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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 336/96

Date of Order : 18.06.1999

BETWEEN :

1. V.Venkatesham
2. B.Murali Krishna
3. P.Krupakar
4. B.Raj Reddy

.. Applicants.

AND

1. The Union of India,
Rep. by its Secretary to Defence,
Ministry of Defence,
South Block, New Delhi.
2. The Chairman and Director General
of Ordnance Factories, 10-A
Auckland Road, Calcutta.
3. The General Manager,
Ordnance Factory,
Yeddumailaram, Medak Dist.
4. Smt. Padmavathi
5. Sri V.S.Sharma
6. Smt. M.Uma
7. Sri P.Muralidharan
8. Sri B.L.S.Rama Rao
9. Smt. S.P.Rhine
10. Smt. Swarnalatha
11. Smt. C.Padmaja
12. C.V.G.Naidu
13. Sri M.V.Rao
14. Jagannadha Rao
15. Parasuram Rai
16. D.P.Rao
17. Y.Veereshalingam
18. A.Yathipathi Raju

.. Respondents.

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Counsel for the Applicant

.. Mr.V.Jagapathi

Counsel for the Respondents

.. Mr.B.N.Sharma
for R-1 to 3

.. Mr.S.Ramakrishna Rao
for R-4, ~~5~~ 5, 7,
8, 10 to 18

.. Mr.G.Vidya Sagar
for R-9

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O R D E R

(As per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.))

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Mr.V.Jagapathi, learned counsel for the applicant,
Mr.B.Narasimha Sharma, learned standing counsel for the
official respondents, Mr.S.Ramakrishna Rao, learned counsel
for the private respondents 4, 5, 7, 8, 10 to 18 and
Mr.G.Vidya Sagar, learned counsel for Respondent No.9.
Notice has not been served on Respondent No.6.

2. There are four applicants in this OA. They were
appointed as IDCs under the Respondent No.3. They are in
the feeder category to the post of UDC and Chargeman Gr-II
(non-technical). They submit that the IDCs are in the
feeder category to the posts of UDC (Administrative Wing),
Chargeman Gr-II, (non-technical) and Chargeman Gr-I.

3. It is stated that the respondents 2 and 3 through
employment notifications invited applications for the posts
of Chargeman Gr-II. As per the notification the prescribed
qualification was

(i) A Diploma in Engineering in any of the following
Branches, namely Mechanical, Electrical, Electronics,
Civil, Automobile, Instrument Technology and
Metallurgy.

(ii) Diploma in Russian Language from any University
or recognized Institutions.

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4. Their grievance is that some lower grade employees though not possessed the requisite qualifications, got appointed to the post of Chargeman Gr-II (non-technical). It is further stated that those persons had produced forged diploma certificates alleged to have been issued by the All India Institute of Russian Language. The respondents have not properly verified the certificates produced by such candidates.

5. Relying upon the observations made by the Hon'ble Supreme Court in the case of District Collector, Vizianagaram v. M.T.Sundari Devi (reported in 1990 (4) SLR 237) the DOP&T issued the circular instructions for taking action against the employees who are found later ineligible/unqualified for their initial recruitment. The O.M. is numbered as 110212/7/91-Estt(A) dated 19.5.93. A copy of the OM is at Annexure-1 to the OA.

6. It is stated that All India Association of Clerical Employees of Ordnance Factories submitted representations dated 26.11.93 and 17.3.95 (A-2 and 3) to R-3 to take action. They submit that no action has been taken.

7. Hence they have filed this OA for the following reliefs :-

To declare that the inaction of the 3rd respondent in complying with the instructions issued by the Government of

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India Department of Personnel and Training in O.M.No. 11012/7/91-Estt. (A) dated 19.5.93 and continuing the ineligible and unqualified persons appointed against Chargemen Gr-II (Non Technical) Posts as arbitrary, void and illegal and consequently direct the 3rd respondent to terminate the services of the persons appointed as Chargeman Grade-II (N.T.) (based on the dubious Diploma in Russian Language issued by the All India Institute of Russian Language or alternatively separate the Chargemen Grade II (N.T.) appointed for translation of Russian Language from holding the vacancies of Chargeman Grade II (N.T.) and direct the 3rd respondent to fill up the existing vacancies by promoting the applicants according to their seniority.

