

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01378/2014 & OA/020/00874/2016

HYDERABAD, this the 3rd day of December, 2020

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



K.P.Srinivas Prasanna
S/o K.Narasimha Chari,
Aged about : 32 years,
Occupation : Employee,
R/o H.No.60-21-2,
Vellanki Rammohan Rao Street,
Ashok Nagar, Near ITI College,
Vijayawada. PIN-520 008.

...Applicant in both OAs

(By Advocate : Mr.K.R.K.V.Prasad)

And

1. Union of India Rep by
The Director General of Civil Aviation,
Ministry of Civil Aviation,
At : Opposite to Safdarjung Airport,
Technical Centre, New Delhi Pin – 110003.

2. The Secretary,
Union Public Service Commission (UPSC),
At : Dholpur House, Shahjahan Road,
New Delhi, PIN – 110 069.

....Respondents in OA 1378/2014

1. Union of India Rep by
The Director General of Civil Aviation,
Ministry of Civil Aviation,
Opp : Safdarjung Airport,
Technical Centre, New Delhi-110 003.

2. Union Public Service Commission Rep. by
The Secretary, Dholpur House, Shahjahan Road,
New Delhi – 110 069.

3. Ganesh Pandurang Trimba, Roll No.766

4. Chandi Ram Khowal, Roll No.523

5. Mahendra Pratap , Roll No.577

6.Rajneesh Raheja, Roll No.295

7.Manoj Kumar Paidisetty, Roll No.194

8.Dinesh Kumar, Roll No.538

9.Adarsh Kumar Sachan, Roll No.487

10.Vijay Kumar, Roll No.720



11.Sivasubramanian, Roll No.699

12.Vikrant, Roll No.464

13.Kanwar Pal, Roll No.560

14.Kunapareddy SR Krishna, Roll No.166

15.Vivek Puri, Roll No.474

16.Navneet Kumar Sharma, Roll No.227

17.Yogendra Kumar Sharma, Roll No.729

18.Birendra Kumar Gupta, Roll No.522

19.Lokendra Singh,Roll No.175

20.Balamurugan M. Roll No.078

21.G.Vasudeva Varma, Roll No.111

22.Sanjay Majhi, Roll No.336

23.Arun Kumar Choudhury, Roll No.504

24.Pradeep Kumar, Roll No.623

25.Rajesh Kumar, Roll No.639

...Respondents in OA 874/2016

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

ORAL ORDER (COMMON)
(As per Hon'ble Mr. B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The applicant filed the OA 1378/2014 aggrieved by exclusion of Electronics stream of Engineering from the purview of essential educational qualification for the post of Assistant Director of Airworthiness in Directorate General of Civil Aviation, Ministry of Civil Aviation vide Civil Aviation Department (Group A and B Posts) Recruitment (Amendment) Rules, 1980 notified vide GSR No. 316, dt. 25.02.1980 and for a consequential direction to the respondents to accept his application for the said post duly accepting his qualification of Electronics in Engineering as one of the essential educational qualification pursuant to the notification dt.08.11.2014 vide Advertisement No. 18/2014. `

When the case came up for hearing, this Tribunal passed an interim order on 26.11.2014 directing the respondents to receive the application of the applicant.

Subsequently, the applicant filed OA 874/2016 questioning the Select List dt. 05.05.2016 r/w. proceedings dt. 4.4.2016 and the action of the respondents in not enlisting him in the shortlisted candidates notified on 4.4.2016 and finalizing the result without calling him for the interview for the post of Assistant Director of Airworthiness as illegal, arbitrary and unjust. He also sought a direction to the respondent to call him for the interview and finalise the selection of the applicant.

As the issue involved and the facts and circumstances are common in both OAs, which are filed by the same applicant, both the OAs were heard together and a common order is being passed. However, for convenience, facts narrated in the OA No. 1378/2014 are predominantly referred to.



3. Brief facts of the case are that the applicant is a graduate Engineer in Electronics & Communications stream and has 6 years of experience in Aircraft Maintenance Engineering. The respondents issued an advertisement No. 18/2014 on 8.11.2014 to fill up the posts of Assistant Director of Airworthiness wherein the degree of Engineering in Electronics stream is excluded from the essential educational qualification. The 1st respondent issued Airworthiness Procedures Manual in March 2009 according to which the Recruitment Rules contemplated Degree in Electronics as Educational requirement for the post of Assistant Director Airworthiness. The applicant approached the respondents on 17.11.2014 to consider his candidature for the said post and since there was no response, the present OA has been filed.

