

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.644/1999.

Mumbai, this the 14th day of February 2003.

Hon'ble Shri A.S.Sanghvi, Member (J),
Hon'ble Shri G.C.Srivastava, Member (A).

M.R.Bhandari,
C/o. G.S.Walia,
Advocate, High Court,
16, Maharashtra Bhavan,
Bora Masjid Street,
Behind Handloom House,
Fort,
Mumbai - 400 001.
(By Advocate Mr.G.S.Walia)

...Applicant.

v.

1. Union of India, through
Joint Secretary (C&C),
Ministry of Finance,
Department of Economic Affairs,
New Delhi.
2. General Manager,
India Security Press,
Nasik Road - 422 101.
(By Advocate Mr.V.S.Masurkar)

...Respondents.

: O R D E R :

By A.S.Sanghvi, Member (J).

The applicant who is serving as an Assistant Works Manager is aggrieved by his non-promotion to the post of Works Manager and has moved this O.A. seeking a direction to the Respondents to consider his case for promotion to the post of Works Manager from the date his immediate junior was ~~was~~ promoted. According to the applicant, he was initially appointed as a Technical Apprentice on 25.3.1960 and after 4 1/2 years of Technical Apprenticeship, he was promoted to the post of

Journeyman/Asst. Supervisor on 25.9.1964. He possesses qualification of Intermediate (Science) with Physics, Mathematics, English and Hindi as subjects. The applicant has ultimately come to be promoted as an Assistant Works Manager, a Group 'B' post on 23.9.1982 on an ad-hoc basis and was regularised in the said post w.e.f. 26.5.1984. He has subsequently been promoted as Deputy Works Manager w.e.f. 3.6.1997 after being duly selected for the said post. According to the applicant, even though he is eligible and is seniormost, he is denied the promotion to the post of Works Manager and four of his juniors are given the promotion to the post of Works Manager ignoring his claim on the ground that he does not possess the qualification of Diploma. He has contended that the qualification of Diploma is applicable for direct recruits and the same is not applicable to the promotees. He has already completed his Technical Apprenticeship in the India Security Press which can be considered to be more than that of Diploma and as such he could not have been ignored for promotion to the post of Works Manager merely on the ground of his not possessing adequate qualification. He has, therefore, prayed that the Respondents be directed to consider him for promotion to the post of Works Manager from the date his immediate junior was promoted, with all consequential benefits.

2. The Respondents, in their written statement have contended, inter alia, that the notified Recruitment Rules for the post of Works Manager stipulates that for promotion to the post of Works Manager the eligibility criteria is "Deputy Works Manager with 5 years regular service in the grade, failing which

Deputy Works Manager with a combined regular service of 10 years as Deputy Works Manager and Assistant Works Manager and failing which Assistant Works Manager with 10 years regular service in the grade and he should also possess educational and other qualifications required for direct recruits". The educational qualification prescribed for direct recruits are :

[A]

- (i) Degree either in Mechanical or Electrical Engineering from a recognised University or equivalent.
- (ii) 10 years' experience in Electrical or Mechanical Engineering or

[B]

- (i) Diploma in Printing and Allied Trades from a recognised Institution or equivalent.
- (ii) 10 years' practical experience in a supervisory capacity in a well established printing house.

According to the Respondents, the applicant does not possess the required educational qualification and since this being essential, he was not considered for promotion. They have denied the averment of the applicant that 4 1/2 years of Apprenticeship can be considered equivalent to the Diploma and have stated that the Ministry of Human Resources Development had clarified that for the purpose of Recruitment to Central Government Service the certificate of 4 1/2 years Apprenticeship issued by the India Security Press, Nasik is not a recognised qualification. According to the respondents, in view of this clarification given by the Ministry, the applicant was not eligible to be considered for the post of Works Manager and as such has not been considered. They have prayed that the OA be dismissed with costs.

3. We have heard the Learned Counsel for both the parties and have carefully considered the rival contentions.

4. It is quite obvious from the above narrated facts that the only ground on which the applicant has been denied promotion to the post of Works Manager is that he does not possess the required qualifications. It was strenuously argued on behalf of the applicant by Mr. Walia that the applicant has already undergone 4 1/2 years of Technical Apprenticeship course and after this Technical Apprenticeship course, he was issued with a certificate by the Government for having satisfactorily completed the course and as such there was no reason to deny the benefit of further promotion to the post of Works Manager. The applicant has been considered suitable for promotion to the post of Assistant Works Manager, as well as, Deputy Works Manager. But, he has not been considered suitable for the post of Works Manager which is a paradoxical position. He has submitted that the Recruitment Rules for both the posts are practically the same and as such the applicant could not have been denied consideration for the post of Works Manager. He has also submitted that the 4 1/2 years Apprenticeship certificate should have more value than that of a diploma and this should be considered to be preferential qualification rather than disqualification for the purpose of promotion to the post of Works Manager.