8. In the first instance the reliefs claimed against the respondents ^{1 to 3} were general in nature. The applicants had not cited any instances where a candidate had been appointed with a bogus certificate. Later the applicants filed M.A.754/98 to implead the respondents 4 to 18. The respondents 4 to 18 are the employees under the Respondent No.3. They were impleaded as parties as per order dated 2.3.99. It is to be noted that the applicants filed this MA after the respondents filed the ~~reply enclosed as~~ Annexure-R-3 to the reply wherein they furnished the details of the Russian Translators presently working in the organisation having earned promotion to Chargeman Gr-I.

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9. The official respondents filed a reply in MA.879/95. The respondents in the reply dispute the promotional avenues indicated by the applicants in the OA. They further submit that an IDC with 3 years experience is eligible for promotion to the post of Supervisor and with 5 years experience to the post of UDC. It is stated that UDCs and the Supervisors are in the common seniority list and an UDC or a Supervisor with 3 years experience is eligible for promotion to the post of Chargeman Gr-II in the scale of pay of Rs.425-700. Further the UDC with 5 years experience is eligible for promotion to the post of Office Superintendent. The post of Chargeman Gr-II is a selection post. They submit that the posts of Chargeman Gr-II is centrally controlled by Ordnance Factory Board & Calcutta.

10. In the reply they have stated that on 11.10.82 and during October 1983 they had invited applications for the posts of Chargeman Gr-II (Technical) ^(Russian Translators). These notifications are at Annexure-R-1 and R-2 to the reply. A-R-1 is the notification dated 11.10.82. In the said notification were applications invited for ChargemannGr -II without specifying whether it was technical or non-technical.

11. In the notification dated October 1983 applications were called for filling up the posts of 20 Chargeman Gr-II (Technical). The categorywise posts reserved ^{are} 2 for SC

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2 posts for ST and 2 posts for Ex-servicemen. Further it is stated that number of posts may likely to increase.

12. The respondents submit that interview was held on 24.2.83 for the candidates who responded to the notification dated 11.10.82 and that interview was held on 23/24.4.84 for the candidates who responded to the notification dated October 1983. They submit that four candidates were appointed under Respondent No.3 in accordance with the notification dated 11.10.82. They submit that Ordnance Factory Board issued letters of appointment to the candidates who responded to the notification dated October 1983.

13. With these details they submit that the averments made in the OA are vague and ambiguous, that the application and is barred by limitation/ That the applicants have not submitted any individual representation about their grievance. That the clerical employees association is not a party to this application and that the application is not maintainable.

14. Further they submit that appointments to the posts of Chargeman Gr-II (Technical) ^(Russian Translators) /as invited through the notifications referred to above were made in accordance with the rules. Candidates who were selected by the Selection Board were appointed by the Ordnance Factory Board, Calcutta and were posted to work under the Respondent No.3 factory. They submit that the number of Russian Translators appointed in the initial stages resigned their job and present strength

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in the Respondent No.3 Factory is 17 including 2 individuals who came on transfer from sister factories. The details of the present strength of Russian Translators are furnished in Annexure-R-3.

15. They submit that they had taken necessary care to select suitable candidates and that those who were not possessing the requisite qualification were released from the appointment. They submit that according to the Indian Ordnance Factory (Recruitment and Conditions of Service of Class III Personnel) Rules 1956 (A-R-4) is applicable to the posts of Chargeman Gr-II. Accordingly the posts of Chargeman Gr-II are to be filled 80% by promotion of Supervisors Gr-A in accordance with the provisions of Rule 8 or by appointment of selected qualified apprentices recruited in accordance with the provisions of Appendix 'B' and 20% by direct recruitment. They submit that the persons appointed against the direct recruitment quota and that the applicants are aspirants for the post of Chargeman Gr-II (non-technical) against the promotional quota, hence the applicants ^{can} have no grievance. They have given ^{the} details of the selection process conducted by the Ordnance Factory Board in accordance with the notification dated October 1983. They submit in 2 cases, relaxation was given by the competent authority. They submit that there were no irregularities in the appointment of Russian Translators and hence taking

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action in accordance with the O.M. dated 19.5.93 did not arise. Thus they pray for dismissal of the OA.

16. The respondents 4, 5, 7, 8, 10 to 18 have filed a detailed reply enclosing their certificates ^{in support of their} ~~possessing~~ the requisite qualifications.

17. The respondent No.9 has also submitted a reply, but she has not produced any document in support of her claim of having appointed as a Russian Translator under the Respondent No.3 Factory.

