

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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Regn. No. OA 95/92

Date of decision 20.5.92.

Kapil Batra & Ors.

Applicants

Shri G.K. Aggarwal,

Counsel for the applicants

vs.

Union of India & Ors.

Respondents

Shri M.L. Verma with
Shri V.S.R. Krishna,

Counsel for the respondents

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The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. L.P. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? *Yes.*
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgment of the Bench delivered by Hon'ble Shri L.P. Gupta, Member (A).)

J U D G M E N T

In this application, filed under Section 19 of the Administrative Tribunals Act of 1985, the applicants who hold full-time three years (or equivalent) diploma in civil/electrical/mechanical engineering from a recognised Institute, Board or University, and recognised by the All India Board of Technical Education with more than 69% marks, but less than 75% marks, are aggrieved by the condition of 75% marks for diploma holders in CPWD Public Notice dated 9.12.91 inviting applications for All-India Competitive Examination for recruitment to the grade of Junior Engineers (civil/electrical) in C.P.W.D. held on 23.2.92.

2. As per Recruitment Rules for Junior Engineers (JEs) in C.P.W.D., qualifications required for direct recruitment are:

"Diploma in Civil/Electrical/Mechanical Engineering from

an Institute recognised by the Central Government or equivalent thereto or any higher qualification".

As per public notice dated 9.12.91 inviting applications for All India Competitive Examination held on 23.2.92 for direct recruitment of JEs in CPWD, the minimum essential qualifications are prescribed as under:

"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 Technical Education, with not less than 75% marks in respect of candidates belonging to general category and not less than 60% 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."

3. The relief sought is that the condition of 75% or any other percentage, except pass percentage, of marks in diploma course for eligibility to take All India Competitive Exam. for JEs in CPWD held on 23.2.92 be declared illegal and the respondents be directed to accept the candidature of the applicants even if they have secured less than 75% marks.

4. The learned counsel for the applicants contended that:-
(i) public notice/advertisement dated 9.12.91 cannot override the provisions of the Recruitment Rules notified on 28.6.76;
(ii) if examinations were to be held for testing the merit, there was no need to prescribe 75% marks as minimum for eligibility for appearing at the examination. The short-listing, if any, is done for interview and not for examination. If the selection does not comprise both of written test as well as interview, but only of interview, then short-listing may be a reasonable and sensible method.

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5. The learned counsel for the respondents argued that:-
- (i) it is within the jurisdiction of the respondents to cut off huge number of candidates and to select the best among them;
 - (ii) the cut off percentage has not been put arbitrarily as in the preceeding year the minimum percentage was 60% for general candidates and 50% for SC/ST candidates. However, even at this percentage about 60,000 applications were received for appearing in the said exam. The respondents thought that this number was quite large for a small number of vacancies i.e. 360 in both civil and electrical. For selecting the best possible candidates and to keep the number of candidates to a reasonable proportion to the number of vacancies, cut off percentage for eligibility of candidates was decided at 75% in the case of general candidates and 60% in the case of SC/ST candidates with a view to screening candidates at the initial stage itself. A large number of applications for the examination which was to be held on 23.2.92 was received.
6. Analysing the facts and arguments in this particular case, we find that :-
- (i) the Recruitment Rules dated 28.6.76 provide under the column 'Educational' and other qualifications required for direct recruits' -
"Diploma in Civil/Electrical/Mechanical Engineering from an Institute recognised by the Central Government or equivalent thereto or any higher qualification".
Therefore, the provision for any higher qualification also existed.
 - (ii) The laying down of 75% marks as eligibility condition for taking the examination with a view to minimising the number of candidates cannot be said to be violative of the doctrine of reasonable classification and cannot be said to be in violation of Article 14 of the Constitution.

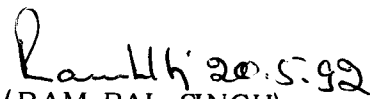
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(iii) In the case of M.K. Sharma vs. UPSC & Another (PB) 1992 (1) SLJ (CAT) 27, it was held that UPSC can short list the candidates for interview and classification of candidates by short listing does not violate Article 16(1). While it is true that in that case, short listing was done for interview and not for the written examination, yet no malafide or malice in law can be attributed, if with a view to achieving their objective to select the best, the respondents prescribed the minimum percentage of marks as 75 for eligibility for the exam. It is not the case where anyone who is equally placed with the applicants has been given the chance, but the applicants have not been allowed and the process of selection is tainted by mala fide. It would be difficult for the Tribunal to interfere in the process of judicial review in the selection held by the competent authority. The laying down of minimum percentage of marks for eligibility was not something new which was adopted by the respondents in February 1992 by advertisement on 9.12.91, on the other hand, this process was being followed earlier also though in the previous year the percentage was fixed as 60 instead of 75. The raising of the level consistent with the number of vacancies in an honest attempt by the respondents to have the best and the most meritorious candidates cannot be faulted with.

7. In the conspectus of the above view in the matter, we find that no good ground for any interference by the Tribunal is made out. The application is, therefore, dismissed with no orders as to costs.


(L.P. GUPTA)
MEMBER (A)
20/5/92


(RAM PAL SINGH)
VICE-CHAIRMAN (J)