

13

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.2022/2021

Date of Decision: 4th March, 2021

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Lalmohan S/o Lada Sirka
Per No.872826, Aged 39 years,
Occu. Junior Works Manager/T
(Mechanical) working at Ordnance
Factory Bhandara, R/o. Qtr. No.
30/4, Type-III, O.F. Estate,
Jawaharnagar, Dist. Bhandara
- 441906, Mob No.9970031042,
Email:sirkadeepa@gmail.com . . . **Applicant**

(By Advocate Shri R.S. Khobragade)

VERSUS

1. Union of India,
Through the Secretary,
Ministry of Defence (Production),
New Delhi - 01.
2. Chairman/Director General
Ordnance Factory Board, Ayudha
Bhavan, 10-A, Shaheed Khudiram
Bose Road, Kolkata - 700 001.
3. General Manager,
Ordnance Factory, Jawahar Nagar,
Bhandara, Dist. Bhandara
- 441906. . . **Respondents**

(By Advocate Ms. Sushma)

Proceeding conducted through videoconferencing with
consent of counsels for the parties

ORDER (ORAL)Per: Ravinder Kaur, Member (J)Present:

Advocate Shri R.S. Khobragade for the applicant. Advocate Ms. Sushma for the respondents.

2. Heard the counsels for both the parties on admission.

3. Shri Khobragade submits that the applicant was promoted to the post of JWM/T(Mech) vide order dated 17.11.2020. But by the impugned order dated 01.01.2021 (Annex A-1), his promotion has been cancelled and kept in abeyance till further orders. Paras 2 & 3 of this order being relevant are reproduced as under:-

"2. In the light of the instruction of O.F. Board letter No.DJWM/DPC/OFBA/2020/PER/GB dated 23.12.2020 that incumbents who were appointed / promoted to the post of CM/Tech based on diploma qualification acquired from IME Mumbai their promotion to JWM/Tech ordered No.DJWM/DPC/Mech/2020/PER/GB dated 22-07-2020 is to be kept in abeyance.

3. Accordingly the promotion of above individual to the post of JWM/T (Mech) ordered vide FO Pt-II No.785 dated 17.11.2020 is cancelled and kept in abeyance till further orders."

4. The applicant's counsel relies upon the Apex Court judgment in the case of Institution of Mechanical Engineers (India) Vs. State of Punjab & Others, (2019) 16 SCC 95 and submits that his case is squarely covered by this judgment, paras 49 and 50 of which read as under:

49. However, the fact remains that the equivalence to the Certificates awarded by the appellant was granted by the MHRD in consultation with AICTE upto 31.05.2013 as is evident from Notification dated 06.12.2012 issued by the

Central Government and Public Notice issued by AICTE in August, 2017. These communications also indicate that all those students who were enrolled up to 31.05.2013 would be eligible for consideration in accordance with MHRD office memorandum/order in course. Though we have laid down that the Certificates issued by the appellant on successful completion of its bi-annual examination to its Members cannot be considered to be equivalent to a degree, an exception needs to be made in favour of students enrolled up to 31.05.2013 and benefit in terms of the Notification dated 06.12.2012 and Public Notice as aforesaid ought to be extended to such candidates. The candidates had opted to enroll themselves so that they could appear at the examinations conducted by the appellant under a regime which was put in place by the Central Government itself and the course content as well as the curriculum were reviewed by AICTE. However, the aforementioned Notification and Public Notice were clear that after 01.06.2013 the orders concerned granting equivalence would cease to have any effect.

50. In the circumstances we do make an exception in favour of such candidates enrolled up to 31.05.2013 and declare that the conclusions drawn in the present matter will apply after 01.06.2013. The certificate awarded by the appellant to such candidates enrolled up to 31.05.2013 shall be considered equivalent to a degree in Mechanical Engineering for the purpose of employment in Central Government.

5. Shri Khobragade admits that the applicant has not made any representation to the respondents against the impugned order dated 01.01.2021 by bringing to their notice the above Apex Court decision.

6. In these circumstances, the applicant is at liberty to approach the respondents vide a detailed representation against the impugned order dated 01.01.2021 within one week from today and, if such representation is submitted, the respondents are directed to consider and dispose it of as per law/rules and regulations with a reasoned and speaking order within a period of three weeks of its receipt, and

within one week thereafter to communicate it to the applicant. If the grievance of the applicant still persists, he may approach this Tribunal.

7. With these directions, the Original Application stands disposed of at the admission stage itself.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

ma.

59
~~11/03/2021~~