

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE TRIBUNAL

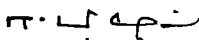
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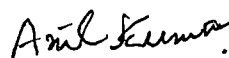
O.A. No. 291/00015/2014

Mr. Sudarshan Laddha, counsel for applicant.
Mr. Anupam Agarwal, counsel for respondents.

Heard learned counsel for the parties.

Order is reserved.


(M. Nagarajan)
Member (J)


(Anil Kumar)
Member (A)

Adm/

29.9.2014

Order pronounced today in the open
Court by the Honble Bench. Order
kept in file of OA 830/2013.


COURT OFFICER

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 838/2013

Order Reserved on 29.5.2014

Date of Order: 9.7.2014

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

HON'BLE MR. M. NAGARAJAN, JUDICIAL MEMBER

1. Hemant Yadav S/o Shri Dhanraj Yadav, aged about 26 years, by cast Yadav, R/o 197/A, Railway Workshop Colony, Kota Junction, Kota, Rajasthan.
2. Jakir S/o Jhafar M., by cast Muslim, resident of R.B/4/7-B, Railway Medical Colony, Kota Junction, Kota.
3. Shahabuddin s/o Jamaluddin, by cast Muslim, Resident of Mansingh Ka Farm, Nai Basti, Sangariya, Kota Junction, Kota, Rajasthan.
4. Rajesh Sarvan s/o Shri Ghanshyam Sarvan R/o Gali No.5, Chopra Farm, Near Little Modern School, harijan Basti Dadawada, Kota Junction, Kota.
5. Sunny Sarwan S/o Shri Ghanshyam Sarwan, R/o Galli No.5, Chopra Farm, Near Little Modern School, harijan Basti, Dadawada, Kota Junction, Kota.

.....Applicant

(By Advocate Mr. Sudershan Laddha)

VERSUS

1. Union of India through Divisional Manager, West Central Railway, Jabalpur (M.P.).
2. The Chief Manager, Establishment, West Central Railway, Kota Junction, Kota, Rajasthan.

3. The Chief Works Manager, Chief Workshop, Mal Dibba
Marramat Karkhana, West Central Railway, Kota Junction,
Kota, Rajasthan.

.....Respondents

(By Advocate Mr.Anupam Agrawal)

2. OA No.291/00015/2014

1.Irshad S/o Shri Abdul Salim, Resident of House No.36-F,
Railway Workshop Colony, Kota Junction, Kota.

2. Mohammad Raza s/o Shri Baquir Raza , Resident of Gali
No.12, Sanjay Nagar, Kota Junction, Kota.

.....Applicant

(By Advocate Mr.Sudershan Laddha)

VERSUS

1. Union of India through General Manager, West Central
Railway, Jabalpur (M.P.).

2. The Chief Manager, Establishment, West Central
Railway, Kota Junction, Kota, Rajasthan.

3. The Chief Works Manager, Chief Workshop, Mal Dibba
Marramat Karkhana, West Central Railway, Kota Junction,
Kota, Rajasthan.

.....Respondents

(By Advocate Mr.Anupam Agrawal)

3. OA No.291/00023/2014

1.Raju son of Shri Javer Singh, aged 25, Resident of Railway
Workshop Colony, Kota Junction, Kota.

2. Gajendra Kumar Son of Shri Ramprasad, aged 26, Resident of Poonam Colony, Gali No.6, Kota Junction, Kota.

3. Nitin Agarwal son of Shri Mukesh Agarwal, aged 20, Resident of Dadawada, Tehsil Ladpura, Kota Junction, Kota.

4. Deepak Agarwal son of Shri Shraman Kumar Agarwal, aged 21, Resident of Agarwal Bhawan, Tullapura, Kota Junction, Kota.

5. Aslam Khan son of Shri Abdul Aziz, aged 23, Resident of Gali No.2, Pratap Colony, Kota Junction, Kota.

6. Sorabh Singh Jadon son of Shri Vipin Kumar Jadon, aged 18, Resident of 337, Kailashpuri, Kota Junction, Kota.

.....Applicant

(By Advocate Mr.Sudershan Laddha)

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (M.P.).

2. The Chief Manager, Establishment, West Central Railway, Kota Junction, Kota, Rajasthan.

3. The Chief Works Manager, Chief Workshop, Mal Dibba Marramat Karkhana, West Central Railway, Kota Junction, Kota, Rajasthan.

.....Respondents

(By Advocate Mr.Anupam Agrawal)

4. OA No.291/00056/2014

Haseen Baig son of Shri Yasin Baig, aged about 23 years, Resident of Railway Workshop Colony, Quarter No.200/B, Kota Junction, Kota.

