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**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

**O.A.NO. 12/92
T.A.NO.**

2/11/98
DATE OF DECISION 10.1998

Manoj Satyanarayan Sharma ... Petitioner

Mr. D.K. Mehta ... Advocate for the Petitioner(s)

Versus

Union of India & Ors. ... Respondent

Mr. N.S. Shevde ... Advocate for the Respondent(s)

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The Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The Hon'ble Mr. P. C. Kannan, Member(J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
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?

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Manoj Satyanarayan Sharma,
709/19, Shivlal's Chawl,
Kabirchowk, Sabarmati,
Ahmedabad - 5.

... Applicant

(Advocate: Mr. D.K. Mehta)

VERSUS

1. Union of India,
notice to be served through,
General Manager,
Western Railway, Churchgate,
Bombay - 20.
2. Divisional Railway Manager (E),
Western Railway,
Rajkot Division,
Kothi Compound, Rajkot.

... Respondents

(Advocate: Mr. N.S. Shevde)

JUDGMENT

O.A./12/92

21/11/98
Dated: 21.11.1998

Per: Hon'ble Mr. P.C. Kannan, Member(J)

The applicant in this OA challenges the legality, validity and propriety of the selection procedure for recruitment to the post of "Diesel Khalasi" in the scale of Rs.750-940/- in as much as the Selection Committee did not set norms or criteria for allocation of marks etc. and also not followed the guidelines for selection. The applicant is also directed against the injustice caused to the applicant in not empanelling the name of the applicant in the panel of candidates in the list dated 14.5.91. The applicant challenges the action of the respondents mainly on the ground that the applicant even though he fulfilled the eligibility conditions, was more meritorious, he was disqualified by the Selection Committee on untenable grounds.

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2. The case of the applicant is that he applied for the post of "Diesel Khalasi" in pursuance to the advertisement dated 11.10.90 (Annexure A-1). In terms of the said advertisement, the eligibility for recruitment to the post of "Diesel Khalasi" is as follows:- (i) Apprentice trained under the Apprentice Act or (ii) ITI trained diploma holders. Here ITI would mean Industrial Training Institution. The advertisement is for filling up about 162 vacancies, out of which 90 vacancies were reserved for among general candidates. The applicant being an ITI certificate holder applied for the same and he was called upon to an interview on 13.2.91 at 10.00 hours at Rajkot (Annexure A-2). At the time of interview, the applicant was asked only one question namely what is his qualification. After seeing the certificates (Annexure A-3), the applicant was asked to go back as he is not having the requisite qualification. The applicant therefore submits that the action of the Selection Committee was invalid and therefore filed the present OA. He also alleged various other grounds against his non-selection.

3. The respondents in their reply stated that the applicant was called for interview and after seeing the certificates produced by the applicant, the Committee found him unsuitable. It was submitted that the findings of the Selection Committee is purely an administrative function and the said findings cannot be challenged in the present OA. The respondents also denied various other allegations made by the applicant.

4. We heard Shri D.K. Mehta, counsel for the applicant and Shri Shevde, counsel for the respondents. At our direction, the respondents produced the relevant records of the interview.

5. Shri Mehta, counsel for the applicant confined his arguments only to the improper rejection of the candidature of the applicant and in this connection referred to the relevant advertisement (Annexure A-1) which prescribed the eligibility conditions and submitted that the applicant had undergone training course in the Industrial Training Institute at Ahmedabad in the trade of General Mechanic of two years' duration and qualified in the examination conducted at State level in July, 1990. The certificate issued by the Institute in this regard is given at Annexure A-3. He submitted that the ITIs do not issue diplomas and therefore the

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advertisement should be deemed as referring to the "ITI trained certificate holders" only.. In this connection, he also referred to the relevant rules which reads as follows:-

"Minimum educational qualifications for Group 'D' posts in diesel/electric sheds and EMU sheds is I.T.I. or Act Apprenticeship. [R.B's No.E(NG) II/84/RR-1/26 dated 23-6-88] (N.R., S.N. 9629)."

