

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

OA/050/00303/2020

With

MA/050/118/2020

Date of Order :24.09.2020

C O R A M

HON'BLE MR. M.C.VERMA, JUDICIAL MEMBER
HON'BLE MR. SUNIL KUMAR SINHA, ADMINISTRATIVE MEMBER



Manindra Kishore, son of Sri Jawahar Singh, General Fitter (Skilled), Ordnance Factory, Nalanda, Rajgir, Pin Code-803121 (Bihar).

..... Applicant.

- By Advocate :ShriM.P.Dixit.

-Versus-

1. The Union of India through the Secretary, Ministry of Defence, Government of India, Department of Defence Production & Supplies, South Block, New Delhi-110011.
2. The Director General, Ordnance Factory & Chairman, Ordnance Factory Board, Ministry of Defence, Government of India, 10-A, ShaheedKhudiram Bose Road, Kolkata-700001.
3. The General Manager, Ordnance Factory, Ministry of Defence, Government of India, Nalanda, Rajgir-803121 (Bihar).
4. The Director/BG, Office of the Director General Ordnance Factory & Chairman, Ordnance Factory Board, Ministry of Defence, Government of India, 10-A, ShaheedKhudiram Bose Road, Kolkata-700001.
5. The Director (OL), Office of the General Manager, Ordnance Factory, Ministry of Defence, Government of India, Nalanda, Rajgir-803121 (Bihar).

..... Respondents.

By Advocate :-ShriBindhyachalRai.

ORDER [ORAL]

Per M.C.Verma, Member (Judl.)

Applicant is in the service of respondents since year 2010

and after his promotion he, since 2015 is holding the post of

Highly Skilled Grade- II. Notification dated 24/4/2020 for

promotion through Limited Departmental Competitive

Examination to the post of Chargeman under various

categories, including Chargeman (Mechanical) was issued by

the respondents. Applicant claiming himself to be eligible

offered his candidature for the post of Chargeman (

Mechanical) but vide order dated 7/8/2020 his candidature

for said Examination was cancelled by respondent, stating

that he is not having the requisite educational qualification.

Impugning said order dated 7/8/2020 (Annexure A/3)

instant OA has been preferred by the applicant.

2. Applicant has pleaded that the essential educational

qualifications for the post of Chargeman (Mechanical) is

that the candidate must possess three years Diploma or

equivalent qualification certificate in the respective field



duly affiliated by AICTE. Applicant possess the Diploma Course Certificate from Indira Gandhi National Open University (IGNOU) of batch of academic year 2010-11 and therefore impugned order of respondents is based on wrong proposition that he is not possessing the required essential educational qualifications.



3. Respondents have filed their written statement and according to the respondents the Diploma courses of IGNOU up to the batch year of 2009-10 is only valid and as applicant did diploma thereafter the same is not valid nor has been recognized. Respondent in Para 10 of their WS categorically did state that in the light of judgment, dated 30/7/2018 of Hon'ble Supreme Court passed in case of Mukul Kumar Sharma & Ors Vs All India Counsel for Technical Education & Ors, Ordinance Factory Board, vide Letter No.2982/LDCE/Clarification (IGNOU)/2019/PER/ GB dated 23/5/2019 instructed:

"AICTE honours the judgment of the Hon'ble Supreme Court order dated 30.07.2018 in WP[C] No.382 of 2018 in the case of Mukul Kumar Sharma & Ors. Vs. AICTE and others dated 30.07.2018 and has no objection for B.Tech Degree/Diploma in Engineering awarded by IGNOU to the

students who were enrolled up to academic year 2009-10 to be treated as valid as a special case and not to be taken as a precedence.”

4. In rejoinder applicant did plead that presently also matter relating to diploma case, through distance education courses conducted by IGNOU batches, of subsequent batch of batch of year 2009-10 is pending before Hon'ble Supreme Court and judgment may come at any time.



5. Yesterday, on 23/09/2020, this matter when come on Board for hearing, counsel for applicant placed on record copy of Judgment/Order dated 18th September 2020 passed by Hon'ble Supreme Court in WP(C) No. 1222/2020 & batch and stating that copy of this Order has been supplied to the counsel for respondent urged that the OA may be disposed of in the light of said Order but counsel for respondents urged that he wants to go through the Order and to take instructions so matter was adjourned for today.