5. Mr. Masurkar, Learned Counsel for Respondents, however, has relied on the Recruitment Rules for the post of Works Manager, as well as, the qualification given by the Assistant

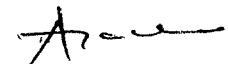
Educational Adviser (Tech.) in the Ministry of Human Resources Development (Department of Education). According to him, the educational qualification required for the post of Works Manager are Diploma in Printing and allied trades from a recognised institution or equivalent with 10 years practical experience in a Supervisory capacity in a well established Printing Press. According to him, it is an admitted position that the applicant does not possess the qualification of Diploma in Printing and Allied Trades and as such he is not eligible to be considered for the post of Works Manager. Referring to the contention of the applicant that 4 1/2 years of Apprenticeship certificate issued by India Security Press, Government of India should be considered equivalent or more than equivalent to Diploma, Mr. Masurkar has submitted that the Department had referred this question for clarification to the Ministry of Human Resources Development in the Department of Education and the Ministry has clarified that for the purpose of Recruitment to Central Government Services the certificate of 4 1/2 years Apprenticeship certificate issued by the India Security Press, Government of India is not a recognised qualification as per the reference of the Secretariat of Board of Assessment for Educational Qualifications. Since it has been clarified that it is not a recognised qualification, the applicant was not considered for the post of Works Manager.

6. We have perused the Recruitment Rules for the post of Works Manager, as well as, for the post of Assistant Works Manager. It cannot be denied that there is lot of substance in what Mr. Masurkar has submitted. The applicant not possessing the diploma in Printing or Allied Trades is therefore not qualified

to be considered for promotion to the post of Works Manager. The educational qualification required is that of Diploma in Printing and Allied Trades from a recognised Institution or equivalent and this being a Class 'A' post, it was necessary that the qualifications prescribed should be adhered to. It is no doubt true that qualifications below the prescribed qualifications are relaxable at the discretion of UPSC in case of candidates otherwise well qualified, but then it is not the case of either of the parties that the question of relaxing the qualification was brought before the UPSC and the UPSC had declined to relax the qualification. So far the post of Assistant Works Manager is concerned, qualifications prescribed are that of Diploma in Printing and Allied Trades from a recognised Institution and 3 years practical experience in a supervisory capacity in a well established Printing House or Degree in Mechanical or Electrical Engineering from a recognised University and three years practical experience in Mechanical or Electrical Engineering Workshop. These qualifications are also relaxable at UPSC's discretion. It is an undisputed position that the applicant has already been promoted as Assistant Works Manager, as well as, Deputy Works Manager. It has however, not been pointed out by either sides whether while promoting him as Assistant Works Manager or Deputy Works Manager the educational qualifications were required to be relaxed in his case or not. In any case, so far the post of Works Manager is concerned, the respondents have not considered the question of relaxing his qualifications and have considered him as not possessing adequate educational qualification. So far the question of 4 1/2 years of Technical

Apprenticeship Certificate being equivalent to the Diploma is concerned, this Tribunal cannot enter into the parameters of the qualifications as this is the function of expert body and when the expert body i.e. the Educational Ministry has already opined that this is not a qualification equivalent to Diploma, we cannot interfere with their opinion and take a contrary stand. In the case of State of Rajasthan Vs. Lata (2002 AIR SC Weekly Pg. 2966), the Supreme Court has laid down that whether a particular educational qualification is equivalent to qualification prescribed by authority, the question relates to the realm of policy decision to be taken by the Nursing Council and Court cannot decide it. Same view is also expressed by the Supreme Court in the case of Suresh Pal Vs. State of Haryana (AIR 1987 SC 2027). We therefore, cannot express any opinion with regard to the qualification of certificate of 4 1/2 years Apprenticeship issued by the India Security Press being equivalent to the Diploma or not. Since the Government of India has not recognised this qualification, we will have to hold that this is not equivalent to the Diploma and as such we hold that the applicant does not possess the required qualification and is rightly not considered for further promotion to the post of Works Manager. We therefore, find that the OA is devoid of any merits and deserves to be rejected. In the conclusion, the OA is rejected. No orders as to costs.


(G.C. SRIVASTAVA)
MEMBER(A)


(A.S. SANGHVI)
MEMBER (J)

B.