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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A.NO. 627/91

M.A. 4052/94

New Delhi, this the 24th day of March, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri B.K. Singh, Member (A)

Shri B.P. Pandey,  
s/o Shri Cheddi Pandey,  
r/o 22, Sector-III, Pushp Vihar,  
M.B. Road, New Delhi.

... Applicant

By Advocate : Shri G.D. Bhandari

Vs.

1. Union of India  
through Secretary,  
Ministry of Labour, New Delhi.
2. The Director of App. Training,  
Directorate General of Employment  
and Training,  
Sharam Shakti Bhavan, New Delhi.

... Respondents

By Advocate: Shri M.K. Gupta

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member(J)

The applicant has been working as Mechanic (Electronics Equipments) with National Vocational Training Institute for Women at New Delhi. The said institution is under the Director of App. Training, Directorate General of Employment and Training. The grievance of the applicant is that since joining the service with respondent w.e.f. 4.10.63 as Workshop attendant at Central Training Institute Ludhiana, was transferred in December, 1971 to Central Training Institute, New Delhi which has been re-named as National Vocational Training Institute (NVTI) for women. He got promotion in the year 1981 on the post of

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Mechanic and since then the applicant has been working on that post except that he was promoted to the post of Storekeeper by the order dated 12.1.87 for a period of three months or till the date the post is filled up on regular basis whichever is earlier. However, he continued in the said post. He was reverted by the order dated 23.12.87 when he was directed to hand over the charge to Miss Anjula Mathur, Vocational Instructor. The applicant has in this application prayed for the grant of the reliefs that the respondents be directed to consider the applicant for the post of Store-keeper on the basis of seniority and in terms of recruitment rules, and if found eligible and fit, he should be given that post.

2. The respondents contested this application by filing a reply.. It is stated that the vacancy which arose in the year 1985 could not be filled up by the promotion of the applicant because the applicant was not eligible for promotion of the grade of Storekeeper as he was working in the grade of Rs.950-1500. As regards the latest position, it is said that as per recruitment rules there is rotation of vacancies and 25% of the vacancies are earmarked for the promotion quota and remaining 75% are filled by direct recruitment through open market. The vacancy which is current is coming on the direct recruitment point and irrespective of the consideration of the applicant on the basis of eligibility, he cannot be appointed in the direct recruitment quota. It is said that the applicant is not entitled to the grant of relief prayed for. The applicant has also filed the rejoinder reiterating the same facts. It is further reiterated that the applicant is entitled for recruitment to the post of Storekeeper as per recruitment rules of 1985.

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3. We have heard the learned counsel Shri G.D. Bhandari as well as Shri M.K. Gupta on the earlier sittings of this Bench and by the order dated 24.1.95 we directed the respondents to produce before us certain records particularly <sup>fresh</sup> the roaster maintained for allotment of percentage of vacancies for recruitment quota and the recruitment rules of 1974, 1985 and 1987. The other record is also made available today and the Departmental Representative Y.R. Verma, Technical Officer is present. Though we had heard Shri M.K. Gupta but he could not be made available because he appears to be busy in other Bench of the Tribunal. However, we have perused the records, pleadings, annexures and considered the rival contention of the parties. Regarding the position of recruitment rules, the position is evident that the court cannot tinker with the recruitment rules if they are statutory in nature. They have to be interpreted as per normal rules and have to be currently applied in respect of either the recruitment or promotion to the various posts mentioned in the recruitment rules. The learned counsel for the applicant <sup>-ed</sup>hammer/strongly on the point that the posts of Vocational Instructor/Instructor (Audio Visual)/Junior Technical Assistant/Storekeeper have been clubbed together as General Central Service Group 'C' in the scale of Rs.1400-2600 and the essential qualifications have been prescribed for all these posts in Column No.8 irrespective of the fact whether in a particular discipline that essential qualification would have any relevancy or not. The learned counsel has confined to the post of Storekeeper and taken us at a greater length to understand the purpose how the Storekeeper could utilise the National

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Craft Instructor certificate for discharging the function of the post. Without further <sup>going to</sup> the methodology of this matter even if we agree with the learned counsel for the applicant, he has not challenged the recruitment rules on the subject. What he has highlighted is that the essential qualification prescribed in the relevant clause or in the essential qualifications in Col.8 sub-clause (b) in sub para i cannot be read along with last option. In order to clear, the same is reproduced below:-

"Essential qualifications:

(a) Academic:

10th class pass under 10+2 system or equivalent (Science and Maths as compulsory subjects in case of engineering trades).

