as to costs.