.....Applicant

(By Advocate Mr.Sudershan Laddha)

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (M.P.).
2. The Chief Manager, Establishment, West Central Railway, Kota Junction, Kota, Rajasthan.
3. The Chief Works Manager, Chief Workshop, Mal Dibba Marramat Karkhana, West Central Railway, Kota Junction, Kota, Rajasthan.

.....Respondents

(By Advocate Mr.Anupam Agrawal)

ORDER

Per Hon'ble Mr. Anil Kumar, Administrative Member

The applicants have filed present OA praying for the following reliefs:-

"It is, therefore, humbly and respectfully prayed that this petition of the applicant may kindly be allowed and the contents of reply to legal notice dated 14.12.2013 may kindly be quashed and set aside and the respondents may kindly be directed to call the applicants for screening and engage them for apprenticeship if they are otherwise found to be in merit.

Any other appropriate relief which this Hon'ble Tribunal deems fit in the interest of justice in the facts and circumstances of the case in favour of the applicant may kindly be passed. "

2. The facts and the law points involved in all the four OAs are similar, therefore, with the consent of learned counsel for the parties, they are being disposed of by a common

order. For the sake of convenience the facts of OA No.838/2013 are being taken as a lead case.

3. The brief facts of the case as stated by the learned counsel for the applicants are that the respondents issued a notification on 7.8.2012 inviting application from the eligible candidates for Apprenticeships with the Railway in Fitter, Welder and Machinist Trades and the required qualification was 10th with 50% along with ITI certificate in the relevant trade. (Annexure A/2). That all the applicants moved their application form in pursuance of the notification dated 7.8.2012 as they were having requisite qualification and the respondents issued call letters to all of them for screening for engagement as Apprenticeship (Annexure A/3). That the applicants were not engaged by the respondents in pursuance of the notification dated 7.8.2012 on account of rejection of the panel by the higher authorities, although, applicants were coming in merit at that relevant time. (Annexure A/4). That the respondents again issued another notification for engagement of Apprentice on 1.7.2013 and in that notification also there was similar qualification as mentioned by the respondents in the notification dated 7.8.2012.(Annexure A/5). That all the applicants again applied for engagement as Apprentice with the respondents in pursuance of their notification dated 1.7.2013 but

respondents illegally and arbitrarily not issued call letters to the applicants for screening. When this fact came in the knowledge of the applicants that call letters have been issued to other similarly situated persons but the same have not been issued to the applicants then the applicants sent a notice for demand of justice through their counsel on 4.12.2013 (Annexure A/6).

4. The respondents sent reply to the legal notice to their counsel on 14.12.2013 which was received by the counsel on 17.12.2013 in which it was mentioned by the respondents that applicant No.1 and 2 are having the mark sheet of 10th and ITI from Bhartiya Shiksha Parishad, Uttar Pradesh and this institution is not mentioned in the circulars issued by the Railway Board. The respondents mentioned same reason for applicant No.3 and also mentioned that he is having ITI Diploma in Welder Programme which is not relevant trade. The respondents mentioned the reasons for the applicant No.4 and 5 that they are having the ITI Diploma in the Mechanic (Fitter) which is not relevant trade and in the notification only applicants have been invited from Fitter (Annexure A/1).

5. The learned counsel for the applicants argued that the respondents issued call letters to the applicants in pursuance

of previous notification dated 7.8.2012 for screening and at that relevant time also applicants were having the same qualification which they possess now. Therefore, the action of the respondents in rejecting the candidature of the applicants in pursuance of the notification dated 1.7.2013 is illegal, arbitrary and unjustified.

6. The learned counsel for the applicants further argued that Bhartiya Shiksha Parishad, Uttar Pradesh is a well recognized institution and similarly situated persons who passed the 10th or ITI from the same institution were selected by the respondents. Hence, the action of the respondents in not issuing the call letters to the applicants is discriminatory. That the respondents have rejected the candidature of the applicant No.3 on the ground that he is having ITI Welder Programme which is not relevant trade. He submitted that there is no difference between welder trade or welder programme.

7. Similarly, the respondents have rejected the candidature of applicant No. 4 and 5 on the ground that they are having the ITI diploma in Mechanic Fitter which is not relevant trade. According to the learned counsel for the applicant there is no difference in the Diploma in Mechanic Fitter and Diploma in Fitter. Therefore, the OA be allowed and the

respondents be directed to call the applicants for screening and engage them for apprenticeship if they are otherwise found to be in merit.

