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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR**

Original Application No. 263/2003

Date of Decision: 23/09/2004

The Hon'ble Mr. J K Kaushik, Judicial Member.

The Hon'ble Mr. M K Misra, Administrative Member.

Anop Singh S/o Bhanwar Singh Mefawat, aged about 34 years, r/o 6-B Panchwati Colony, Ratanada, Jodhpur (Rajasthan) at present working at Defence Laboratory as a Office Attendant B

: Applicant.

Mr. Rajender Singh proxy counsel

For Mr. P.S. Bhati

: Counsel for the applicant.

Versus

1. The Union of India through the Secretary, Ministry of Defence, Government of India, Raksha Bhawan, New Delhi.
2. Scientific Adviser & Director General, Defence Research & Development Organisation, New Delhi through its Director, Defence Laboratory, Ratanada Place, Jodhpur.
3. The Director, Defence Laboratory, Ratanada Palace, Jodhpur.

Mr. M. Godhara, proxy counsel for

Mr. Vinit Kumar,

: Counsel for the respondents.



ORDER

Mr. J K Kaushik, Judicial Member.:

Shri Anop Singh has sought the following relief in this O.A.

"By an appropriate order or direction, the respondents may kindly be directed to allow the applicant to participate in the departmental examination on the post of Administrative Assistant -A as a eligible candidate and his candidature may kindly be considered on its own merits."

A handwritten signature in black ink, appearing to read "J K Kaushik".

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The Original Application was listed for admission and pleadings are complete. Keeping in view the urgency in the matter, we have heard the learned counsel for the parties for final disposal of this case at the stage of admission and have perused the pleadings and records of this case.

2. The indubitable facts of this case are that the applicant came to be appointed on 24.04.90 on the post of Peon, which has been subsequently re-designated as Attendant 'A'. He enjoyed his further promotion as Attendant 'B' in the year 1996. A notification was issued for organizing Limited Departmental Competitive Examination (LDCE for short) for the post of Administrative Assistant 'A'; the essential qualifications being Senior Secondary School Certificate with five years experience.

3. The further facts are that the applicant has passed the Higher Secondary, B.Com. part I and part II examinations. He submitted his application in response to the said notification along with copy of mark sheets in respect of his qualifications. When he was not issued call letter, he made protest to the authorities. He has not been given anything in writing, but was orally told that he did not possess the essential qualification of Senior Secondary. He explained the position to the authorities that the system of Senior Secondary was not introduced in Rajasthan at the relevant point of time and he has passed B.Com I and II years. The Original Application has been filed on diverse grounds enunciating therein that he possess the higher



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qualification than the one prescribed and the qualification is obtained as per the system being in existence at that time.

4. As far as the variances of the facts are concerned, it has been averred in the reply that as per the D.O part II order there was an intimation that LDCE is going to be conducted for the post of Administrative Assistant 'A' and eligible persons can apply. The applicant did not possess the requisite qualification, which is Senior Secondary School Certificate and as such he was not eligible for undertaking the same. The matter regarding the equivalence of the qualifications possessed by him, the matter was referred to the Board of Secondary Education, Ajmer as well as to the Jai Narain Vyas University, Jodhpur and it has been clarified that the Secondary, Higher Secondary Examination or Three year degree course is not equivalent to Senior Secondary School Certificate in the University and the qualification can be treated as equivalent to Higher Secondary. The applicant does not have *prima facie* case and not entitled to any relief.



5. Both the learned counsel for the parties have reiterated their pleadings as noticed above. There is hardly any dispute as regards the factual aspect of the case. The learned counsel for the applicant has endeavoured hard to persuade us that the applicant has passed B.Com I and II year examination of T.D.C and in fact possessed higher qualification than that of the Senior Secondary School Certificate. He has also contended that the scheme of examination have Senior Secondary School as one of the Scheme of the examination was not in existence when the

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applicant passed the examinations of Secondary and Higher Secondary and since he possessed higher qualification, he ought to have been considered eligible for appearing in the LDCE in question.

6. Per contra, the learned counsel for the respondents has countered the submissions made on behalf of the applicant and has submitted that the matter regarding equivalence of the qualification cannot be adjudicated upon before Court of law and these are the matters which are to be dealt with by the executive authorities. Once the qualification for the said post is prescribed as Senior Secondary School certificate, possessing higher qualification is irrelevant. Therefore the very original application cannot be entertained. He has also submitted that the respondents authorities have got clarified the matter of equivalence from the competent authorities, who have in unequivocal terms clarified that the qualification possessed by the applicant are not equivalent to Senior Secondary School Certificate and in this view of the matter, the Original Application cannot be entertained and deserves to be dismissed.

7. We have anxiously considered the rival contentions put forth on behalf of both the parties. There is no doubt that the minimum qualification required for the post of Administrative Assistant 'A' is Senior Secondary School Certificate amongst other qualifications and the applicant admittedly does not possess the same. This may be due to the fact that the said



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system was not prevalent at the relevant time when the applicant passed the Secondary/Higher Secondary examination. At the outset, possessing higher qualification cannot be a ground for considering him eligible for the LDCE. The requirement of having prescribed qualification is a must and higher qualification is of no relevance and this proposition of law has been well settled by the Apex Court very recently in P M Latha and others vs. State of Kerala [2003 SCC (L&S) 339]. As regards the equivalence of the qualification, we have not been shown any law as to whether, the Tribunal can examine such matters or not. Hence there is no scope for any judicial review. We can only assert as to what qualification, a particular post should have is the prerogative of the executives since they are in better know of the requirement of the job and other various factors involved therein. The judgement cited by the learned counsel for the applicant in support of his contention in the case of Rajpal vs. State of Haryana and Another [(2002) 10 SCC 583] also does not support the case of the applicant since the facts of that case were distinct. In that case, the appellant therein passed the Examination of 10+2 from Haryana Education Board and there was no doubt about it. Passing matriculation examination from another institute, which was not a University or Deemed University was held of no consequence. In the instant case, such a situation does not exist and admittedly, the applicant has not passed the prescribed examination for the post in question. We are, therefore, in agreement with the submissions made by the learned counsel for the respondents that such matters are not within the purview of the Tribunal and therefore, we are of



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the firm view that no interference as such is called for from this Tribunal. Further, we add that the respondents have been very fair enough and sought the clarifications from the concerned authorities and it was for the applicant to satisfy the respondents regarding the equivalence of the qualification to one required for the post in question. Since the applicant has not been able to make out any case in his favour, no interference is called for from this Tribunal.

8. In the premises, the O.A is devoid of any merit and substance and the same stands dismissed without any order as to costs.

M K Misra
 (M K Misra)
 Administrative Member

J K Kaushik
 (J K Kaushik)
 Judicial Member.

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Received
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Order
T.O. 16
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R.P.
27/09

Part II and III destroyed
in my presence on 30/10/2013
under the supervision of
Section Officer (U) as per
order dated 18/10/2013

DK Shrivastava
Section Officer (Record) 30.10.2013