6. Today, learned counsel for the applicant, referring the pleading urged that in W.S. respondents only

stand is that the Diploma courses of IGNOU has been validated only up to the batch of year 2009-10 and as applicant did the diploma thereafter so the same is not valid but now when Hon'ble Supreme Court has validated the Diploma of Student of batches of year 2010-11 and 2011-12 and that applicant indisputably was student of batch of year 2010-11 OA may be allowed and respondents may be directed to allow the applicant to appear in the examination, which is scheduled to be held in October, 2020.



7. Learned counsel for the respondents submits that it is not disputed that applicant applied to take Limited Departmental Competitive Examination (LDCE) for the post of Chargeman (Mechanical) for which the required educational qualifications was three years Diploma or equivalent qualification certificate in the respective field duly affiliated by AICTE. Applicant possess the Diploma Course Certificate from Indira Gandhi National Open University (IGNOU) of batch of academic year 2010-11 and since the Diploma courses of

IGNOU has been validated only upto the batch of year 2009-10 therefore his candidature was rejected.

8. We have considered the submissions made at Bar and have perused the record, including Judgment/Order of Hon'ble Supreme Court passed in WP(C) No. 1222/2020 which reads:-



" Heard the learned counsel for the parties.

In the present case, the petitioners before us are diploma holders in what is called the Vertically Integrated Engineering Programme, which is one of the two distance education courses conducted by IGNOU. We had, vide order dated 11.03.2019, stated that degrees and diplomas of IGNOU in such distance education courses up to the years 2009-10 be left undisturbed. We grant the same relief to the petitioners who will be covered in the years 2010-11 and 2011-12.

We make it clear that since there is no distance education courses in IGNOU after these years and these are the last batches who will be granted the reliefs that were granted by our order dated 11.03.2019, as a one-time measure therefore, these batches will also be granted this relief. We allow this writ petition with no order as to costs."

9. Indisputable factual matrix, as has emerged is that applicant applied to take Limited Departmental Competitive Examination (LDCE) for the post of Chargeman (Mechanical). The essential educational qualifications for the post of Chargeman (Mechanical) is three years Diploma or

equivalent qualification certificate in the respective field duly affiliated by AICTE. Applicant possesses the Diploma Course Certificate from Indira Gandhi National Open University (IGNOU) of academic batch year 2010-11.

Previously in the light of judgment, namely Mukul Kumar Sharma's case (cited ibid) AICTE has issued no objection to treat the Diploma in Engineering as valid, awarded by IGNOU to the students who were enrolled up to academic year 2009-10.



10. The only contention taken by the respondents was that Diploma possessed by applicant is of academic batch year 2010-11 and that the Diploma in Engineering, awarded by IGNOU to the students who were enrolled upto academic year 2009-10 are only valid but the present position is that that the relief as was granted to the Diploma holder in Engineering, awarded by IGNOU to the students enrolled upto academic year 2009-10 has now been granted to the student of 2010-11 and 2011-12 in Judgment/Order dated 18th September 2020 passed by Hon'ble Supreme Court in WP(C) No. 1222/2020 & batch.

11. When controversy evolved in instant OA has specifically been answered in aforesaid Judgment/Order in WP(C) No. 1222/2020 so the only and sole ground taken by respondents, that Diploma in Engineering awarded by IGNOU to the students of academic batch year 2010-11 is not valid, cannot legally sustain after said decision of Hon'ble Supreme Court.



12. Having taken note of entirety impugned order, dated 07.08.2020 contained in Annexure A/3, is quashed and is set aside with direction to the respondents to allow the applicant provisionally to take said Limited Departmental Competitive Examination for the post of Chargeman (Mechanical), stated to be scheduled to be held in October 2020 and to consider afresh about his eligibility for said Examination before declaration of the result of the test.

13. Accordingly OA stand disposed of. Any MA, if is pending would also be deemed to be disposed of.

[**Sunil Kumar Sinha**]
Member (Admn.)

[**M.C. Verma**]
Member (Judicial)

Pkl/

