

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(13)

OA No.455/92

Date of decision: 25th Aug. 92

Sh.Sanjiv Kansal

...

Applicant

versus

Union of India through
Secy.,Min.of Urban Development
& Ors. ...

Respondents

CORAM:

THE HON'BLE MR.T.S.OBEROI, MEMBER(J)
THE HON'BLE MR.P.C.JAIN, MEMBER(A)

For the Applicant ... None

For the Respondents ... Sh.M.L.Verma, counsel.

1. Whether local reporters may be allowed to see the judgement? *Yes*
2. To be referred to the reporter or not? *Yes*.

JUDGEMENT

(DELIVERED BY HON'BLE SH.T.S.OBEROI, MEMBER)

The applicant in this OA filed under Section 19 of the Administrative Tribunals Act,1985, seeks direction for the respondents to treat 74.64% of the marks obtained by him in the Three Year Diploma Course in Engineering, from D.N. Polytechnic, Meerut, as equivalent to 75%, by rounding of 74.64% marks obtained by him, being more than 74.5% marks, for enabling him to compete for the post of Junior Engineer(Electrical), advertised by the C.P.W.D., Nirman Bhavan, New Delhi, in the Employment News (Annexure II).

2. After filing of the OA and hearing the applicant on interim relief, a Bench of this Tribunal, vide order dated 21.2.92, allowed the applicant to take up the said examination, provisionally, further directing that the applicant's result shall not be declared, till the decision of the OA.

3. In the counter filled on behalf of the respondents, applicant's prayer was opposed, mainly on the ground that the respondents were within their rights to resort to short-listing by restricting the number of candidates, to a reasonable number, in order to get the best possible stuff appearing in the said examination, and also to ensure to bring about the number of candidates appearing, to manageable limits.

4. Rejoinder has also been filed on behalf of the applicant, reiterating the submissions in the OA.

5. We have heard the parties and have perused the material on record, together with the points urged during arguments.

6. The applicant's case mainly is that there is no uniform standard by various Universities/ Boards, and, therefore, fixing any percentage such as 75% in the present case, in spite of there being the requirement to qualify in the written examination, is unreasonable and arbitrary, and, in any case, the applicant having secured percentage of marks nearing the requirement of 75% (having secured 74.64%), he deserves to be considered as fulfilling the requisite percentage of marks.

7. The plea of the learned counsel for the respondents, on the other hand, is that fixing of the said percentage of 75% is intended to secure the best candidates for the post, eventually coming out successful in the examination and also in case the applicant's plea is accepted, this would result in discrimination to many more

who might have secured percentage of marks between 74.64% to 74.99%, and, therefore, the same deserves to be rejected.

8. We have given our careful consideration to the rival contentions, as briefly discussed above. In an earlier judgement in OA 3059/91 (Sh. Haron Sartaj Khan Vs. U.O.I) to which one of us (T.S. Oberoi) was a party, similar question came to be discussed. The applicant's plea is that of that his case is better than/ the applicant in the said OA, inasmuch as he had secured much higher marks than the applicant in that case (71%). We are not inclined to accept the line of argument, for the obvious reason that it would lead to several others being ignored, who might have secured percentage of marks between those secured by the applicant in this case, ^{and} ~~or~~ the requisite percentage of marks of 75%. The applicant's plea that none of those of the latter category are before the Tribunal, for any relief and as such, he having come before this Tribunal, by way of the present OA, his prayer be granted, also does not impress us, as a case is not to be decided in isolation but on the basis of uniform and general principles. Adopting the reasoning in the earlier judgement in OA 3059/91, we decline the present OA. Accordingly, the interim order by which the applicant was allowed to appear in the examination provisionally, would not confer any benefit upon him. No costs.

(P.C.JAIN)
25/8/92
MEMBER(A)

(T.S.OBEROI)
25.8.92
MEMBER(J)