

**Central Administrative Tribunal
Principal Bench**

**RA No.103/2016 in OA No.18/2014
AND
RA No.105/2016 in OA No.4296/2013**

New Delhi, this the 21th day of March, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

RA No.103/2016 in OA No.18/2014

Brij Kishore Gupta
S/o Late Sh. B.D.Gupta,
R/o Poorvanchal Silver City
B-1/219, Tower No.15 Sector-93
Noida UP.

õ Applicant

(By Advocate: Sh. Sourabh Ahuja)

Vs.

1. GNCT of Delhi, Through its Chief Secretary,
Players Building,
IP Estate, New Delhi-110002.
2. Principal Secretary,
Department of Training and Technical Education
Govt. of NCT of Delhi
Muni Maya Marg
Pitampura, Delhi.
3. Principal, GB Pant Polytechnic
Govt. of NCT of Delhi
Okhla, New Delhi-110020.
4. AICTE, Through its Member Secretary,
7th Floor, Chanderlok Building,
Janpath, New Delhi.
5. Secretary
Ministry of Human Resource Development,
Department of Education, Union of India,
Shastri Bhawan, New Delhi.

6. UPSC through its Chairman,
Dholpur House, Shahjahan Road
New Delhi.

õ Respondents

(By Advocates: Sh. B.N.P. Pathak and Sh. Anil Soni with Shri Gyanendra Singh)

RA No.105/2016 in OA No.4296/2013

Indu Prakash Badola, S/o Sh. J.P. Badola,
R/o Type-IV No.5 Staff Quarters
G.B. Polytechnic, Okhla,
New Delhi-110020.

õ Applicant

(By Advocate: Sh. Sourabh Ahuja)

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Players Building,
IP Estate, New Delhi-110002.
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7th Floor, Chanderlok Building,
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5. Secretary,
Ministry of Human Resource Development,
Department of Education, Union of India,
Shastri Bhawan, New Delhi.

õ Respondents

(By Advocates: Sh. B.N.P. Pathak and Sh. Anil Soni with Shri Gyanendra Singh)

ORDER (ORAL)**Justice Permod Kohli, Chairman :-**

In both these Review Applications, the common order dated 26.02.2016 passed in OA Nos.18/2014 and OA No.4296/2013 is sought to be reviewed.

2. Grounds urged for seeking review of the impugned judgment are that the Tribunal has wrongly held the OA to be barred by limitation. Shri Sourabh Ahuja, learned counsel for the applicant has vehemently argued that the respondents even did not raise the issue of limitation and thus it was not open to the Tribunal to consider the question of limitation. Apart from that, he has challenged the findings on the limitation on merit. In so far as, the issue of limitation is concerned, in the case of ***D.C.S. Negi v. UOI***, *Civil Appeal No.7956/2011* in SLP(C) CC No.3709/11 decided on 07.03.2011, the Hon'ble Supreme Court has held that the question of limitation is required to be considered by the Tribunal itself, notwithstanding, whether such a plea is raised in the counter affidavit or not. Thus, the question of limitation could be examined by the Tribunal without there being a plea of limitation by the respondents. This does not constitute an error apparent on the face of record. As regards the findings on merit of limitation are concerned, these findings cannot be interfered in exercise of the review jurisdiction.

3. Apart from that, the claim of the applicant before this Tribunal in OA was that denial of his claim for grant of benefit for counting of past service rendered by him on ad hoc basis from 1991-1996, is illegal for the simple reason that he possessed the requisite qualifications whereas in the impugned order it is stated that the applicant did not possess the requisite qualifications. According to Shri Ahuja, the applicant possesses the alternative qualification in lieu of the degree in Engineering as prescribed under the Recruitment Rules.

4. We have carefully perused the Order impugned. The Tribunal in the impugned Order recorded following findings:-

“5.....However, it is an admitted fact that the applicant acquired the prescribed qualification of Degree in Engineering only on 20.03.1996 and his services were regularised as Lecturer vide letter dated 17.08.1999 with effect from 20.03.1996.”

