

Reserved
(On 28.05.2014)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW

Dated: This the 18th day of July 2014

Original Application No. 333 of 2008

Hon'ble Ms. Jayati Chandra, Member (A)
Hon'ble Dr. Murtaza Ali, Judicial Member

Dinesh Prasad, S/o Sri Raj Deo Ram, R/o Village Mishrauli, Post Bhoparura, District Mau. Presently residing at 8/590, Vikas Nagar, Lucknow.

... Applicant

By Adv: Shri Anurag Srivastava

V E R S U S

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. Regional Director Apprenticeship Training, Government of India, Ministry of Labour and Employment, Udyog Nagar, Kanpur.

... Respondents

By Adv: Shri S. Verma

ORDER

By Hon'ble Dr. Murtaza Ali, Member (J)

Through this OA filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant seeks the following main reliefs:

- "i. That the opposite party No. 3 may be directed to allow the applicant to appear in the All India Trade Test forthwith and issue him Certificate of Apprenticeship as per Section 21 of the Apprenticeship Act, 1961.***
- ii. That the opposite parties may further be directed to enroll the applicant for employment under them on the post of Fitter with effect from the date of colleagues and juniors were appointed as per Section 22 of the Apprenticeship Act, 1961."***



2. The brief facts of the case are that in the year 1994 the Divisional Railway Manager, Lucknow issued a scheme for appointment of 'Fitters' and a written test and interview were to be held for enrollment of candidates who have undergone training under him for apprentice under the provisions of Apprenticeship Act, 1961. As the applicant had successfully completed the training for Apprentice in the trade of Fitter in July, 1990, he applied for the post of Fitter and he was called for written test on 28.05.1994. He was declared successful in the written examination and was called for interview on 06.06.1995. He appeared in the interview and found suitable for the post of 'Fitter' and was sent for training under Carriage and Wagon Training School, CDO, Northern Railway, Charbagh, Lucknow. The applicant joined the said school on 19.01.1996 and underwent training for 02 years and after successful completion of apprenticeship training on 18.01.1998 he became entitled for appearing in All India Trade Test conducted by respondent No. 3. But he was not allowed to appear in All India Trade Test in the year 2000 initially on the pretext that he had undergone training for 02 years whereas, he was supposed to undergo training for 01 year. The applicant made several representations to respondents No. 2 and 3 for allowing him to appear in the All India Trade Test (AITT) and to issue him Apprenticeship certificate and to enroll him for employment as per Section 22 of the Apprenticeship Act, 1961 but he was not allowed to appear in the said test. It has been stated that he was required to submit an attested copy of National



Trade Certificate alongwith documents related to the apprenticeship training, but the Principal of Government Industrial Training Institute, Azamgarh informed him vide letter dated 15.11.2005 that the original certificate has not yet been received from NCVT Directorate. The applicant made representation dated 30.11.2005, 08.06.2006, 04.04.2007 and 10.08.2008 to the respondents for allowing him to appear in the All India Trade Test, but his request was not acceded to. The applicant received National Trade Certificate on 23.08.2008 and he sent an attested copy of the same to respondent No. 3 vide his letter dated 03.08.2008, but he was not allowed to appear in the All India Trade Test, whereas, his batch mates have been allowed to appear in the All India Trade Test and on being successful in the said examination, were also granted the apprentice certificate and given employment in the year 1995.

3. In the counter reply filed on behalf of respondents, it has been stated that a candidate who has successfully completed 02 years institutional training and passed examination conducted by NCVT in the trade "Fitter" gets a rebate of 02 years. But the contract of apprenticeship of applicant was registered at Regional Directorate of Apprenticeship Training, Kanpur only on 26.10.1999 so the training cannot be termed as apprentice training under the Apprenticeship Act, 1961. The applicant could not appear in the All India Trade Test conducted by NCVT because for appearing an apprentice in AITT, an employer has to obtain permission from RDAT, Kanpur. The RDAT, Kanpur has not issued any permission



to the employer to allow the applicant to appear in AITT as the applicant was neither a fresher trade apprentice having 03 years training nor ex-ITI having 01 year training.

