

Reserved**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
JABALPUR**Original Applications Nos.200/151/2019, 200/190/2019,**
200/207/2019 & 200/347/2019Jabalpur, this Thursday, the 02nd day of July, 2020**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER****HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER****1. ORIGINAL APPLICATION NO.200/151/2019**

Pradeep Singh Bisht, Son of Shri K.S. Bisht, aged about 35 years, Resident of House No.252, Main Road, Village Kaniya, Ram Nagar, District Nainital (Uttarakhand) 244715
-Applicant

(By Advocate – S/Shri M.S. Bhatti and Ajay Ojha)**V e r s u s**

1. Union of India through its Secretary, Ministry of Railway, Headquarters- Rail Bhavan, 1 Rasina Road, New Delhi (INDIA) 462023.
2. Railway Recruitment Board, Through its Chair Person, East Railway Colony, Bhopal (M.P.) 462010.
3. Indira Gandhi National Open University through its Registrar, Maidan Garhi, New Delhi (INDIA) 110068.
4. National Council for Hotel Management and Catering Technology, Through Its Director, Library Avenue, Usha Complex, New Delhi (INDIA) 110012.
5. Roshan (Roll No.14143081005365).
6. Amit Singh (Roll No.15143081005343).
7. Mohit Yadav (Roll No.14143081005320).

Respondents no.5 to 7 through Railway Recruitment Board, East Railway Colony, Bhopal (M.P.) 110068.

-Respondents

(By Advocate – Shri Arun Soni for respondent No.2, Shri Gautam Prasad for respondent No.4 and Shri Anshuman Singh assisted by Shri Anuj Shrivastava for respondents Nos.5, 6 & 7)

2. ORIGINAL APPLICATION NO.200/190/2019

Krishnakant Devraj, S/o Late Shri B.K. Devraj, Occupation – Private Job, Age – 30 years, R/o LIG A-332, Rajeev Nagar, Ayodhya Bypass, Bhopal (M.P.) 462001

-Applicant

(By Advocate – Shri Akash Choudhary with Shri Aditya Narayan Shukla)

V e r s u s

1. Union of India through its Secretary, Ministry of Railways, Raisena Road, New Delhi – 110011.

2. The Railway Recruitment Board through its Chairman, East Railway Colony, Bhopal – 462020 (MP).

3. The Western Central Railway through its General Manager, Indira Market, Jabalpur (MP) 482001.

4. Amit Singh, S/o Sub. Maj. R.P. Singh, aged about 30 years, R/o House No.2237, Water Works Road, Jabalpur M.P.

5. Mohit Yadav, S/o Shri Mahivendra Singh Yadav, aged about 29 years, R/o F-5 Shriji Villa Apartment, River View Colony, Morar, Gwalior, M.P.

6. Smt. Megha Pankaj Nagdeve, W/o Pankaj Nagdeve, aged about 37 years, R/o SM-11/ Block No. 3, Sahyadri Parisar, Bhadbhada Road, Bhopal M.P.

-Respondents

(By Advocate – Shri Arun Soni for respondents Nos.1 & 2, Shri K.V.S Sunil Rao, proxy counsel of Shri Swapnil Ganguly for respondent No.3 and Shri Anshuman Singh assisted by Shri Anuj Shrivastava for private respondents Nos.4, 5 & 6)



3. ORIGINAL APPLICATION NO.200/207/2019

J. Ankit Pillai, S/o Shri Jayachandran Pillai, 25 aged about years, R/o Flat No.304, Gulmohar Gold Apartment, South Civil Lines Pachpedi, Jabalpur, District – Jabalpur (M.P) 482001
-Applicant

(By Advocate – Shri Kuljeet Singh Makhija)

V e r s u s

1. Union of India through the Secretary, Ch/o Railway, Rail Bhawan, Raising Road, New Delhi 110001.

2. The Railway Recruitment Board (RRB), Through its Chairman, East Railway Colony Bhopal 462020 (M.P).

3. Union of India through the General Manager, West Central Railway, Indira Market, Jabalpur 482001

-Respondents

(By Advocate – Shri Arun Soni and Shri K.V.S Sunil Rao, proxy counsel of Shri Swapnil Ganguly)

4. ORIGINAL APPLICATION NO.200/347/2019

1. Mohd. Wasim Ansari, S/o Mohd. Irfan Ansari, Occupation – Private Job, Age – 30 years, R/o H. No.4, Lajpat Market, Borkheda, Kota, Rajasthan 324001.