8. On the other hand, the respondents have filed the reply. In the reply the respondents have stated that the notification dated 7.8.2012 was cancelled by an office order dated 5.6.2013 because of administrative reasons. In fact the said cancellation have been made on the recommendation of the Screening Committee. Hence, there was no occasion to declare merit list/select list. In Para 4.5 of the reply, the respondents have given the details of the grounds on which the eligibility of the applicants was rejected. The said details are reproduced as under:-

S.No.	Name	Qualification as per application	Reasons for rejection
1.	Hemant Kumar	10 th with ITI from Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow.	Not as per RBE No.76/2009 & 102/2009
2.	Jakir	-do-	-do-
3.	Shahbuddin	-do-	-do- Besides, its ITI not in relevant trade.
4.	Rajesh Sarwan	10 th from Higher Secondary Education, Delhi and ITI in Mechanic	Not as per RBENo.76/2009 & 102/2009, beside ITI not in relevant trade as per

		(Fitter)	notification and the Apprentice Act, 1961.
5.	Sunny Sarwan	ITI in the Trade of Mechanic(Fitter)	Not in the relevant trade as per notification & the Apprentice Act, 1961.

9. The respondents have stated that for the reasons recorded therein the applicants were rightly not issued the call letters.

10. Thus the learned counsel for the respondents submitted that the candidature of the applicants had been cancelled for just and legal reasons. The learned counsel for the respondents drew our attention to the circulars RBE No.76/2009 and 102/2009 dated 30.4.2009 at Annexure R/1 in which the entry with regard to Uttar Pradesh is at Sl.No.29. In that entry only U.P. Board of High School and Intermediate Education, Allahabad is recognized Board for the purpose of employment in Railways. Thus Bhartiya Shiksha Parishad, Uttar Pradesh is not a recognized institution and , therefore, any qualification acquired from that institution can not be said to be a qualification acquired from the recognized institution.

11. The learned counsel for the respondents submitted that fitter and welder are two different trades which can not be

equated. The applicant can not be judge of their own cause. Any parity between two different trades can be judged only by an Expert Committee. Therefore, the applicants not being eligible were not issued call letters, thus the action of the respondents is according to the rules and the OA has no merit and it should be dismissed with costs.

12. Applicants have filed rejoinder.

OA No.291/00015/2014

13. In OA no.291/00015/2014 there are two applicants. In this OA the applicant No.1 has stated that he had earlier applied to Railway Recruitment Board, Ajmer (Rajasthan) and Railway Recruitment Cell, Jabalpur (M.P.) and received call letters from them. Therefore, The Railway Workshop, Kota should have recognized the said institute when RRC, Jabalpur had recognized it.

14. In reply to this OA, the respondents in Para 4.6 have given the details of the reasons for not issuing the call letters to both the applicants which is reproduced as below:-

S.No.	Name	Qualification as per application	Reasons for rejection
1.	Irshad	10 th with ITI from Bhartiya	Not as per RBE

		Shiksha Parishad, Uttar Pradesh, Lucknow	No.76/2009 & 102/2009
2.	Mohd. Raza	-do-	-do-

The respondents stated that both the applicants did their 10th and ITI from Bhartiya Shiksha Parishad, Uttar Pradesh which is not a recognized institution as per the circulars RBE No.76/2009 and 102/2009 (Annexure R/1).

15. The learned counsel for the respondents submitted that issuing call letters is quite different then declaring the candidate as eligible. Both the applicants have failed to substantiate that they were declared eligible by RRC, Jabalpur, therefore, on this ground they are not entitled for any relief.

16. The applicants have filed rejoinder.

OA No.291/00023/2014

17. This OA has been filed by 6 applicants more or less on the same grounds as by applicants earlier in two OAs No. 838/2013 and 291/00015/2014. The respondents in Para 4.6 of their written reply have given the details of the reasons on which the applicants have been rejected which is quoted below:-

S.No.	Name	Qualification as per application	Reasons for rejection
1.	Raju	10 th with ITI from Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow.	Not as per RBE No.76/2009 and 102/2009, no disclosure redgarding affiliation of ITI with NCVT
2.	Gajendra Kumar	ITI from Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow	-do-
3.	Nitin Agrawal	-do-	-do-
4.	Deepak Agrawal	10 th Certificate with ITI from Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow	-do- & in absence of Mark Sheet of 10 th percentage can not be ascertained.
5.	Aslam Khan	-do-	-do-
6.	Saurabh Singh	ITI from Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow	No disclosure regarding affiliation of ITI with NCVT.

