

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No.O.A.874/1996  
M.A.543/1998

Date of order : 2. 9. 94

Present : Hon'ble Mr. D.C. Verma, Vice-Chairman  
Hon'ble Mr. M.K. Mishra, Administrative Member

Gorakh Prasad Yadav

Vs.

1. Union of India, through the Secretary, Ministry of Finance, Government of India, Central Secretariat, New Delhi-110 001
2. General Manager, India Government Mint, Alipore, Calcutta-700 053
3. Asstt. Works Manager(Electrical), India Government Mint, Alipore, Calcutta-700 053

For the applicant : Mr. P.K. Munshi, counsel  
For the respondents : Ms. K. Banerjee, counsel

O R D E R

Per D.C. Verma, V.C.

The applicant of this O.A. who has been working as a Apprentice Tradesman in the Electrical Department has claimed promotion to the post of Electrician Gr.II/III with effect from the date his juniors have been promoted.

2. The claim of the applicant is that 4 juniors to the applicant have been promoted as Tradesman Gr.II/III in April, May, 1994, but he has not been promoted on the ground that he has not been able to produce competency certificate though he has adequate experience in the trade and passed the prescribed trade test. The grievance of the applicant is that competency certificate is not required as per the Recruitment Rules for the post, hence on that account the promotion of the applicant should not have been withheld.



3. The respondents' case is that the members of the DPC(Industrial) decided that competency certificate is required for the promotion to the post of Electrician Gr.II/III and it was approved by Head of the Department i.e. the General Manager, India Govt. Mint, Calcutta. The representatives of recognised unions such as representative of Calcutta Mint Workers' Union, representative of Works' Committee elected by the workers were also the members of the D.P.C. However, the applicant was not promoted to the post of Electrician Gr.II/Gr.III as he does not possess competency certificate from the competent authority. It is admitted by the respondents that the applicant was senior to other probationer Tradesmen who were already promoted prior to the applicant. The applicant has, however, now been promoted and he has been asked to submit the competency certificate.

4. Promotion to the post of Tradesman Gr.III is governed by rules for promotion of industrial workers in the India Government Mint notified by Diary Order No. 100/65. Rule 6 provides as below:-

"Recruitment and promotion of Tradesman

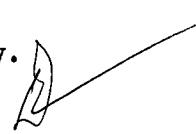
(a) All Tradesman who are at present in Gr. IV would be promoted to Gr.III after they pass a trade test, provided of course they have completed a minimum of 1 year service in their grade. For this purpose all the posts of Gr.IV Tradesman will be up-graded to Gr.III and no promotion will henceforth be made to Tradesman Gr.IV. Whenever a vacancy occurs in future in Tradesman Gr.III, this vacancy will first be down graded to the grade of 85-110 and redesignated as Probationer Tradesman or Apprentice Tradesman as the case may be. 50% of the vacancies of Tradesman Gr.III will be filled in by outside recruitment and the remaining 50% by promotion from the cadre of Non-Tradesman Class V according to Mintwise seniority subject to the rejection of unfit. While recruiting outside candidates it should be ensured that they have adequate experience in the trade for which they are selected and that they pass the prescribed trade test with credit. the selected candidates will work as probationer or Tradesman in the grade of 85-110 for a period of 1 year and on successful completion of the probationary period will be promoted as Tradesman Gr.III by up-grading the post of Probationer to Tradesman Gr.III. The Mint candidates will be designated as 'Apprentice Tradesman' and will be placed in the grade of 85-110. Arrangement will be made to give him the necessary training in the trade for which he is selected. The Apprentice Tradesman will be given a Trade Test after a period of one year and if found fit he will be promoted to the grade



of 110-3-131 i.e. Grade III Tradesman. In case he is found unfit, he will be given another chance after six months. If an Apprentice Tradesman fails to pass the Trade Test in three attempts, he will be sent back to his parent department where he would get back his original seniority. If, however, any promotion have taken place in his department during his absence he would lose that chance of promotion and the workman so promoted would be considered senior to him."

5. Looking to the rules for requirement, qualification required for promotion to the post of Tradesman Gr.III/II it appears that the rule does not provide for competency certificate. It only provides that Tradesman Gr.IV were promoted to Gr.III after passing trade test and if completed a minimum of one year service in the grade. The applicant fulfils these requirements. The condition of competency certificate has been introduced only in the light of the decision taken by the DPC members. During course of argument ld. counsel for the respondents has very honestly admitted that though the decision was taken by the DPC and such decision was approved by General Manager, India Government Mint, but the recruitment rule has not been amended. As the law stands if a recruitment rule has been framed, the recruitment rule has to be followed. Substitution or additional qualification can be, no doubt added, but the same requires modification of the recruitment rule. Till the recruitment rule is modified, the qualifications prescribed therein is required to be followed. In the present case though a decision was taken by the DPC on administrative side for having competency certificate, but as the recruitment rule has not been modified and or/amended, the same cannot be made a basis to deny promotion.

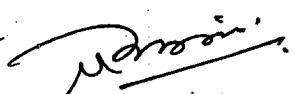
6. During the course of argument it is admitted that the applicant has now been promoted though he has still not given the competency certificate. The department has, however, desired from him that he will in future submit the competency certificate from the competent authority.



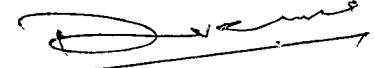
7. From the above discussion we are of the view that as the recruitment rule does not require competency certificate, it is not mandatory for a person to have that certificate prior to his promotion. Non-holding of competency certificate cannot be made a ground to disqualify a person from promotion.

8. Ld. counsel for the respondents submitted that the applicant himself agreed to furnish the competency certificate, but still he filed the O.A. and has pursued the same. This argument has no merit. Even if the applicant agreed to submit the competency certificate, the promotion to the post cannot be denied on the ground of non-submission of competency certificate.

9. In view of the discussion made above, the O.A. is allowed. The M.A.No.543/1998 also stands disposed of accordingly. The respondents are directed to promote the applicant though notionally to the post of Tradesman Gr.III/II w.e.f. the date his junior has been promoted. For the period of notional promotion the applicant would not get the back wages, but benefit of fixation of pay and seniority would be provided. No order as to costs.



MEMBER(A)



VICE-CHAIRMAN