

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

(6)

\* \* \*

O.A. NO.1434/1991

DATE OF DECISION 1.11.1991

SHRI SUNIL AND ANOTHER

...APPLICANTS

VERSUS

UNION OF INDIA AND ANOTHER

...RESPONDENTS

CORAM

SHRI D.K. CHAKRAVORTY, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANTS

...SHRI S.C. LUTHRA

FOR THE RESPONDENTS

...SHRI JOG SINGH

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

S/Sh.

Applicants Sunil and Kuldeep Singh jointly filed this application under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by the order dt. 8.2.1991 passed by Assistant Director cancelling the appointment letters of the applicants for appointment to the post of Security Assistant, Intelligence Bureau, MIA, New Delhi. The applicants claimed the following reliefs :-

- (i) To quash Annexure A-1 and A-2 vide which the letter of appointments issued to the applicants were cancelled.

(ii) To order the respondents to appoint the applicants in terms of appointment letters at Annexures A-8 and A-9 further the applicants be deemed to have been appointed with effect from 7.12.1990 (Seventh Dec.1990) and 9.1.1991 the dates on which they reported for duty in response to Annexures A-8 and A-9.

2. The applicant No.1, Sunil was employed as a daily wager in the same department and the applicant No.2, Kuldeep Singh Chauhan was employed as a Fielder for which the prescribed qualification was matriculation. An advertisement appeared in Nav Bharat Times (Annexure A-6) and both the applicants applied for the post of Security Assistant (SA) in the Intelligence Bureau. The minimum qualification for the said post as mentioned in the aforesaid advertisement is that minimum educational qualifications should be matriculation or its equivalent. The applicants took the written test and were also interviewed and were finally selected and given the appointment and they joined on 7.12.1990 and 9.1.1991 respectively. However, these appointment letters were cancelled by the orders dt.8.2.1991 (Annexures A-1 and A-2) pointing out that the applicants do not possess the minimum qualifications of matriculation as the certificate

filed by the applicants has been issued by Board of Adult Education and Training Praud Shikshaw Sansthan, New Delhi, which is not recognised by the Board of Higher Secondary Education, Delhi. The applicants stated that similar question arose in OA 557/1986-Kailash Chand Vs. UOI and in other OAs 2654, 2652, 2656 and 2660/90 decided by the Principal Bench on 22.2.1991 where it is held that the certificate issued by the aforesaid Adult Education Board is equivalent to matriculation. A certified photocopy of the judgement is Annexure A-9 and 10.

3. The respondents contested the application and stated in the reply that a reference was made to the Ministry of Home Affairs as also to the Association of Universities (Annexures R-2 and R-3) where it was informed that Adult Education Training Board, New Delhi is not listed in the accredited boards. The question of recognition of its qualification, therefore, does not arise and Ministry of Human Resources Development, Department of Education in its letter dt. 18.8.1988 (Annexure R-3) also stated the same fact that the Board of Adult Education and Training, New Delhi is not a recognised body for holding examination and so the certificate issued cannot be said to be equivalent to matriculation.

↓

4. We have heard the learned counsel of the parties at length and have gone through the record of the case. The learned counsel for the applicant argued that in the advertisement issued for the post of Security Assistant (SA) in November, 1989, the minimum qualification was matriculation or equivalent and it was not mentioned that the candidates should be matriculate from a recognised institution. It is further argued that in similar cases, the Principal Bench has decided certain applications and similarly situated persons, though in other departments and filed the copy of the judgement delivered in those cases as exemplars. In OA 557/86 decided on 20.12.1989 by the Principal Bench (Annexure A-9) and in OA 2654/90 and three other OAs decided by common judgement by the Principal Bench on 22.2.1991, a similar question of possessing the minimum matriculation qualification was the subject of adjudication. In OA 2654, the circular of 17.2.1982 was also considered. In this judgement, the applicants of the Original Application worked as LDC from 1981 to 1989 and were promoted as LDC from Group 'D' posts on the basis of Secondary School Examination Certificate by the Board of Adult Education and Training. Subsequently, the applicants of that OA were issued notices that the aforesaid certificates were not recognised by the Board of Secondary Education, Delhi. It was, therefore, stated therein that the applicants of that Original Application did not possess educational