18. The applicants have filed rejoinder to the reply filed by the official respondents. In the rejoinder the applicants contend that G.M., Ordnance Factory is not the competent authority to relax the educational qualifications and that the Government of India is the proper authority for relaxation that the relaxation extended to 2 candidates was not in order that the respondents were obliged to take action in accordance with the O.M. dated 19.5.93 that the notifications relied upon by the respondents in the reply relate to the post of Chargeman Gr-II (technical) but appointments were made to the post of Chargeman Gr-II (non-technical) ^(Russian Translators) that among the persons detailed in exhibit R-3 the following candidates did not possess the requisite qualification.

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<u>Name</u>	<u>Qualifications</u>
1. Padmavathi	Not possessing Diploma in Russian Language.
2. V.S.Sharma	Did not possess Degree even to this date, Diploma in Russian Language is not from any recognised Institution.
3. Smt.Swarnalatha	Did not obtain Diploma in Russian Language from recognised Institution.
4. M.V.Rao	Employed as Casual Labourer in R-3 factory not obtained Diploma in Russian Language from Recognised Institution . Being an employee he could not have obtained Diploma in Russian Language from New Delhi.
5. Jagannadha Rao	A ppointed as Ty.Jr.Gestenor Operator , then appointed as Ty.Supr.'B'(NT) then appointed as Ty.Chargeman Gr.II(NT), all within a period of one year. Could not have obtained Diploma in Russian Language while in service.
6. Shivaji	Not obtained Diploma in Russian Language from any recognised Institution.
7. A.Yathipathi Raju	Possessed only intermediate at the time of appointment. Not obtained Diploma in Russian Language from any recognised Institution. 12%

19. Further they submit that when once the post was notified for technical the respondents could not have
(Non Technical)
appointed to the category of posts and that they unjustifiably deprived their prospects of promotion.

20. There are 15 private respondents. These respondents do not tally with the names detailed by the official respondent in Annexure-R-3. A-R-3 contained 19 candidates. These candidates were appointed in 1983-84. It is not possible to state as to who was appointed under the relaxed standards.

21. As notice to R-6 has not been served his case cannot be considered by this Tribunal without giving him an opportunity. The Respondent No.16 is an ex-serviceman. He was initially re-employed in Ammunition Factory, Khadki, Pune in the year 1985 as Chargeman Gr-II (NT) (RT). On compassionate grounds he got transferred from Ammunition Factory, Khadki, Pune to Respondent No.3 Factory. He has not been appointed in response to the notifications dated 11.10.82 or October 1983. Hence his selection cannot be considered by this Tribunal.

22. Likewise Respondent No.17 was not directly recruited to the post of Chargeman Gr-II (NT). He was initially appointed as Supervisor 'B' (NT) and thereafter promoted to the post of Chargeman Gr-II. Hence his case cannot be considered as he is not a direct recruitee to the post of Chargeman Gr-II. (Russian Translators).

23. Respondents 4, 5, 8, 10, 12, 14, 17 and 18 were earlier working under the Respondent No.3 Factory as Supervisor (B) (NT). They responded to the notification dated October 1983. They were interviewed at Avadi. It is the Ordnance Factory Board, Calcutta ^{which} selected them.

24. The Respondent No.13 and Respondents No.18 are the direct recruitees to the post of Chargeman Gr-II (NT).

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25. The notification dated 11.10.82 and the notification dated October, 1983 are Annexures 1 and 2 to the reply filed by the official respondents. The qualification required for the post of Chargeman Gr-II as indicated in the notification reads as below :-

Qualifications: (1) Essential:

Diploma in Russian Language from any University or recognised Institutions.

(2) Desirable :

Diploma in Automobile or Electrical, Mechanical, Electronics Instrument technology will be desirable but not essential.

26. As per the notification dated October 1983 the specification for the post of Chargeman Gr³/₄II(T) is as follows :

Specification for the post:

(i) Degree/Diploma from a Russian University/Russian Institutions in any subject of Degree/Diploma in Russian Language from any Indian Universities/Institutions.

(ii) Age not to exceed 30 years as on 30.11.83
This is relaxable by 5 years for SC and ST candidates.

Desirable:

Experience in translation of Technical documents.

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27. The inservice candidates produced certificates to show that they had diploma in Russian Language or had studied any subject in Russian University/ Institution.

28. The Respondent No.4 is a Holder of Diploma in International Relations as issued by the Chairman of the said Examinations commission, Russia. She has studied in Russia this Diploma. Likewise the Respondent No.5 is a holder of diploma in medical assistant.. He has studied in Russia.

29. The other inservice candidates have produced certificates to show that they were proficient in Russian language, possessed diploma in Russian Language and advanced diploma in Russian Language.

