

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 350 of 2005

Bilaspur, this the 28th day of July, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Rajesh Mehra, Aged 31 years,
S/o. Sunder Lal Mehra, R/o. Champa
Nagar, Manegoan, Ranjhi,
Jabalpur (MP)

and 9 others.

.... Applicants

(By Advocate – Shri Prahlad Choudhary)

V e r s u s

Union of India, through Secretary,
Ministry of Defence,
Government of India, New Delhi

and 2 others.

.... Respondents

(By Advocate – Shri S.A. Dharmadhikari)

O R D E R


By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs –

“(i) command the official respondent No. 2 to call apprentices for the recruitment without inviting the application according to their seniority list over the direct recruitment P. Arul & 217 others – Vs – Tamil Naidu Electricity Board and 22 others,

(ii) age of apprentices should be relaxed in accordance with what has stated in this regard in the matter of UPSRTC Vs. UPSBS,

(iii) set aside the recruitment process as advertised, and should give preference to the apprentice trainee over the direct recruitment at the ratio of 60:40 percent as per Judgement of Hon'ble Supreme Court in the matter of Union of India – Vs – Debyeet Chatterjee,



(iv) command the respondent No. 2, that the apprentice trainee would not be required to appear in any written examination as per judgement of the Hon'ble Supreme Court in the matter of UOI – Vs – Debyeet Chatterjee,

(v) issue or command the respondents to prepare or follow the establishmentwise, yearwise, seniority list of apprentices and select the person strictly as per the seniority by following the Judgment of the Supreme Court reported in 1995 (2) SCC Page-1,

(vi) respondents be directed to complete this exercise within a stipulated time."

2. The brief facts of the case are that the respondent No. 2 issued an advertisement published in daily news paper on 7.3.2005 for filling up of certain vacancies. The education qualification, age, trade, batch and year of all the applicants are mentioned in a chart which is filed as Annexure A-2. The applicants have completed their two years Industrial Training Institute (for short ITI) courses in telecom mechanic and other relevant trades. The certificates issued after successful completion of the apprentice training is known as NCVT certificate under Section 21 of the Apprentice Act, 1961. For the technical vacancies advertised on 7.3.2005 the required qualification was "a certificate of recognized industrial training institute or equivalent in appropriate field or trade" or "intermediate/10+2 educational system or its equivalent with mathematics and science with desirable qualification of three years of experience". In an another advertisement of 26th January, 1998 for a technical vacancy for SC candidate the required qualification was "a certificate of recognized industrial training institute or equivalent in appropriate field or trade" or "intermediate/10+2 education system or its equivalent with mathematics and science" with desirable qualification "A) an applicant who has completed his apprenticeship in this establishment will be given preference and B) three years of experience". The respondent No. 2 had not appointed any apprentice trainee since 1993 up to the date of filing of the present application. Since from then many vacancies arisen and were filled up by non-technical candidates. The Hon'ble Supreme Court in the



case of U.P.S.R.T.C Vs. U.P. Parivahan Nigam Shikshus Berojgar Sangh, 1995(2) SCC 1 held that the apprentices are to be given a preferential treatment. The said judgment has been followed in the matter of Debyeet Chatterjee and others Vs. Union of India and others. All the applicants have the requisite qualification and are eligible for the said advertised post. Most of the apprentice trainee had over aged because they were waiting for their call letters as they have preferential rights in view of the judgment of the Hon'ble Apex Court in the case of U.P.S.R.T.C Vs. U.P. Parivahan Nigam Shikshus Berojgar Sangh. The applicants have come to know that private candidates are going to be recruited by adopting false means. In this regard the applicants submitted a legal notice through their counsel on 10th March, 2005 but it could not fetch any result. Hence, this Original Application is filed.

3. In reply the learned counsel for the respondents contended that as regards the judgment of the Hon'ble Supreme Court dated 12th January, 1995, a question had arisen before the Hon'ble Allahabad High Court in a later case as to whether the direction that the trainees need not undertake examination was applicable only to the petitioners in the case before the Hon'ble Supreme Court or whether Para 13 of this judgment dated 12th January, 1995 laid down any general principle that apprentices need not take the examination. This question went before the Full Bench of the Hon'ble Allahabad High Court in Arvind Gautam Vs. State of Uttar Pradesh and others, 1999 (2) UP CBEL 1397. The Full Bench held that what was mentioned in para 13 was in the specific factual background of the cases on hand and that the apprentices are to go through the examination as also the interview as provided in the recruitment rules. 16 ex-trained apprentices had filed an OA before this Tribunal claiming benefit of the judgment of the Hon'ble Supreme Court in the case of UPSRTC Vs. UP Parivahan Nigam Shishukhs Berojgar Sangh. The said OA was registered as OA/259/1999 and the question which arose in the said OA was whether the apprentices are not required to appear in the

