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O.A. No. 135 of 2007

Order dated: 05.01.2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member(J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

Pursuant to Annexure-A/4, Employment News dated 11-17 March, 2006, the applicant applied to the post of Jr. Engineer/II (Workshop) and Jr. Engineer/II (Electrical). After verification of records, the applicant was issued with Admit Card and accordingly, she appeared at the relevant test also. However, subsequently, on verification of documents regarding qualification, the applicant was further served with a letter from the Railway Board asking whether she is having the prescribed qualification contained in Annexure-A/4 or not. To the above letter, the applicant had given an answer to the effect that her qualification being Applied Electronics, which is the same or equivalent qualification to the Diploma in Electronics, her candidatureship should not be cancelled. However, when the result was published, the applicant's name did not find place therein. Hence, she has approached this Tribunal with the following prayers:



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“direct the Respondents to appoint the applicant in the post of Junior Engineer-II(Electrical)/(Workshop) with due priority and consequential service benefits...”

2. The O.A. has been admitted by this Tribunal and in pursuance of the notice issued, a counter has already been filed for and on behalf of the Respondents.

3. The stand taken in the counter affidavit is that since Annexure-A/4 notification prescribes specific qualification for the posts and as the applicant is not having that prescribed qualification, her application and/or her candidatureship cannot be considered at all.

4. We have heard Mr. S.K.Pattnaik, Ld. Counsel appearing for the applicant and also Mr. S.K.Ojha, Ld. Standing Counsel for the Respondents.

5. Ld. Counsel for the applicant submits that as Annexure-A/4 only prescribes the qualification Electronics Diploma and there is no such diploma examination anywhere in the State, the notification itself is wrong, and hence, the Respondents cannot take a plea that applicant is not having the requisite qualification. That apart, the counsel further submits that applicant has already filed a



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representation to the effect that she has got the Diploma in Applied Electronics and Instrumentation and that is the right qualification for applying to the post as per the notification (Annexure-A/4). Hence, the selection now made by the Respondents excluding the name of the applicant is irregular and illegal.

6. To the above argument, Ld. Counsel for the Respondents, Mr. Ojha, relying on the counter affidavit, submits that as per the notification, it is precisely indicated that "before applying to the post every candidate should ensure that he/she fulfills the eligibility norms. The candidates should possess the requisite qualification for the post applied for at the time of application itself. Candidates acquiring the qualifications after the last date of application shall not be considered eligible". Hence, as per the above specifications, it was incumbent on the part of the applicant to see whether she is having the required qualification as contemplated under Annexure-A/4 or not. Further, Ld. Counsel for the Respondents submits that even though she had represented the matter with the certificate of Diploma in Applied Electronics and Instrumentation, her case could not

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be considered as she is not having the required qualification prescribed in Annexure-A/4.

7. We have considered the submissions made by the Ld. Counsel for the parties and have gone through the documents produced before this Tribunal.

8. As per Annexure-A/4, it is prescribed that the qualification required to apply for the posts is Diploma in Mechanical/Electrical/Electronics Engineering. A reading of the Employment Notice would show that the applicant should possess Diploma in Electronics or other qualifications prescribed therein. But, at the same time, it is to be noted that the applicant has not possessed Diploma in Electronics and the qualification she has got is only a Diploma in Applied Electronics and Instrumentation, which is nowhere considered requisite qualification as per Annexure-A/4. That apart, if there is no pure Diploma in Electronics courses available in the State or anywhere in India, it was the look out of the applicant before applying to the post to challenge the said notification as issued by the Respondents. Without having regard to that aspect, she applied and appeared in the written test, and ultimately, she having^{been} found deficient in requisite qualification, her



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candidatureship has been rejected by the Respondents rightly.

9. Once the applicant has applied in terms of notification, she cannot retreat and take a stand at a later stage that the notification itself was irregular and illegal.

10. In the above circumstances, the O.A. stands dismissed as meritless.

11. Accordingly, M.A. 705/09 filed for deletion of the name of Respondent No.1 from the cause title is also disposed of.


MEMBER (A)


MEMBER(J)

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