4. The contention of the applicant are that the action of the respondents in issuing Advertisement No. 18/2014 by excluding the Electronics Stream of Engineering as one of the essential education qualifications is in violation of the Recruitment Rules framed by the Director General Civil Aviation (for short “DGCA”). The respondents in not acting on the legal notice issued by the applicant on 17.11.2014 is unfair. The respondents have by-passed the Recruitment Rules in respect of the post of Airworthiness Procedure Manual issued in March 2009.

5. The respondents in the reply statement submit that the vacancy notification dt. 8.11.2014 vide Advertisement No. 18/2014 has been issued for filling up 19 posts of Assistant Director of Airworthiness in Directorate General of Civil Aviation, based on the approved Recruitment Rules i.e. Civil Aviation Department (Group A and B Posts) Recruitment (Amendment) Rules, 1980 notified vide GSR No. 316 dt. 25.02.1980. The said Rules substitute the rules mentioned at Sl. No. 46 of GSR 1555 dt. 16.06.1969 in so far as Airworthiness Directorate is concerned. The existing Recruitment Rules as amended vide GSR No. 316 dt. 25.02.1980 are still operative as no further amendment to it has been made. The recruitment agency is UPSC, which notifies all the vacancies and takes appropriate action to fill up the posts. The Recruitment Rules are statutory in nature and they are framed in order to ensure appointment/selection of the best suitable candidates for a particular post by prescribing relevant experience, educational qualifications, appropriate method of recruitment. As per the amended Recruitment Rules vide GSR No. 316 dt. 25.02.1980, educational qualifications prescribed for the post of Assistant Airworthiness, Bachelor Degree in Electronics Stream in Engineering is not included as eligible qualification. Therefore, the case of the applicant could not be considered pursuant to the notification issued for the said posts. However, in view of the interim order of this Tribunal, the application of the applicant for the said post was accepted by the 1st respondent.

In the Reply filed in OA No. 874/2016, the respondents stated that as against the number of vacancies of 19 notified, as many as 902

applications were received by the UPSC. As the number of applications received were very high, they had to be shortlisted as per the Manual. Therefore, while shortlisting the applications, the number of years of experience was increased to 10 years in respect of OBC candidates whereas the experience possessed by the applicant was only 6 years. As he was falling short of the required experience, he was not called for further selection.



6. Heard both the counsel and perused the pleadings on record.
7. The applicant is an Engineering Graduate in Electronics stream. He applied for the post of Assistant Director of Airworthiness against the advertisement No. 18/2014 issued by the respondents. As per the notification, Electronics stream of Engineering is not one of the essential educational qualification prescribed for the said post. The applicant issued a legal notice to the respondents to accept his application and as there was no response, he approached this Tribunal by filing OA No. 1378/2014. This Tribunal, as an interim measure, directed the respondents to receive the application of the applicant. Accordingly, the UPSC which is the recruitment agency for the subject post, accepted the application of the applicant and processed it. As seen from the reply of the respondents, there were 902 applications against 19 notified vacancies. Therefore, the UPSC, in exercise of powers conferred, in terms of the advertisement, enhanced the experience criteria for shortlisting as under:

Unreserved – EQ (A)(i)/EQ(B)(i) + 11 years of experience and above

OBC - EQ (A)(i)/EQ(B)(i) + 10 years of experience and above

SC - EQ (A)(i)/EQ(B)(i) + 07 years of experience and above

ST - EQ (A)(i)/EQ(B)(i) + 05 years of experience and above



Thus, the experience criteria in respect of OBC candidates has been revised to 10 years and more, whereas the applicant possesses 6 years and since he was not having 10 years experience, his application could not be entertained. Therefore, the contention of the applicant that the respondents have violated the interim order of the Tribunal is incorrect. The respondents have acted as per the terms and conditions notified in the notification as well as the instructions given in the Manual. Besides, as per the Rules, the respondents have to select candidates based on the terms and conditions notified in the notification. If there is any deviation in the same, then it would also cause injustice to all other candidates like the applicant who had qualification of Engineering in Electronics stream, but could not apply because of exclusion of the said qualification in the notification. Hence, considering the case of the applicant on the strength of the said qualification, which is not included in the notification, would cause injustice to all similar candidates. Even otherwise, the respondents have been fair enough to entertain the application of the application and since he did not have the requisite experience, he was not selected. The action of the respondents is thus as per rules and even law. It is a settled law that selection shall be based on the terms and conditions prescribed in the notification. This Tribunal does not have any power to change the statutory rules. It is left to the respondents to amend the Rules as per the

requirements of the respondents organization. Hence, on all counts, we do not find any merit in the OA No.1378/2014 and the same is accordingly dismissed. Consequently, the OA No. 874/2016 is also dismissed. No order as to costs.



(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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