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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA.No.1692/90

New Delhi, dated this the 23rd of August, 1994.

Shri N.V. Krishnan, Hon.Vice Chairman(A)

Shri C.J. Roy, Hon.Member(J)

Shri Naresh Kumar
S/o Shri Dharambir,
R/o 27/28, Ramnagar West,
'Lal Kothi'
Distt.Sonepat,
Haryana.

...Applicant

By Advocate: None.

versus

Union of India through

(i) Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

(ii) Superintending Engineer,
C.P.W.D.
Nirman Bhawan,
New Delhi.

...Respondents

By Advocate: Shri Madhav Panicker, proxy for Sh. M.K.Gupta

O R D E R (Oral)

By Shri N.V. Krishnan.

None for the applicant though called twice. None for the respondents though a mention was made by Shri Madhav Panicker, proxy counsel that Shri M.K. Gupta, counsel for the respondents will appear in this case. In the circumstances, we proceed to dispose of this OA on the basis of documents available on record.

2. The applicant in this case, is aggrieved by the advertisement issued by the Central Public Works Department (C.P.W.D.) (Annexure-1), regarding recruitment of Junior Engineers (Civil/Electrical). His grievance is that, till the previous year, Degree/Diploma holders were entitled to appear in the examination. However, this requirement of minimum qualification has now been changed by

the Annexure-1 notice, which was issued around July 1992, to a Degree/Diploma with 60% marks. It is stated that this change has been made by the Superintendent Engineer, C.P.W.D., Nirman Bhawan, respondent No.2 herein, as he is the controller of Examination. Hence this application has been made to quash the requirement of having 60% marks for participation in the examination and direct the respondents to hold the competitive examination on the basis of the earlier qualification. It is alleged that the ground for seeking this relief is that the requirement specified is ultra vires to Article 14 of the Constitution.

3. The respondents have filed a reply to para(i) of the application, which reads as follows:-

"According to the Notification of the D.G.(W), C.P.W.D. for Junior Engineer's Competitive Examination held on 21.10.90 only those candidates were eligible to appear in the Examination who were having Diploma in Civil/Elect./ Mech. Engineering from a recognised Institute, Board or University recognised by the All India Board of Tech. Education with not less than 60% marks in respect of candidates belonging to General candidates and not less than 50% marks for SC/ST candidates. This condition was not applicable in case of candidates possessing degree in Civil/Elect. or Mech. Engineering and also those who are physically handicapped and Ex-servicemen. The Petitioner/candidate - Shri Naresh Kumar did not possess the requisite qualification (i.e. 60% marks in the Diploma Examination) and as such was not eligible to appear in the Junior Engineers Competitive Examination.

4. We have perused the records. The advertisement is in respect of an All India Competitive Examination for recruitment to the grade of Junior Engineer 'Civil/Electrical' in the C.P.W.D. to be held on 21.10.90. The minimum qualification are specified as follows:-

"1. Minimum Essential Qualification:- Three year full-time (or equivalent) Diploma in Civil Engineering for Junior Engineer (Civil) and Diploma in Electrical/Mechanical Engineering for Junior Engineer (Electrical) from a recognised Institute, Board or University and recognised by the All India Board of Tech. Education with not less than 60% marks in respect of candidates belonging to general category and not less than 50% marks for SC/ST. However this condition shall not apply in case of candidates possessing degree in civil/ mechanical or electrical engineering and also to those who are physically handicapped and Ex-servicemen."

5. The applicant has challenged this on three grounds- viz firstly that this is more strict, for, the qualification prescribed for the earlier examination where there was no restriction of marks; secondly, that this has been fixed by the respondent No.2, Controller of Examination herein and thirdly this is violative of Article-14 of the Constitution.

6. In so far as the second ground is concerned, we do not find any substance in the averment that the change has been made by the Controller of Examinations. The notice has been issued by the Central Public Works Department and naturally it has to be presumed that the eligibility condition has been prescribed by Government.

7. Merely because the examination was more liberal in the past, in as much as the eligibility condition was less restrictive, it does not mean that the Government cannot change this condition. With a view to recruiting the best talent available, it is open to the Government to specify the minimum mark that should be secured in the academic subjects as one of the eligibility conditions for appearing in the

examination. No discrimination is involved in this, as the Government has a right to pick out the best available talent for public employment as that ~~is also~~ allowing would be in the public interest.

8. In the circumstances, we find no merit in the OA and dismiss it accordingly. No costs.

(C.J. Roy)
(C.J. ROY)
MEMBER (J)

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(N.V. Krishnan)
(N.V. KRISHNAN)
VICE CHAIRMAN (A)

23/8/94