4. In the supplementary counter affidavit filed on behalf of respondent No. 3 it has been submitted that the Regional Directorate of Apprentice Training (RDAT) is a subordinate office of Directorate General of Employment and Training under the Ministry of Labour and Employment, New Delhi and is responsible for implementation and monitoring of Apprenticeship Act, 1961. The AITT, as required under Section 21 of Apprenticeship Act, 1961, is conducted under the aegis of National Council of Vocational Training (NCVT) which is a tripartite advisory body. As per provisions of Apprenticeship Act, 1961, an employer is required to engage requisite number of Apprentices for Apprenticeship Training in a particular trade for a specified period. After completion of training period, the employer sends eligibility of apprentice for appearing in the AITT and after passing the AITT the apprentice gets National Apprentice Certificate which is awarded by NCVT through RDAT. It is obligatory on the part of employer as well as the apprentice to get the contract of apprentice registered at RDAT Kanpur for the period of apprenticeship. The applicant joined the C&W Lucknow on 19.01.1996 and remained there till 18.10.1998, but his contract of apprenticeship was registered at RDAT, Kanpur only on 26.10.1999. As there is no provision in the Act to allow an apprentice for appearing in the AITT beyond 03 years of completion of training, the act of RDAT Kanpur, is as per



provision of Apprenticeship Act, 1961 and the applicant has rightly been denied to appear in the AITT as per provision of Section 21 of the Apprenticeship Act, 1961.

5. In the rejoinder filed in response to the counter reply filed on behalf of respondents, the contents of OA has been reiterated. It has further been submitted that after successful completion of training, it was the duty of respondent No. 3 to allow him to appear in AITT, but the respondent No. 3 did not perform his statutory duty. It has further been submitted that the applicant has done Industrial Training in the Trade of Fitter from Government ITI, Azamgarh in the year 1990 and holds a National Trade Certificate in the trade of Fitter. It has also been submitted that the Regional Director is responsible for allowing the applicant to appear in AITT and apprentice training conclude only after appearing in AITT conducted by respondent No. 3 and until and unless the applicant is allowed to appear in the said test and successfully passes the same, he could not be granted the certificate of apprentice training. It has also been submitted that the respondent No. 3 has no authority to hold that the applicant is not entitled to appear in AITT when he has successfully undergone the apprentice training under respondent No. 2 for 02 years.

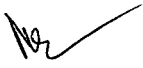
6. In the rejoinder filed in response to supplementary counter reply filed by respondent No. 3, the averments made in the OA and earlier rejoinder reply has been reiterated. It has been further submitted that the applicant is entitled to appear in AITT



conducted by respondent No. 3 which is now scheduled to be held in October, 2010.

7. Heard Shri Anurag Srivastava, learned counsel for the applicant and Shri S. Verma, learned counsel for the respondents and perused the entire record.

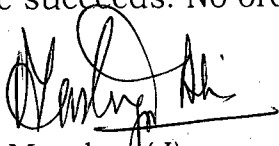
8. It transpires that the applicant qualified ITI examination in the year 1990 and he underwent apprentice training from 19.01.1996 to 18.01.1998 at C&W Training School, Lucknow. He was not allowed to appear in All India Trade Test conducted by respondent No. 3 as required under Section 21 of Apprenticeship Act, 1961 initially on the ground that the period of apprenticeship should have been for one year. It is also evident that due to wrong mentioning of year in the certificate of NCVT he could not produce the same till it was rectified and correct certificate was obtained by the applicant on 03.09.2008. The respondent No. 3 has filed an affidavit on 11.08.2010 in which the only ground taken for denying the permission to the applicant was that the applicant could have appeared in the Trade Test within 03 years from the date of completion of the training and since the applicant did not do so within stipulated period as required under Section 21 of the Apprenticeship Act, 1961, the respondent No. 3 could not accede to his request. From the perusal of order of this Tribunal passed on 30.08.2010 it is evident that the Tribunal found no such condition under the law and the stand taken by the respondents in denying permission to the applicant for appearing in AITT was not

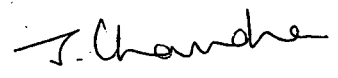


found any force and respondent No. 3 was accordingly directed to permit the applicant to appear in the next All India Trade Test. It was also provided that the result of such Trade Test should not be declared till final disposal of this OA.

9. Learned counsel for the applicant has submitted that the applicant has already appeared in the AITT in the year 2010 in view of Tribunal's order dated 30.08.2010 but his result has not yet been declared. It has been submitted that the respondent No. 3 be directed to declare the result of the applicant. The learned counsel for the respondents has not opposed for issuing such direction.

10. Considering all the facts and circumstances of the case we are of the view that the applicant has already suffered a lot due to mistake of NCVT in mentioning the wrong year of passing in the certificate and underwent two years apprenticeship training instead of one year and now he has appeared in AITT in the year 2010. The OA is partially allowed and respondent No. 3 is directed to declare the result of AITT in respect of applicant within one month from the date of receipt of order. The applicant shall also get the consequential benefits from the date of declaring the result of AITT, if he succeeds. No order as to costs.


Member (J)


Member (A)

/pc/