2. Ambika Prasad Pal, S/o Heeralal Pal, Occupation – Private Job, Age – 30 years, R/o H. No P-210, Priyanka Road, Rajharsh Kolar Road, Bhopal – 462020 (MP)
-Applicants

(By Advocate – Shri Akash Choudhary with Shri Aditya Narayan Shukla)

V e r s u s

1. Union of India through its Secretary, Ministry of Railways, Rail Bhavan, 256-A, Raisina Road, Rajpath Area, Central Secretariat, New Delhi 110001.



2. The Railway Recruitment Board through its Chairman, East Railway Colony, Bhopal – 462020 (MP).

3. Union of India through its General Manager, Western Central Railway, Indira Market, Jabalpur (MP) 482001

-Respondents

(By Advocate – Shri Arun Soni for respondents Nos.1 & 2 and Shri K.V.S Sunil Rao, proxy counsel of Shri Swapnil Ganguly for respondent No.3)

(Date of reserving order : 04.03.2020)

COMMON ORDER

By Navin Tandon, AM.

Since the issue involved in all the four Original Applications is similar, they are being adjudicated through a common order. The facts are being taken from OA 200/151/2019 unless specifically mentioned otherwise.

2. The applicants, in these cases, are aggrieved that even though they have come in the merit, their degree of B.Sc. (Hospitality and Hotel Administration) is not being considered as meeting the minimum Education Qualification for the post of Catering Inspector.

3. The qualifications of the applicants are as under:

3.1 Pradeep Singh Bisht (applicant in OA 200/151/2019) – Bachelor of Science (Hospitality and Hotel Administration) awarded by Indira Gandhi National Open University (IGNOU) in collaboration with National Council



for Hotel Management and Catering Technology (NCHMCT) in June 2005 (Annexure A-5).

3.2 Shri Krishnakant Devraj (applicant in OA 200/190/2019) - Bachelor of Science (Hospitality and Hotel Administration) awarded by Indira Gandhi National Open University (IGNOU) in collaboration with National Council for Hotel Management and Catering Technology (NCHMCT) in December 2010 (page 26 Annexure A-2).

3.3 J. Ankit Pillai (applicant in OA 200/207/2019) - Bachelor of Science (Hospitality and Hotel Administration) awarded by Indira Gandhi National Open University (IGNOU) in collaboration with National Council for Hotel Management and Catering Technology (NCHMCT) in June 2011 (page 23 Annexure A-1).

3.4 Mohd. Wasim Ansari and Ambika Prasad Pal (applicants in OA 200/347/2019) - Bachelor of Science (Hospitality and Hotel Administration) as stated in the Original Application.

4. The undisputed facts of the case are as under:-

4.1 Railway Recruitment Board (hereinafter referred to as '**RRB**') Bhopal (respondent No.2) had issued Centralised Employment Notice No.03/2014 (Annexure A-10), wherein 8 posts of Catering Inspector (Commercial)



Catering Inspector Gr-II/Catering Inspector/Catering Sup. Gr-I were notified for RRB Bhopal. The minimum educational qualification specified therein was as under:

- “(a) Higher Secondary (10+2) or equivalent
- (b) Diploma in catering from a recognized institute.
- (c) Two year experience in reputed Hotel will be a desirable qualification.”



4.2 The applicant has obtained degree of Bachelor of Science (Hospitality and Hotel Administration). This program is run by IGNOU in collaboration with NCHMCT. The regular classes were held at Institutes under the academic control of NCHMCT.

4.3 The applicant herein has secured higher marks than the cut-off. However, he has not been placed in the select list for the reason that his degree of Bachelor of Science (Hospitality and Hotel Administration) was not considered complying with the minimum eligibility qualification specified in the advertisement.

4.4 The applicant has averred that NCHMCT themselves have a certificate (Annexure A-8) certifying that this course is higher level than the Diploma in Catering.

5. The applicant has sought for the following reliefs:

“8. RELIEF(S) SOUGHT:

In view of the facts and circumstances stated above the applicants pray for following relief:

- (i) That, this Hon’ble Tribunal may kindly be pleased to call for the entire record pursuant to the Centralized Employment Notice No.03/2014 pertaining to the post of Catering Inspector.
- (ii) That, this Hon’ble Tribunal may kindly be pleased to set aside the select list/final result CAT No.08/Catering Inspector against the Centralized Employment Notice No.03/2014 so far as the relates to the unreserved candidates.
- (iii) That, this Hon’ble Tribunal may kindly be pleased to direct the respondents no.1 and 2 to forthwith consider the applicant’s candidature for the post of Catering Inspector and recommend the applicant’s name for appointment against the post of Catering Inspector.
- (iv) Cost of the applicant.
- (v) Any other relief which this Hon’ble Court deems fit and proper may also be awarded in favor of the applicant and allow the petition with cost, in the interest of justice.”



