

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 558/2006

Monday, this the 3rd day of March, 2008.

CORAM

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

B. Remeshkumar,
Mechanic (General Electronic)
Regional Vocational Training Institute,
Kazhakkottam,
Thiruvananthapuram.Applicant

(By Advocate Mr C Rajendran)

v.

1. The Union of India represented by
its Secretary,
Ministry of Labour (DGE &T),
Shram Sakthi Bhavan,
New Delhi.
2. The Director of Training (DGE & T – WOT),
Shram Sakthi Bhavan,
New Delhi.
3. The Regional Director, DAT,
CTI Campus, Guindy, Chennai.
4. The Principal,
Regional Vocational Training Institute,
Kazhakkottam,
Thiruvananthapuram.Respondents

(By Advocate Mrs Mini R Menon, ACGSC)

This application having been finally heard on 7.2.2008, the Tribunal on 3.3.2008 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

This application has been filed by the Applicant seeking a direction to the respondents to grant him the benefit of the first financial upgradation from the



date he has completed 12 years of service in the post of Mechanic held by him under the Assured Career Progression Scheme (ACPS for short) for the Central Government civil employees, issued by the DOPT OM No.35034/1/97-Estt(D) dated 9.8.1999. He has also sought arrears of salary from the date on which he completed 12 years of service in the post of Mechanic on this account.

2. The facts in brief are that the applicant was appointed as a Mechanic in the office of the 4th respondent, viz, the Principal, Regional Vocational Training Institute, Kazhakkottam, Thiruvananthapuram. The aforesaid post was the feeder category for Vocational Instructor in the scale of pay Rs.1400-2600 and 8 years of service in the post of Mechanic is required for consideration for promotion to the aforesaid post. After completing 12 years of regular service in the post of Mechanic on 31.7.2007 he requested the respondents to grant him the first financial upgradation under the ACP Scheme. According to him, his last representation was dated 21.9.2005 (Annexure A-2). His submission is that he was denied the ACP benefits for the reason that he did not possess the National Craft Instructors Training Certificate. However, he has also pointed out the number of cases in which qualification of National Craft Instructors Training Certificate has been relaxed for direct recruitment as Vocational Inspector and Store Keeper. He had also annexed copies of the Anenxure A-3 office order dated 24.4.2001 by which he was entrusted with the duty of handling classes for Electronic Mechanic Junior Batch from 16.4.2001 to 26.5.2001 in the absence of the regular incumbent of the post of Instructor, Shri Paul T Antony. Again, vide Annexure A-3 (a) dated 26.9.2003 he was entrusted with the task of practical classes for the ongoing (Junior) and additional unit until further orders and vide Annexure A-3(b) order dated 22.10.2005 he was directed to conduct theory and practical classes for the first year Electronic Mechanic batch in addition to his normal duties in the absence of one Shri B Manoj, Vocational Instructor.



Similarly, by Annexure A-3(c) office order dated 14.2.2006 he was given additional duty for holding practical classes for Electronic Adv. In a nutshell, the applicant's contention is that he is fully qualified for promotion to the post of Vocational Instructor. He has, therefore, sought the following reliefs in this O.A:

- i) To declare that the applicant is entitled to get the benefit of the ACP Scheme.
- ii) To give a direction to the respondents to give the applicant the benefit of the ACP Scheme with effect from the date of completion of 12 years of service in the post of Mechanic.
- iii) To give a direction to the respondents to pay the arrears of salary to the applicant from the date on which he completed 12 years of service in the post of Mechanic.

3. The respondents in their reply submitted that according to Annexure R-1 Amended Recruitment Rules, viz, the Directorate of Training (Vocational Training Programme for Women) Group 'C' Technical Post Recruitment Rules, 1999 (Recruitment Rules for short), the eligibility criteria for promotion to the post of Vocational Instructor are 8 years regular service in the post/grade of Mechanic and possession of the qualifications prescribed as under:

"Essential qualifications:

- (1) 10th class pass under 10 + 2 system or equivalent (Science and Maths as compulsory subjects in case of engineering trades).
- (2)(a) (i) National Trade Certificate or equivalent in appropriate trade or National Apprenticeship Certificate or equivalent in appropriate trade, or Regular Advanced Skill Certificate awarded by National Vocational Training Institute for Women/Regional Vocational Training/Institute for Women upto 1980 session and by National Council for Vocational Training thereafter; and
- (ii) National Craft Instructors Certificate awarded by the National Council for Vocational Training.

OR

- (b) Diploma of a recognised Board or Institute in appropriate Branch of Engineer/Technology/Field.

NOTE: Diploma holders shall successfully complete training in the module on Principles of Teaching/Training Methodology

under the Craft Instructors Training Scheme or equivalent...."

They have further submitted that since the applicant did not posses the aforesaid National Craft Instructors Certificate, he cannot be considered for promotion to the post of Vocational Instructor and for the same reason his post cannot be considered for upgradation under the ACP Scheme. They have also submitted that he has already field O.A.489/2000 before this Tribunal for the upgradation of the post of Mechanic and the same is pending.

4. In the rejoinder filed by the applicant, he has produced a copy of the seniority list of Vocational Instructions and pointed out that Shri G.L.Tulsukar does not have the qualification prescribed under the Annexure R-1 Recruitment rules and still he has been finding a place in the category of Vocational Instructors and he was granted further promotion also. He has also pointed out the case of Smt P.K Vijayakumari at Sl.No.7, Shri P.K Vijayakumar at Sl.No.20 and Shri Mohammed Anwar Sl.No.41, all of them not having the prescribed qualifications under the said Recruitment Rules. He has also submitted that this Tribunal had considered similar case in O.A.309/2001 (V.E Chandran and another v. Union of India & others).

