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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 731/93

New Delhi, 12th August, 1994

CORAM :

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Baldev Raj,
R/O 4/93, Subhash Nagar,
New Delhi.

... Applicant

By Advocate Shri S. C. Luthra

Versus

1. Union of India through
Secretary, Min. of
Communications (D/O Posts),
Dak Bhawan, New Delhi-1.

2. Supdt. R.M.S.,
H.R. Dn.,
Ambala - 133001.

... Respondents

By Advocate Shri M. L. Verma

O R D E R

Shri S. R. Adige, Member (A) -

In this application, Shri Baldev Raj, has impugned the order dated 19.3.1993 (Ann. A-1) cancelling his selection for the post of Sorting Assistant in the Office of the Superintendent, RMS, Department of Posts, Ambala, on the ground that the qualification of Uttar Madhyama attained by the applicant from the Board of Adult Education and Training, New Delhi is not equivalent to the 10+2 standard or 12th class pass of a recognised university/Board of school education/ Board of secondary education.

2. In response to a newspaper advertisement (Ann. A-2) which appeared in June, 1992 the applicant applied for the post of Sorting Assistant on 16.6.1992 in which

maximum educational qualifications prescribed were 10+2 standard or 12th class pass of a recognised university/board of school education/board of secondary education. The applicant claims that he had passed matriculation examination conducted by the Haryana School Education Board in June, 1984; Uttar Madhyama (a senior secondary school standard) examination conducted by the Board of Adult Education & Training, New Delhi, in 1986, and had passed B. Com final (B.Com Pt. III) examination conducted by the Maharshi Dayanand University, Rohtak. He states that he was informed on 16.8.1992 that he was selected for appointment as Sorting Assistant in Mail Division and was directed to report for practical training on 18.9.1992 and also participated in a training course, but thereafter when he requested for issuance of posting orders he was informed that the genuineness of his certificates was being verified and thereafter was informed that though his certificates were genuine, yet they were not recognised and hence his selection was liable to be cancelled.

3. In their reply, the respondents state that no final order has so far been passed against the applicant, but the position is that the applicant is not eligible educationally, as the Uttar Madhyama examination conducted by the Board of Adult Education & Training, Delhi, has not been recognised as equivalent to 10+2 of the Haryana School Education Board. They say thay they are still in the process of examining

whether the applicant possesses the requisite educational qualification for the post of Sorting Assistant, and so far no final decision has been taken.

4. We have heard the learned counsel for the applicant Shri S. C. Luthra and Shri M. L. Verma on behalf of the respondents.

5. Shri Luthra has emphasised that the applicant has not only cleared the Uttar Madhyama examination but also the B.Cm. Pt. III examination, which admittedly is higher than the Uttar Madhyama, and under the circumstances even if the Uttar Madhyama is not recognised as equivalent to 10+2, the fact that he is a graduate should entitle him to the post of Sorting Assistant. In this connection he has relied upon the judgment dated 1.9.1992 of the Hon'ble Supreme Court in Civil Appeal No. 3759/92 - Union of India vs. Sunil & Anr., upholding the judgment dated 1.11.1991 of the Tribunal in O.A. No. 1434/91 - Sunil & Anr. vs. Union of India & Anr. The applicants therein had approached the Tribunal as they were aggrieved by the IB's orders cancelling their appointment to the post of Security Assistants. The two applicants who were working in the IB had applied for the post of Security Assistants minimum educational qualification for which was prescribed as matriculation or its equivalent. The applicants were selected and given appointment, but subsequently the appointment letters were cancelled on the ground that they did not possess

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the minimum qualification of matriculation, as the certificates deposited by them had been issued by the Board of Adult Education & Training, which was not recognised by the Board of Higher Secondary Education, Delhi. The Tribunal in its judgment dated 1.11.1991 noted that while in some organisations of the Central Government the certificates issued by the Board of Adult Education & Training had been accepted, in others the same had not, and this was discriminatory in character, which offended Art. 14 and 16 of the Constitution. That application was allowed and the respondents were directed to treat the applicants as duly appointed and in continuous service. The Union of India challenged that judgment before the Hon'ble Supreme Court meanwhile on the ground that the essential qualification for Security Assistants in the IB was matriculation and the Uttar Madhyama certificate issued by the Board of Adult Education & Training has ceased to be recognised by the IB as equivalent to matriculation w.e.f. 18.6.1988, a date prior to the selection of the applicants (Sunil & Anr.). The Hon'ble Supreme Court observed that the said certificate had remained valid and recognisable in the IB prior to 18.6.1988, and even the selection of respondents was made on the basis of such certificates, despite the existence of the policy letter dated 18.6.1988 de-recognising that certificate. Appointment letters had also been issued to Sunil and the other applicant on the basis that they were matriculates but they were not allowed to join when it was found that they had certificate no longer valid w.e.f. 18.6.1988. Having regard to the facts and circumstances of that case,

the Hon'ble Supreme Court upheld the Tribunal's judgment subject to the rider that Sunil and the other would in future attain the qualification of matriculation from a source recognised by the department or a qualification higher than matriculation within 18 months. Shri Luthra, learned counsel for the applicant, has argued that as his client is a Commerce graduate, which admittedly is higher than 10+2, the ratio in Sunil's case (supra) is fully applicable to the facts of his case, and on that basis his client is entitled to receive the appointment letter.

6. Before we enter further into the merits of the case, we note from the respondents reply to paragraph 4.13 of the C.A. that this issue is still under ^{their} consideration, and no final decision has been taken by them so far. The applicant has also not furnished any document showing that a final decision has been taken by the respondents in the matter.

7. Under the circumstances, we direct the respondents to consider the applicant's case and take a final decision in the matter by means of a speaking and reasoned order, under communication to the applicant, within two months from the date of receipt of a copy of this judgment. If any grievance survives after that final decision, it will be open to the applicant to agitate the matter before the Tribunal in accordance with law.

8. This application is accordingly disposed of.

No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

/as/

S. R. Adige
(S. R. Adige)
Member (A)