J

(10)

qualifications for promotion to the post of LDC. The applicants of that OA were also reverted by the impugned order dt. 1.10.1990. In this judgement, the reliance was placed on the OM dt. 18.6.1989 issued by the Ministry of Human Resources and Development dt. 1.6.1989. The said OM is also reproduced in the same judgement at p-29 of the paper book. The respondents in the present case have also filed the copy of the said OM No. F 1-6/89-AE (DI) dt. 18.8.1988. The OM is the same as has been reproduced above, though date has been wrongly shown in the judgement as 18.6.1989 while in Annexure A-3, the date is given as 18.8.1988. This OM was considered in the judgement and it has been held, "Refer only to the non recognition of certificate issued by the Board of Adult Education and Training and do not state whether the certificates issued by the said Board are or are not equivalent to matriculation examination." The impugned order was set aside in that judgement which was of reversion of the applicants of that Original Application from the post of LDC to Group 'D' post and they were promoted only on the basis of this matriculation certificate issued by the Adult Education Board. Thus in fact, the present case is covered by that judgement. The learned counsel, however, pointed out that there is an observation in this judgement at p-30 that there is nothing on record to indicate that the certificate issued by the Board of Adult Education and Training is not equivalent to

J

matriculation certificate. In the present case, however, the respondents have filed letter dt. 21.1.1991 from the Association of Indian Universities (Annexure A-2) where it is written that Adult Education and Training Board, New Delhi is not listed in the accredited boards; the question of recognition of its qualification, therefore, does not arise. Annexure A-3 is only the covering letter to the OM dt. 18.8.1988 referred to above. Thus there is no positive evidence this case also to show that the certificate issued by Board of Adult Education and Training is not equivalent to matriculation certificate.

5. The learned counsel for the applicant also argued that in other Ministries of the Central Government, persons have been promoted on the basis of only these certificates and the respondents themselves have permitted applicant No.1, Sunil to join the course by the letter dt. 24.11.1988 (Annexure A-3). Now the respondents cannot say that the applicant does not possess the minimum qualification equivalent to matriculation.

6. The learned counsel for the applicant also argued that when the applicants have been allowed to take the

examination and since they have passed the same, now the respondents cannot take the plea that the applicants were not eligible due to not having matriculation certificate from a recognised institution. The respondents are, therefore, estopped to take this plea. There is sufficient substance in this connection. Applicant No.2 was working as Fielder and already put in 2 years of service with the respondents and the minimum qualification was matriculation. He was also allowed to continue in that service. Kuldeep Singh has passed the matriculation as per certificate (Annexure A-5) issued by Board of Adult Education and Training on 26.12.1985 and the respondents have accepted this certificate <sup>as</sup> equivalent to matriculation by giving appointment to the applicant as Fielder under them. The respondents, therefore, now cannot take the plea that Kuldeep Singh did not possess the minimum qualification.

7. In the rejoinder filed by the applicants, it is stated that Kuldeep Singh, Applicant No.2 is completing graduation from Delhi University and so now it cannot be said that he does not possess requisite qualification.

(13)

8. The learned counsel for the applicant has also pointed out that the appointment has been given to Virender Singh and Shiv Darshan in the Intelligence Bureau on the basis of certificates issued by Board of Adult Education and Training. The respondents did not deny the fact in para 4.7 of their reply and said that for the drivers, the main qualification is their skill in driving and even non matriculates got recruited for this post. On this account also, there could not be discrimination between one organisation and another of the Central Government where the said certificate has been duly accepted while in other places, the same is not being accepted and this amounts to discrimination which attacks Articles 14 and 16 of the Constitution. In view of the above discussions, the impugned order dt. 8.2.1991 passed in the cases of both the applicants is quashed and set aside and the appointment of the applicants as Security Assistants in the Intelligence Bureau is upheld to be legal. In the above circumstances, the respondents are directed to treat the applicants as in continuous service as Security Assistants and the applicants shall be entitled to all the benefits of pay and allowances etc. of the past. However, in the circumstances, the parties are directed to bear their own costs.

*J. P. Sharma*  
(J.P. SHARMA)  
MEMBER (J)

1/11/91

*D. K. Chakravorty*  
(D.K. CHAKRAVORTY)  
MEMBER (A) 1/11/91.