6. The respondent No.2 (RRB) Bhopal have filed their reply, wherein it has been stated that, “During document & candidature verification it was found that the applicant had not acquired required minimum education qualification (neither he is having degree nor diploma in catering) for Catering Inspector Cat 08 of Centralized Employment Notice No. 03/2014, therefore the applicant Shri Pradeep Singh Bisht was not shortlisted for final selection (panel). Hence from the aforesaid it is quite clear that applicant not having requisite qualification therefore rightly not considered for final selection. And it’s a prerogative of the employer that as per their

requirement and need of work they may fix the eligibility criteria and it is also worth to mention here that as per the advertisement they got Diploma or Degree or both holder in Catering and the candidates who are holding degree or diploma or both in catering they had been selected as per the advertisement condition.”



7. Respondent No.4 (National Council for Hotel Management And Catering Technology) have also filed their reply in which they have submitted that the word ‘Catering’ involves professional service of food and drinks at a given venue or in any event. The name of the answering respondent itself indicates the word ‘Catering’ in its name. There are 21 Central Government sponsored Institutes of Hotel Management & Catering Technology that impart different duration courses to students ranging from 3-5 years. B.Sc. Degree and one and half year Diploma courses, all related to Hotel Management and Catering Technology. Three year B.Sc. degree program under NCHMCT is delivered concurrently at 71 affiliated Institutes of Hotel Management & Catering Technology located in almost all State capitals. It is a six semester programs in which catering business is covered in all the six semesters. As per their estimate, 63% of the curriculum is related to catering alone.

8. Respondents Nos. 5, 6 & 7 have filed their reply in which they have submitted that relevant educational qualification is clearly specified as “Diploma in Catering from a recognised institute”. The applicant was aware that he does not have the requisite qualification.

9. Heard the argument of all the parties and perused the pleadings available on record.

10. Shri M.S. Bhatti, learned counsel for the applicant in OA 200/151/2019 submitted that the degree has been awarded by IGNOU in collaboration with NCHMCT. The mark-sheets of various years filed as Annexure A-4 clearly indicate that there are a large number of courses regarding food production. In the certificate issued by NCHMCT (Annexure A-8), it has clearly been certified that “this course is higher level than the Diploma in Catering”. IGNOU has also issued a certificate (Annexure A-7), which states that the said program is similar to Bachelor of Hotel Management run by other Universities or Institutes. He further submitted that reply and arguments on behalf of RRB Bhopal is not matching. On one hand, they say that the diploma holder is the minimum eligibility criteria on the other hand degree holders in catering have been selected.



10.1 He cited the case of **Mohd. Riazul Usman Gani and others vs. District & Sessions Judge, Nagpur and others**, (2000) 2 SCC 606 in which Hon'ble Supreme Court has held that having higher qualification cannot be treated as a disqualification.

11. Shri Akash Choudhary, learned counsel for the applicant in OA 200/190/2019 and OA 200/347/2019 submitted that NCHMCT has written to RRB Bhopal and Navodaya Vidyalaya Samiti (Annexure A-9 & A-10 respectively in OA 200/190/2019) to allow the degree in B.Sc. Hospitality and Hotel Administration as the eligible qualification for the Catering Inspector.

11.1 He places reliance on the decisions of Hon'ble Supreme Court in the matters of **Chandrakala Trivedi vs. State of Rajasthan and others**, (2012) 3 SCC 129; **Parvaiz Ahmad Parry vs. State of Jammu and Kashmir and others**, (2015) 17 SCC 709 and **Mohd. Riazul Usman Gani and others vs. District & Sessions Judge, Nagpur and others**, (2000) 2 SCC 606.

12. Shri Kuldeep Singh Makhija, learned counsel for the applicant in OA 200/207/2019 placed reliance on a decision of Hon'ble Apex Court in **Waman Rao and others vs. Union of India and others**, (1981) AIR (SC) 271.



13. Shri Gautam Prasad, learned counsel for respondent No.4 reiterated the points mentioned in the reply by NCHMCT that 63% of their course is related to catering and, therefore, the applicants herein are fully qualified to be selected as Catering Inspectors.

14. Shri Arun Soni, learned counsel for respondent No.2 (RRB) Bhopal submitted that the eligibility criteria was clearly Diploma in Catering from a recognised Institute. He cited the decision of Hon'ble Supreme Court in the matters of **Maharashtra Public Service Commission through its Secretary vs. Sandeep Shriram Warade and others**, (2019) 2 SCC (L&S) 154. He also places reliance on a decision of Hon'ble High Court of Madhya Pradesh at Jabalpur in **Sanyogita Thakur (Smt.) & ors. vs. State of M.P. & ors.**, I.L.R. [2013] M.P., 1357 wherein it has been held that the recruitment should be done strictly as per the rules.

