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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No.415 of 2012

Cuttack this the 6th day of July, 2014


K.C.Sahu ...Applicant

-VERSUS-

Union of India & Ors....Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? No
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not? No


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Krishna Chandra Sahu
Aged about 43 years
S/o.Binod Bihari Sahu
At present working as Danger Building Worker/Unit-4
Ordnance Factory, Badmal
Po-Badmal, Dist-Bolangir
Orissa

...Applicant

By the Advocate(s)-M/s.S.Mohanty

S.Routray
N.Tripathy
S.R.Mohapatra
S.R.Mohanty
S.P.Mohanty

-VERSUS-

Union of India represented through

1. The Director General
Ordnance Factories, Govt. of India
Ministry of Defence
Ordnance Factory Board
AYUDH BHAWAN, 10-A, Saheed Kshudiram Bose Road
KOLKATA-700 001
2. The General Manager, Ordnance Factory
At/PO-Badmal, PS-Saintala
Dist-Bolangir, Orissa

...Respondents

By the Advocate(s)-Mr.U.B.Mohapatra



ORDER

R.C.MISRA, MEMBER(A):

In this Original Application, applicant, presently working as Danger Building Worker (DBW) under the Respondent-Organization has approached the Tribunal praying for the following relief.

“Let this Hon’ble Tribunal be pleased to admit this case, call for the records and after hearing the parties promote the applicant on the basis of L.D.C. Examination 2008 and pass any other and further ^{order} as deemed fit and proper under the circumstances of the case be passed.”

2. Brief facts of the matter are that while working as Danger Building Worker (DBW), applicant had applied for promotion to the post of Chargeman(Tech.) based upon his Diploma Certificate obtained in Mechanical Engineering from Institution of Mechanical Engineers (India), Mumbai. According to him, in spite of his qualifying the written examination held for the purpose through Limited Departmental Competitive Examination, he was not offered with the order of promotion. Therefore, he submitted representation after representation, but to no avail. However, he sought information through RTI Act and it was revealed to him that Institute of Mechanical Engineers(India), Mumbai not being affiliated to AICTE, the Diploma Certificate obtained is not worthy of consideration. While the matter stood thus, applicant was issued with show cause notice dated 30.12.2008(Annexure-7) calling upon him to show cause why his candidature for LDECE-2008 to the post of CM-II(T)/Mech. as per result dated 29.12.2008, based upon Diploma Certificate submitted being

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neither recognized by AICTE nor of 03 years duration/course, will not be cancelled. In response to this applicant submitted his reply dated 07.08.2009 addressed to the General Manager, Ordnance Factory, followed by successive reminders. While the matter stood thus, Respondent No.2 issued circular dated 23.08.2011 for holding LDC Examination and the applicant ^{not} being ^{allowed} apprehensive ^R lest he would not be ~~applied~~ to appear at the LDCE, moved this Tribunal in the instant O.A. seeking relief as mentioned above.

3. The grounds urged by the applicant in support of his case are as under.

“The applicant’s base level entry qualification to the factory was Diploma in Electronics & Telecommunication obtained from Govt. of India recognized Institute namely, IETE, New Delhi and after having rendered service on the strength of the said certificate, the Respondent No. raised question as to validity and genuineness of the said certificate only when the candidature of the applicant is put in the pipeline for his posting as Chageman through LDCE Examination and that dispute have been taken to the apex body, i.e., Ordnance Factory Board and resolved that the applicant is worthy of being appointed in the post of Chageman as the advertisement and the Diploma Certificate he held is held to be valid. In this view of the matter, the person or authority by his declaration, act, or omission permitted another to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed to deny its truth as per the principle of Estoppel”.

4. Respondent-Organization have filed their counter reply, inter alia submitting that the O.A. being devoid of merit is liable to be dismissed.

5. We have heard the learned counsel for both the sides and gone through the pleadings. It reveals from the record that this matter came

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up on 30.5.2012 for admission. This Tribunal admitted the O.A. and accordingly, directed notice to the Respondents. As an interim measure, Respondents were directed to allow the applicant to sit in the examination as per the circular dated 10.5.2012(Annexure-11) with a stipulation that the result of the examination in so far as applicant is concerned, should not be published without the leave of the Tribunal.

6. The main object of the counter reply filed by the Respondent-Organization is that the prevailing SRO provides that a candidate in order to become eligible to appear LDCE for the post of CM/T must possess 3 years Diploma Certificate approved by AICTE, which was the condition indicated in the advertisement. According to Respondents, applicant does not fulfill the above requirement of SRO. Secondly, it has been submitted that the Technical Degree/Diploma Education imparted by Institutions like Institution of Mechanical Engineers (India), Mumbai and conduction of Technical Education and awarding of Degree/Diploma Certificate is not legally valid. Since AICTE has not approved for the same course of the Institute of Mechanical Engineers(India), Mumbai, applicant's certificate, according to Respondents, is non -est in the eye of law being violative of the norms described in the advertisement/notification for such appointment.

7. We have examined all aspects of the matter. Apart from the above mentioned OAs^e, recently, this Tribunal had also disposed of O.A.Nos.232/2011, 290/11, 294/2011, 885/11 and 398/12 on 30.6.2014 dealing with basically ^Ron the similar point as raised in the



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present O.A. holding that the Tribunal lacks jurisdiction to try and adjudicate those matters. In this connection, the relevant portion of the decision of the Hon'ble Apex Court in the case of SI Roolal Vs Lt Governor Delhi [C.A Nos.5363-64 of 1997 with Nos.5643-44 of 1997 decided on December, 14, 1999] - 2000 Supreme Court Cases (L&S) 213, is quoted below.

“ At the outset, we must express our serious dissatisfaction in regard to the manner in which a co-ordinate Bench of the Tribunal has overruled, in effect, an earlier Judgment of another co-ordinate Bench of the same Tribunal. This is opposed to all principles of Judicial discipline. If at all, the subsequent Bench of the Tribunal was of the opinion that the earlier view taken by the co-ordinate Bench of the same Tribunal was incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the Judgment of the earlier Bench but knowingly it proceeded to disagree with the said Judgment against all known rules of precedent. Precedents which enunciate rules of law form the foundations of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our Judicial system. This court has laid down time and again that precedent law must be followed by all concerned, deviation from the same should be only on a procedure known to law. A subordinate Court is bound by the enunciation of law made by superior Courts. A coordinate Bench of a Court cannot pronounce Judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement”.



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8. Since this Tribunal has already expressed its opinion on the same ^{and} similar questions of facts, in order to maintain consistency and uniformity and having regard to the ratio laid down by Hon'ble Apex Court in the case of SI Rooplal Vs Governor of Delhi (supra), we do not feel inclined to make a departure from the view already taken and accordingly, we hold that the Tribunal lacks jurisdiction to try and adjudicate this matter. In the circumstances, the O.A. is dismissed. No

costs.



(R.C.MISRA)
MEMBER(A)

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(A.K.PATNAIK)
MEMBER(J)