written test. The OA was decided on 12th March, 2003 and the question was answered by the Tribunal relying on the decisions, namely Shri Bhagwan Verma Vs. UOI in Civil WP No. 2750/2000 decided by the Hon'ble High Court of Delhi, Arvind Gautam Vs. State of UP, 1999 (2) UPLBC 1397 decided by the Hon'ble Allahabad High Court, decision of the Hon'ble Supreme Court in the case of BhooDEV Singh and decision of the Hon'ble High Court of Guwahati in the case of Indian Oil Corporation Ltd. Vs. Lohti Chandra Gogoi, 2000(1) LLJ 271. In the case of Indian Oil Corporation mentioned above it was held that apprentice trainees are also required to participate in competitive examination or test for recruitment. The Tribunal dismissed the OA and held that law laid down in this regard does not exempt the apprentice trainees from appearing in the written/trade test. In the instant case the service regulations provide for conducting a trade test which consists of theory paper, practical test and an interview. The apprentice trainees do not have a right for being appointed straightway. It is nowhere provided and it is not the ratio of the Hon'ble Supreme Court's decision. Hence, this Original Application has no merit and is liable to be dismissed.

4. Heard the learned counsel for both the parties and perused the records.

5. It is argued on behalf of the applicant that the said advertisement published in the daily newspaper Nav Bharat dated 7th March, 2005 (Annexure A-1) is not according to the principles laid down by the Hon'ble Supreme Court in the case of UPSRTC Vs. UP Parivahan Nigam Shishukhs Berojgar Sangh and others. In this judgment it was held that the apprentices should be given preferential treatment. He also argued that the applicants have completed their apprentice training from the respondents' establishment. They have also completed their 2 years industrial training courses in Telecom Mechanic and other relevant trades. The apprentice training was given to them under the statutory provisions



of Apprentice Act, 1961 and after successful completion of the apprentice training a certificate was issued to them known as NCVT certificate under Section 21 of the Apprentice Act, 1961. Ignoring all the legal procedures and rules the respondents are going to recruit some private candidates. The applicants served a legal notice on 10.3.2005 but it was not considered by the respondents. The applicants are legally entitled for the reliefs claimed by them.

6. In reply the learned counsel for the respondents argued that in OA No. 259/1999 vide order dated 12th March, 2003, the Tribunal considered all the facts and the rulings cited on behalf of the applicants. The facts of the present OA are exactly similar to the facts of the aforesaid OA No. 259/1999. This OA No. 259/1999 was dismissed by the Tribunal stating that it has no merits. Hence, the present OA is also liable to be dismissed.

7. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the issue involved in the present case is already considered and decided by the Tribunal vide its order dated 12th March, 2003 passed in OA No. 259/1999. We find that in OA No. 259/1999 the Tribunal considered all the rulings cited by the applicants in the present case especially in the case of UPSRTC Vs. UP Parivahan Nigam Shishukhs Berojgar Sangh. The relevant portion of the said order is quoted below :

“6. Summing up the entire discussion made above, we find and hold that law laid down in this regard does not exempt the applicants i.e. apprentice trainees from appearing in the written/trade test. It is also clear that before publication of the vacancies, amendment was made deleting the provision by which the apprentice trainees were not required to appear in the written test. Such provision, deleting exemption provision, does not violate Articles 14 and 16 of the Constitution.”

Thus, we find that the present case is squarely covered in all fours with the aforesaid judgment of the Tribunal quoted above and we are in respectful agreement with the same. Therefore, the decision so rendered in



the aforesaid case shall mutatis mutandis applicable to the present case as well.

8. Accordingly, the Original Application is dismissed as having no merits. No costs.

9. The Registry is directed to supply the copy of memo of parties to the concerned parties while issuing the certified copies of this order.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

“SA”

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि आये धित:-

- (1) सचिव, उच्च न्यायालय दार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कुके काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कुके काउंसल
- (4) कंथपाल, रवेप्रअ., जबलपुर न्यायापीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप सजिस्ट्रार

Pramod Chaudhary
DR 2008
S.A. Tharnudhika
DR 006

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