5. In the additional reply statement, the respondents have admitted the contention of the applicant that Shri P.K.Vijayakumar, RVTI, and Shri Muhammed Anwar, Vocational Instructors do not possess the National Craft Instructors Certificate from the NCVT and therefore, they do not possess the essential technical qualification prescribed in the Recruitment Rules. However, in the case of Shri G.L. Tulsukar and Shri P.A.Vijayakumari were concerned, they were promoted as Vocational Instructors at RVTI Mumbai prior to the existing Recruitment Rules of 1999, when the requirement of National Craft Instructors Certificate was not considered as an essential qualification for the post of



Vocational Instructor. They were governed by the Directorate of Training (Vocational Training Programme for Women) Group 'C' Technical Post Recruitment Rules, 1987. The essential qualifications prescribed in the said Rules were as under:

"Essential qualifications:

- (3) 10th class pass under 10 + 2 system or equivalent (Science and Maths as compulsory subjects in case of engineering trades.
- (4)(a) (i) National Trade Certificate or equivalent in appropriate trade or National Apprenticeship Certificate or equivalent in appropriate trade, or Regular Advanced Skill Certificate awarded by National Vocational Training Institute for Women/Regional Vocational Training/Institute for Women upto 1980 session and by National Council for Vocational Training thereafter; and
- (ii) National Craft Instructors Certificate awarded by the National Council for Vocational Training.

OR

- (b) Diploma of a recognised Board or Institute in appropriate Branch of Engineer/Technology/Field.

NOTE: Diploma holders shall successfully complete training in the module on Principles of Teaching/Training Methodology under the Craft Instructors Training Scheme or equivalent...."

6. We have heard Shri C Rajendran counsel for applicant and Smt Mini R Menon, ACGSC for respondents. We do not find that the order of this Tribunal in O.A.309/2001 (supra) is similar to this O.A. The issue therein was whether the qualification of Group D employees as Matriculates and non-Matriculates would matter for the purpose of granting the financial upgradation under the ACP scheme. In view of para 6 of the ACP Scheme, which says that seniority-cum-fitness is the only criterion to be seen in the case of Group 'D' employees, it was held that the educational qualifications cannot be made an issue for refusing the financial upgradation. In O.A.No.489/2006 filed by the applicant and referred to by the Respondents in their reply has also no relevance to this case as the said case was for a declaration that the post of Mechanic is a skilled one and the applicant was entitled to be placed in the skilled category which carries a pay scale of Rs.5000-8000. The undisputed facts in this case are that the Annexure



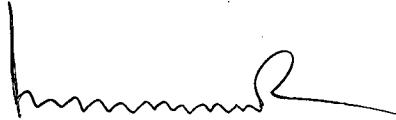
R-1 Recruitment Rules govern the field now and for promotion to the post of Vocational Instructor/Junior Technical Assistant/Store Keeper, the National Craft Instructors Training Certificate is an essential qualification and the applicant does not possesses the same. The respondents have, therefore, not considered him for promotion to the post of Vocational Instructor in the scale of pay of Rs.5000-8000. For the same reason, he is not entitled for the financial upgradation under the ACP Scheme also. This was in conformity with the provisions contained in Para No.6 of the conditions for grant of benefits under the ACP Scheme which reads as follows:

"6. Fulfillment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group'D' employees, etc.) for grant of the financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advance, etc.) only without conferring any privileges related to higher status (e.g., invitation to ceremonial functions, deputation to higher posts, etc.) shall be ensured for grant of benefits under the ACP Scheme."

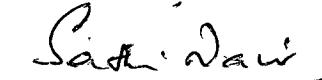
However, we see that under Rule 5 of the said Recruitment Rules, the Central Government has the power to relax any of the provisions of the said rules in the manner provided therein. It is not clear whether Shri P.K.Vijayakumar, RVTI and Shri Mohammed Anwar, Vocational Instructors were appointed under the amended Recruitment Rules of 1999 by applying the power of relaxation of rules regarding essential qualification. If relaxation in the matter of essential qualification can be given for promotion to the post of Vocational Instructor, no doubt, relaxation can be granted for the purpose of granting financial upgradation under the ACP Scheme also. However, it is seen that neither the applicant has sought for any such relaxation in Recruitment Rules for the purpose of granting financial upgradation under the ACP Scheme nor the respondents on their own have considered it. As seen from Para 6 of the ACP



Scheme, a Departmental Screening Committee has to be constituted for the purpose of processing the cases for grant of benefits under the ACP Scheme. The composition of the Screening Committee is the same as that of the DPC prescribed under the relevant Recruitment/Service Rules for regular promotion to the higher grade to which financial upgradation is to be granted. The applicant is, therefore, granted liberty to make a self contained representation to the respondents to consider him for ACP benefits in relaxation of the provisions regarding educational qualifications contained in the Recruitment Rules for the post of Vocational Instructor and the respondents shall consider the same in accordance with the rules and pass a reasoned and speaking order within a period of one month from the date of receipt of representation. ~~such~~ ^{such} There shall be no order as to costs.



GEORGE PARACKEN
JUDICIAL MEMBER



Sathi Nair
SATHI NAIR
VICE CHAIRMAN

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