(b) Technical:

(i) National Trade certificate or equivalent in appropriate trade Or  
National Apprenticeship Certificate or equivalent in appropriate trade

Or

Regular Advanced Skill Certificate awarded by National Vocational Training Institute for Women/ Regional Vocational Training Institute for Women upto 1980 session and by National Council for Vocational Training thereafter

with

National Craft Instructors Certificate awarded by National Council for Vocational Training

OR

(ii) Diploma of a recognised Board for Institute in appropriate branch of Engineer/Technology/Field.

Note: Diploma holder shall successfully complete training in the module on Principles of Teaching/Training Methodology under the Craft Instructors Training Scheme or equivalent.

Practical Experience:

5 years experience including training period for acquiring the qualifications mentioned at (b) and experience acquired thereafter.

Desirable Qualifications:

- (a) Ability to organise training and maintain discipline
- (b) Teaching experience.
- (c) Experience in preparations of syllabi, teaching aids and instructional material.

Note: The qualification regarding experience is relaxable at the discretion of the appointing authority for reasons to be recorded in writing in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes, if at any stage of selection the appointing authority is of the opinion that sufficient number of candidates from these communities possessing requisite experience are not likely to be available to fill up the vacancies reserved for them.

We have carefully considered this aspect and also applying the interpretation of statute rules when certain earlier <sup>-ed</sup> mention/ clauses are separated either by a parenthesis clause or by a stroke then all this can be supplemented either by a note or by a proposition making essential that what is added by that proposition or note would also be read along with earlier clauses mentioned before. Thus, we do not agree with the learned counsel that for the post of Storekeeper this certificate is not required. It is undisputed that the applicant do not possess this certificate.

4. The learned counsel has rightly pointed out that if the applicant was not to be promoted to the post of Storekeeper then the respondents <sup>would not</sup> have sent him for 2 weeks training to Calcutta for getting higher knowledge for maintenance of store and technical nature. In fact the applicant must have attained some more experience as he had already been officiating for about a year and the Departmental Representative has also admitted that the applicant has also sometimes been given additional charge of Storekeeper, that by itself will not equate the requisite qualification as laid down essential qualification in the said recruitment rules. However, it shall be open to the respondents that if they have given training to a person for a better understanding of stores and its maintenance and <sup>have</sup> also found fit for adhoc promotion for a year and have also given additional charge to consider his case who may prove better than new hands or those who come on transfer. The applicant having gained much seniority and may retire in a few years his aspiration to the post of Storekeeper may not be materialised.


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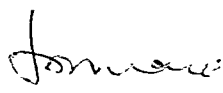
5. We have gone through the reply filed by the respondents and in another reply they have taken the stand that the point for filling up the ~~current~~ <sup>the</sup> post is that direct recruitment quota, ~~roster~~ register brought by the respondents do confirm this fact. The learned counsel for the applicant, however, raised an objection that the register appears to have been not duly maintained in due course of business and appears to have been drawn freshly in order to substantiate the averments made earlier in the counter. The Departmental Representative explained the matter that earlier the filling up of the vacancies of the roster was unitwise and only in the year 1993 the filling up of the vacancies have been undergone to be on centralised basis as such certain entries in the register have been made which appears to have been made quite a fresh.

The entry in this register exists upto 1995. In any case we cannot dispute the register maintained by the respondents and these have to be accepted because they show that on a particular point of time a named person has been allowed to occupy a post either on promotion or by way of direct recruitment. If the respondents had to make any fraudulent entry in the name of those persons had to be disputed by the applicant or his counsel by pointing those particular entries in the register <sup>and</sup> ~~merely~~ because the register appears to have been written fresh or the handwriting appears to be a recent one could not make genuineness of this register doubtful. Thus we hold that the present point to be filled by ~~appointment of~~ the Storekeeper is by way of direct recruitment. The applicant cannot aspire to fill the post as that will amount to <sup>over-</sup> looking recruitment rules which prescribed particular percentage for promotee and direct quota.

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6. However, we have to observe that one Shri K.D. Ram has been promoted as Storekeeper and that if promotion has been made at the time when the recruitment rules did provide a craft training certificate which admittedly Sri K.D. Ram did not possess. The contention of the learned counsel is that it would be discrimination if the applicant is not considered on the same angle. It is for the department to consider this aspect taking into account that the applicant had already worked for considerable year and consider him as and when promotee quota vacancy occurs and may after taking due sanction for relaxation of the rules or if the applicant in the meantime obtain such certificate consider him on the post by promotional basis if he is otherwise fit, suitable according to rules. The application is, therefore, disposed of accordingly with no order as to costs. The register produced before us has been returned to the department concerned.

  
( B.K. SINGH )  
MEMBER (A)

  
( J.P. SHARMA )  
MEMBER (J)