5. The fact that the applicant acquired the degree in Engineering only on 20.03.1996 is not in dispute. In order to support his contention, Shri Ahuja has referred to the averments made in OA No.4296/2013. We have perused the averments made in the said OA particularly in paras 4.5, 4.6 and 4.7. The same are reproduced hereunder:-

“4.5 That it is pertinent to mention herein that as per the RR's the essential qualifications for the post of Lecturer (Automobile Engineering)

is/was 1st Class Bachelor Degree in Automobile Engineering/ Mechanical Engineering/ Mechanical and Automatic Engineering/Production Engineering or equivalent from recognized university/ institution.

4.6 That on the insistence of Secretary and Director (Directorate of Technical Education, Delhi Administration), the Government of India (Ministry of Human Resource Development (Department of Education) vide its letter dated 07.03.1989 wrote to him that Govt. of India is pleased to grant one-time relaxation in the prescribed education qualifications to notified recruitment rules permitting to upgrade/absorb those teachers (viz. Demonstrators, Junior Instructors etc.) in the polytechnics to the post of Lecturer who possess alternative qualification already approved by AICTE (i.e. Diploma in appropriate branch of engineering plus Diploma in Technical Teaching from Technical Teachers Training Institute and five years teaching professional/experience). It was categorically clarified that such relaxation will only be for absorption to the post of Lecturer and the incumbents will not be entitled for any further promotion until he/she acquires requisite qualification of the notified RR's.

4.7 That in pursuance of the above mentioned one-time relaxation (vide letter dated 07/03/1989) in the prescribed qualifications to notified recruitment rules, the Applicant was sponsored by the department/respondents for pursuing Diploma in Technical Teaching at the Technical Teachers Training Institute, Kolkata. It is relevant to mention that the Applicant completed the above said Diploma from TTTI (Approved qualification by AICTE) on 28/06/1991."

6. The Recruitment Rules governing recruitment to the post of Lecturer prescribed following qualifications:-

S.No.	Cadre	Qualifications	Experience
1.	Lecturer	First Class Bachelor's degree in appropriate branch of Engineering/ Technology	No requirement

		OR First Class Master's degree in appropriate branch for teaching posts in Humanities & Sciences.	
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From the qualifications prescribed in the Recruitment Rules, we find that the essential qualification is Bachelor's degree in appropriate branch of Engineering/Technology or First class Master's degree in appropriate branch for teaching posts in Humanities and Sciences. Admittedly, the applicant does not possess any of essential prescribed qualifications under the RRs. His case is that he possesses the alternative qualification, and for that purpose reference is made to averments made in paras 4.5 to 4.7.

7. We have carefully considered the averments made in paragraphs 4.5 to 4.7 quoted above. From a conjoint reading of the aforesaid paragraphs, we find that vide letter dated 07.03.1989 there was one time relaxation in qualification for the purpose of absorption to the post of Lecturer, and nothing beyond that. The applicant has got the benefit of relaxation clause and that is why he has been absorbed/confirmed as Lecturer. He acquired Bachelor's degree in Engineering only on 20.03.1996 and the period with effect from the date he acquired the prescribed qualification has been counted for the purposes of granting him service benefits. His plea that he is entitled to the benefit of earlier period from 1991 to 1996 is

impermissible both on facts and in law. This period cannot be counted for purposes of further service benefits. Therefore, the order impugned in the OA stating that the applicant did not possess the requisite qualification prior to his absorption in the year 1996, cannot be faulted with. The Tribunal in the impugned Order has given the above findings. These findings are on the basis of applicant's own admissions in the OA. In any case, these findings are also on merit.

8. In view of the above findings, we do not find any scope for exercise of review jurisdiction. No merits. Application dismissed.

(K.N. Shrivastava)
Member(A)

(Justice Permod Kohli)
Chairman

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