

Central Administrative Tribunal
Principal Bench

OA No.2907/92

New Delhi this the 1st Day of June, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Anil Kumar Arya,
S/o Sh. Veer Singh Arya,
R/o C-202, Nanakpura,
New Delhi-110021.

...Applicant

(By Advocate Sh. S.C. Luthra)

Versus

1. Union of India,
through Secretary,
Ministry of Human
Resources Development,
Shastri Bhavan,
New Delhi.

2. Director,
Central Hindi Directorate,
West Block No.7,
R.K. Puram,
New Delhi-110066.

...Respondents

(By Advocate Sh. V.K. Mehta)

ORDER (Oral)
(Hon'ble Mr. N.V. Krishnan)

The applicant was offered appointment to the post of Artist in the Central Hindi Directorate by the OM dated 25.2.92 (Annexure A-3). He accepted the offer. Immediately thereafter he was directed to appear for a medical examination by the memo dated 3.3.92 which was also completed.

2. When, after waiting for sufficiently long, he did not get any appointment order he filed this OA for an appropriate direction.

3. When that OA was being heard the respondents submitted a reply explaining why the appointment order was not issued. It stated that

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complaints were received about the applicant's selection on the ground that he was not qualified. Therefore, the matter was looked into by an Under Secretary who reported that the applicant did not have the essential qualification. Therefore, the Ministry issued a DO letter dated 17.11.92 to the Director, Central Hindi Directorate, mentioning the above facts. However, as the OA was then pending the applicant was not informed about this directly.

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4. Thereupon, the applicant filed an amended OA, challenging this DO letter which is at Annexure A-1.

5. The issue is simple. The post of Artist in the Central Hindi Directorate is to be filled up in accordance with the recruitment rules, a copy of which has been filed by the respondents at Annexure R-1. They were notified on 22.3.62. The essential qualifications are (i) Matriculation (ii) Diploma in Commercial Art from a recognised School of Art and (iii) Experience of Fine and Commercial Arts and Lay Out for Poster and Charts. The qualification of the applicant was that he had a diploma given to him by the Board of Technical Education, Delhi on 12.5.92 stating that he has completed the four year course of studies prescribed by the Board and has passed the requisite examination in 1991 and was, therefore, awarded the "Diploma in Art for Drawing Teacher (Part Time)" and he has been given the first division.

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6. An official of the Directorate of Audio and Visual Publicity, Ministry of Information and Broadcasting was associated with the selection and admittedly, the applicant was placed in the panel at serial No.1. It is clear that the diploma that he has is quite different from the diploma which is specified in the recruitment rules, which is diploma in commercial art. That is the basic reason for issue of the DO letter stating that the applicant is not qualified.



7. The contention of the learned counsel for the applicant is that the diploma he has is a much superior diploma than the one prescribed in the educational qualification. Therefore, he should not be disqualified.

8. There is some merit in the argument if the premise is found to be correct. From the pleadings, we do not find whether this aspect of the matter was gone into either by the Selection Committee or by the Under Secretary who made an inquiry. In the circumstances, we are of the view that it would be in the interest of justice to remand the matter to the respondents to specifically determine whether the diploma held by the applicant is superior to a mere Diplome in Commercial Art or at any rate, it is a sufficient qualification, in lieu of the minimum qualification prescribed, i.e., Diploma in Commercial Art. The learned counsel for the applicant states that the Board of Technical Education, Delhi is the competent expert body and the Government should accept

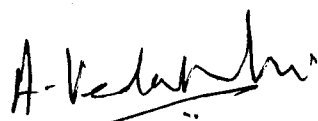
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their opinion and act on that basis. The learned counsel for the respondents states that this matter may be left to the decision of Government. In the circumstances, without going into other aspects of the case, we direct the respondents to refer to such expert body as they deem fit, the questions whether Diploma held by the applicant can be considered to be an adequate qualification in lieu of the prescribed qualification viz., Diploma in Commercial Art and take appropriate decision in the matter of appointment of the applicant in accordance with law within three months from the date of receipt of this order. In case the applicant is still aggrieved it is open to him to seek further remedy, as may be advised.

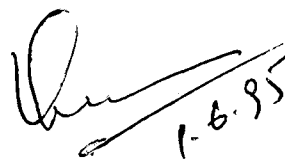
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9. The O.A. is disposed of as above. No costs.



(Dr. A. Vedavalli)
Member(J)

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(N.V. Krishnan)
Vice-Chairman(A)