15. Shri Anshuman Singh, learned counsel for the private respondents submitted that the job of the Catering Inspector is for supervision of catering for which the private respondents are well suited with their qualification in catering. He places reliance on a decision of Hon'ble Supreme Court in the matters of **Zahoor Ahmad Rather and others vs. Sheikh Imtiyaz Ahmad and others**, (2019) 2 SCC 404.



FINDINGS

16. In **Mohd. Riazul Usman Gani** (supra), relied upon by learned counsel for applicant in OA 200/151/2019, it was a case of recruitment of Class-III and IV services in the Subordinate Judicial Services where the qualification was Standard IV for Peons and Standard VII for Bailiffs. The Advisory Committee recommended that only those having the minimum qualification should be considered for interview as those who have studied above VII may not take proper interest in the work of Peon and, therefore, should not be called for interview. Hon'ble Supreme Court had set aside such a criteria adopted by the respondent department.

16.1 However, in the instant Original Application it is not the case that the degree available with the applicants is higher than what has been prescribed. It is the case of the respondent department that what they want is Diploma in Catering, whereas the Degree which the applicants are holding is B.Sc. (Hospitality and Hotel Administration).

17. In **Parvaiz Ahmad Parry** (supra), relied upon by learned counsel for the applicant in OA 200/190/2019 and OA 200/347/2019, the notification was for B.Sc. (Forestry) whereas the Appellant had the B.Sc. degree with Forestry as one of the major subject and further he had an M.Sc. (Forestry)



degree. The Hon'ble Supreme Court in the matter had held that the qualification of the appellant should be considered as meeting the requirement of the job since he was having higher qualification than the minimum.

18. In the matters of **Chandrakala Trivedi** (supra), relied upon by learned counsel for the applicants in OA 200/190/2019 & OA 200/347/2019, the Hon'ble Supreme Court had granted the relief to the appellant while making the remarks that, "However, we make it clear that we are passing the order taking in our view the special facts and circumstances of the case."

19. In **Waman Rao and ors.** (supra), learned counsel for the applicant in OA 200/207/2019 drew our attention regarding the application of rule of stare decisis.

20. The Hon'ble High Court of Madhya Pradesh in **Sanyogita Thakur** (supra), relied upon by learned counsel for respondent No.2 (RRB) Bhopal, has held that:

"7.....It is well settled in law that recruitment in public services should be strictly in accordance with the terms of the advertisement and recruitment rules, if any. If a deviation is made from the Rules, the same allows entry of ineligible persons and it deprives many others who could not have competed for the posts. It is equally well settled that fixation of qualification for a particular post is a matter of recruitment policy. [See: P.M. Latha and Another v. State of Kerala and Others, (2003) 3 SCC 541 and Yogesh Kumar and



Others v. Government of NCT, Delhi and Others, (2003) 3 SCC 548.....”

21. In Maharashtra Public Service Commission (supra), relied upon by learned counsel for the respondent No.2 (RRB), the Hon’ble Apex Court has held as under:



“9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same.”

22. In Zahoor Ahmad Rather (supra), relied upon by learned counsel for the private respondents, the Hon’ble Apex Court had held that;

“26.The prescription of qualifications for a post is a matter of recruitment policy. The state as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of

judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the state, as the recruiting authority, to determine.....”

27. *While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The state is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision making. The state as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in *Jyoti K.K. v. Kerala Public Service Commission*, (2010) 15 SCC 596 must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in *Jyoti K.K.* turned.*



23. Perusal of the various judgments cited by learned counsel for all the concerned parties makes it very clear that it is the job of the State to decide the qualifications for a particular job and the Tribunals and Courts should be extremely careful while entering into this area. Further, a higher qualification, which is undisputedly in the same field, should not be considered as a disqualification.

24. In the matters of **State of Rajasthan and others vs. Lata Arun**, 2002

(6) SCC 252, Hon'ble Supreme Court has observed as under:

“13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.”

25. In the present case, the minimum educational qualification specified by the respondents inter-alia is Diploma in Catering from a recognised Institute. It is the considered view of the respondent department that the applicants do not possess the minimum educational qualification required for the job. The degree available with the applicants is clearly not “Diploma in Catering” but is B.Sc. (Hospitality and Hotel Administration). Considering the various judicial pronouncements quoted above, the final decision regarding the equivalence or acceptability of a particular qualification is to be decided by the competent authority of the respondent department. In the instant case, it is the decision of the RRB that the qualifications of the applicants are not meeting the minimum educational qualifications. We do not find any illegality or irregularity in the said decision.

25. Accordingly, the Original Applications are dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-