30. Respondent No.11 was earlier working as Chargeman on temporary basis. She appeared in response to the notification dated October 1983.

31. A perusal of the A-R-3 to the reply, 17 persons were appointed to the post of Chargeman (T) (RT) between 1983 and 1994. The applicants were then working in the respondents organisation. They were aware that the appointment of certain persons to the post of Chargeman, Technical or Non-Technical (Russian Translators) who was irregular or that certain persons were appointed from lower grade (inservice candidates) had produced

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certain bogus certificates. It cannot be said that they were unaware of the irregularities, if ~~all~~ all, committed by the respondents in appointing to the post of Chargeman (NT). As it is the 2 notifications produced by the respondents along with the reply regarding to the post of Chargeman (T) (Russian Translators). We have consider^{ed} the appointments made thereunder. However the applicants challenged the appointment to the post of Chargeman (NT). It is now clear that six persons included in A-R-3 to the reply were appointed as Russian Translators in pursuance to the notifications dated 11.10.82 and October 1983.

32. When that is so they should have ~~app~~approached immediately the competent judicial forum challenging the appointment of certain inservice candidates to the post of Russian Translators. Merely because there is some technical variation as regards the description of Chargeman Gr-II(T) or (NT) (Russian Translators). We cannot say that the appointment was irregular. Further the persons included in Annexure-R-3 to the reply were appointed in the year 1983 or 1984 and had earned promotions to the higher grade. Even they had earned promotions before the impugned notification dated 19.5.93 came to be issued. If really the applicants were certain in their mind that their appointments were irregular they should have approached the judicial forum

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then and there itself. It is a well known proposition of service conditions that any person securing appointment by unfairness is liable to be discharged. It is only the same principle that has been reiterated by the Hon'ble Supreme Court in the case of District Collector, Vizianagaram relied upon by the applicants and which was the basis for the respondents to issue the O.M. dated 19.5.93. That means the O.M. was issued nearly after a decade after the appointments of the persons included in Annexure-R-3.

33. The applicants have approached this Tribunal in September 1995. They filed an application for consideration of delay M.A.875/95. In the MA it is stated that the applicants on the basis of the O.M. dated 19.5.93 had submitted certain representations to the respondent authorities to take action against those irregular appointments and that the respondents failed to respond to the representations. Therefore they prayed for condonation of delay of 300 days.

34. The applicants have not filed any rejoinder to the reply filed by the private respondents. As the private respondents have produced the relevant documents in support of their fitness for the post of Russian Translators and also justifying the selection made by the respondents. The qualifications required for the post of Russian Translator has been extracted above. In case a candidate has obtained

a Degree or Diploma from Russian University/Institution in any subject then he is qualified for the post. Otherwise a candidate must have obtained Degree or Diploma in Russian Language from any Indian University or Institution.

35. As already stated above certain candidates had studied in Russian University/Institution. In those cases they need not possess the Diploma in Russian Language. Further certain persons have produced the certificates issued by the All India Institution of Russian Language and other testimonials. The private respondents have also produced the compulsory rank list given by the All India Institute of Russian Language.

36. That the xerox copy of the certificate issued by the All India Institute of Russian Language, enclosed to the rejoinder does not appear to be original. Hence that copy has to be rejected. We do not like to add further reasons for rejecting the xerox copy as it may go against the applicants.

37. On considering the various averments made by the applicants in the OA and also considering the O.M. dated


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19.5.93 in the light of certificates and the testimonials produced by the private respondents herein we feel that the respondents were justified in not taking any action against the persons included in A-R-3 on the basis of the O.M. dated 19.5.93.

38. After considering the details of the particulars furnished by the private respondents we also now feel that there is absolutely no prima-facie case to direct the respondents to check and verify the documents and other testimonials produced by the persons included in A-R-3 to the reply or against any of the respondents.

39. In that view of the matter we find no merit in this OA and the OA is liable to be dismissed.

40. Accordingly, the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R.RANGARAJAN)
Member (Admn.)

Dated : 18th June, 1999

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COPY TO:-

1. HON'J
2. HRRP M(A)
3. HBSJP M(J)
4. D.R.(A)
5. SPARE

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER - (A)

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (J)

ORDER: 18-6-99

ORDER / JUDGEMENT

MA./RA./CP No.

in

GA. No. 336/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

O.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO COSTS

SRR

(10 copies)

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH
29 JUN 1999
हैदराबाद न्यायपीठ HYDERABAD BENCH