He therefore submitted that the applicant was eligible to be considered. However, at the time of interview the Selection Committee rejected his candidature summarily as he was not holding NCVT certificate.

6. Mr. Shevde, counsel for the respondents referred to the proceedings of the Selection Committee and admitted that the advertisement referred to the ITI trained certificate holders only and the Committee considered the candidature of NCVT certificate holders only. As the applicant did not possess NCVT certificate, he was disqualified. He submitted that examination at All India Level is conducted by the Director General, Employment & Training, from among persons who have undergone training in ITI and issued certificates which are referred to as NCVT certificates. As this examination is conducted at All India Level, the Selection Committee decided to select only candidates who had NCVT certificates, issued by the Govt. of India. As the applicant had undergone State Level Examination and held certificate by State Government authorities (SCVT), he was not suitable.

7. We have carefully considered the submissions made by the counsel and also examined the records and pleadings.

8. The applicant in the above OA has challenged the entire selection of over 162 candidates for the post of "Diesel Khalasi". The applicant also challenged his non-selection on the ground that he did not possess the NCVT certificate.

9. The applicant in the above OA has not impleaded the successful candidates who were subsequently appointed to the said posts. The selected candidates who have since been appointed and holding the post of "Diesel Khalasi" have a vested right and their selection/appointment cannot be challenged impleading them as Respondents. The Hon'ble Supreme Court in the case of Arun T.

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Mansavi Shikshak Sangh & Others (1998) Labour IC 414 in somewhat identical facts held that non-impleading of the selected candidates as respondents to the petition is fatal to the case and such petition is liable to be rejected. In view of the above, we reject the prayer of the applicant with regard to quashing of the entire selection proceedings.

10. The records of the respondents show that even though the applicant had the requisite qualification, the interviewing committee rejected the candidature of the applicant mainly on the ground that he did not possess the NCVT certificate. The applicant possessed the certificate issued by the State Govt. authorities (SCVT certificate). The qualification prescribed is that of ITI trained diploma holders. A perusal of the selection proceedings shows that all the candidates who appeared for the selection are only ITI trained certificate holders. However the Selection Committee rejected the candidature of the applicant on the ground that he only possessed SCVT certificate which is issued by the State Govt. authorities and not NCVT certificate which is issued by the Director General, Employment & Training, Ministry of Labour.

11. Under the Rules of the Respondents, all the ITI certificate holders (both SCVT & NCVT) are eligible to be considered for the said appointment. The State Govt. & the Central Govt. authorities are empowered to issue such certificates after conducting the examination. No discrimination could therefore be made between NCVT and SCVT certificate holders. No reasons were given by the Respondents in their reply as to why the NCVT certificate holders alone were considered and the SCVT certificate holders were summarily disqualified.

12. We are of the view that the criteria adopted by the Selection Committee to reject the candidatures of those who had SCVT certificates is unreasonable, arbitrary and illegal. We therefore find that the Selection Committee is not justified in rejecting the candidature of the applicant who fulfilled the eligibility conditions as per the rules.

13. In the light of what is discussed above, we are of the view that the applicant is entitled to some relief. We direct the respondents to hold interview of the applicant afresh in pursuance of the notification dated 11.10.90 (Annexure A-1) keeping in view the eligibility conditions and merits of the applicant in accordance

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with the rules/instructions and the observations in this judgment. If the applicant is found successful, further action may be taken as per the extant rules/instructions of the Respondents. As the matter was pending in this Tribunal from 1992-98, the applicant may be given the age relaxation, if required. We further direct that the entire exercise shall be completed within 3 months from the date of receipt of copy of this order. The OA is disposed of with the above directions. No costs.

P.C. Kannan

(P.C. KANNAN)
MEMBER(J)

V. Ramakrishnan
21/11/2006

(V. RAMAKRISHNAN)
VICE CHAIRMAN

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