Learned counsel for the respondents submitted that a bare perusal of the above chart makes it clear that applicants' candidature was rightly rejected and call letters rightly were not issued. The applicants did their 10th and ITI from Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow which is

not a recognized institution as per circulars RBE No.76/2009 and 102/2009 (Annexure R/1) therefore, applicants of this OA are also not entitled for any relief.

18. The applicants have filed rejoinder.

OA No.291/00056/2014

19. The OA No.291/00056/2014 has been filed by one applicant Shri Haseen Baig. His candidature has also been rejected by the respondents on the grounds that he has passed his 10th and ITI from Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow which is not a recognized institution as per circulars RBE No.76/2009 and 102/2009 (Annexure R/1).

20. The applicant has filed rejoinder.

21. Heard the learned counsel for the parties and perused the documents on record. The learned counsel for the applicant submitted that Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow from which the applicants have passed their 10th examination or ITI or both is the recognized institution and therefore, on the ground that this institution is not recognized, the candidature of the applicants can not be rejected by the respondents. He also referred to a Press-Note at Annexure A/4 of OA No. 291/00056/2014 in which it

has been stated that 5 institutions have not been recognized by the Railway Board for the purpose of employment and the Bhartiya Shiksha Parishad, Uttar Pradesh is not one of them. Therefore, it can not be said that Bhartiya Shiksha Parishad, Uttar Pradesh is not a recognized institution for employment in Railways.

22. On the other hand, the respondents have placed reliance on the circulars RBE No.76/2009 and RBE No.102/2009 (Annexure R/1) of their reply. In RBE No.76/2009 name of Uttar Pradesh finds place at Serial No.29 against which U.P.Board of High School and Intermediate Education, Allahabad has been mentioned. Thus it is clear that Bhartiya Shiksha Parishad, Uttar Pradesh, Lucknow is not a recognized institution by the Railways for employment. In RBE No.102/2009 also there is no mention of Bhartiya Shiksha Parishad, Uttar Pradesh as one of the institution recognized by Railways. The applicants have also not shown/produced any document stating that ITI, Bhartiya Shiksha Parishad, Uttar Pradesh is affiliated with NCVT. Thus we are of the opinion that Bhartiya Shiksha Parishad, Uttar Pradesh is not a recognized institution for the purpose of providing employment in Railways. Therefore, applicants who have passed their 10th or ITI or both from Bhartiya Shiksha Parishad, Uttar Pradesh are not eligible as per the

notification dated 1.7.2013 (Annexure A/2) for being considered for apprenticeship. We are also inclined to agree with the averments made by the learned counsel for respondents that a mere press-cutting as produced by the applicants will not make any difference to the merits of the case. On the contrary the respondents have relied on RBE No.76/2009 and RBE No.102/2009 (Annexure R/1) which are official documents.


23. With regard to the submissions of the learned counsel for applicants that applicant No.3,4 and 5 of OA No.838/2013 are having ITI Diploma in relevant trade, the respondents in their reply categorically denied the claim of the applicants in this regard. We are inclined to agree with the arguments of the learned counsel for the respondents that the equality between two different trades is a work of an Expert Committee. The applicants can not be judge of their own cause.

24. Therefore, on the basis of above discussions we are of the view that the applicants are not entitled for any relief in the present OA. Consequently, the OA No.838/2013 is dismissed being devoid of merit with no order as to costs.

25. Copy of this order may be placed in the files of O.A.

No.291/00015/2014, 291/00023/2014 and 291/00056/2014
also.

26. The learned counsel for the applicants stated at bar that according to his information there has been revision in the list of recognized institutions by the Railways subsequent to the circulars RBE No.76/2009 and 102/2009, but he did not produce copy of any such amendment. However, he prayed that respondents may be directed to consider the claim of the applicants if they are able to submit the revised list of institutions recognized by the Railways in which Bhartiya Shiksha Parishad, Uttar Pradesh has been recognized by Railways for employment with them. In view of the submission made by the learned counsel for the applicants they are at liberty to file the representation before the respondents within a period of one month from the date of receipt of copy of this order along with revised list of the institutions recommended by the Railways and the Bhartiya Shiksha Parishad, Uttar Pradesh is one amongst those institutions recognised by the Railways for employment then the respondents would reconsider the case of the applicants according to the provisions of law.


(M.NAGARAJAN)
MEMBER (J)


(ANIL KUMAR)
MEMBER (A)

Adm/

copy given vide

No 703 To 710

10/7/14

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