

Central Administrative Tribunal Principal Bench: New Delhi

OA No.1081/2016
MA No.1067/2016

Reserved on :08.04.2016
Pronounced on:12.09.2016

**Hon'ble Shri Sudhir Kumar, Member (A)
Hon'ble Shri Raj Vir Sharma, Member (J)**

Abhinav Sultania, Age about 30 yrs.
S/o Shri S.K.Sultania
Plot No.12-A, B-403,
Sector-7, Dwarka, New Delhi.
Working-Private Company (Probation) ...Applicant.

(By Advocate:Shri V.K.Chopra)

Versus

1. Director, Counsel of Scientific AND Industrial Research, Anusandhan Bhawan, 2, Rafi, Marg, New Delhi-110001.
2. Director, Central Road Research Institute, Delhi Mathura Road, P.O. CRRI, New Delhi-110025. ...Respondents.

(By Advocate: Shri B.S.Billowria)

ORDER

Per Sudhir Kumar, Member (A):

The applicant of this case had applied to the Respondent No.2, in response to the Advertisement for vacancies of 12 positions of Scientists, including Post Codes/ Grades S-06 to S-07, i.e. Bridges and Structural Engineering posts. He is aggrieved that the respondents have allegedly not implemented their own Notification dated 02.02.2016, after he had been

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short-listed for Post Code/Grade S-06 for Bridges and Structural Engineering, under Un-reserved category, after his having fulfilled all the eligibility criteria, and he had even been called for the interview.

2. The facts of the case lie in a very narrow compass. The applicant is a B-Tech Graduate, and Master of Science and Engineering Post Graduate Off-Campus Course from the University of Texas at Austin, U.S.A., in Structural Engineering, in Collaboration with Sardar Vallabhbhai National Institute of Technology. He had submitted his application dated 30.11.2014 online against the above mentioned Advertisement brought out by the respondents in this regard, and had submitted all the requisite documents, i.e., official transcript issued by the University of Texas at Austin (USA), along with the Off-Campus Course of Masters of Science and Engineering (MSE, in short), awarded to him by the University of Texas at Austin, U.S.A. He being a Gold Medallist and the highest GPA holder in the said MES Course, with more than 7 years of experience in the field of Structural Engineering, he was hopeful that after reviewing his degrees and academic qualifications, the respondents would short-list him and call him for the interview on 08.03.2016, along with the relevant records, which they did. He was made to fill the required form before the

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interview. However, he was not interviewed that day, and was asked to return back the next day with a copy of his proper MSE certificate from the University of Texas at Austin, U.S.A., while all other candidates were allowed to appear at the interview. Through his email dated 09.03.2016, he expressed his misery, and requested Respondent No.2 that he should be interviewed.

3. The applicant appeared before the respondents on the next day, with the records, transcripts and Mark-sheets, which were also verified and found to be correct, but the applicant has assailed that he was still not recommended for being interviewed, though he approached the Interview Board/Committee. Since he was denied to appear at the interview, with which he was upset, he wrote another email to the Director of Respondent No.2-Organization, stating that he had faced a lot of injustice in the interview process, as he had been denied the interview for reasons best known to the Interview Board/Committee.

4. The applicant has submitted that he has not received any response to those emails, and the respondents have still not informed him as to why he was not allowed to appear at the interview, despite his exceptional qualifications, and work performance in India and abroad. He has submitted that the respondents were required to maintain complete transparency

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with regard to the selection process for the posts of Scientists, and he has been discriminated against, while other candidates were allowed to appear at the interview.

5. The applicant had, therefore, approached the Hon'ble Delhi High Court by filing Writ Petition No.2253/2016 on 15.03.2016. However, the Hon'ble High Court was pleased to grant liberty to him to approach the appropriate forum through its order dated 16.03.2016, after which he filed the present OA before this Tribunal on 17.03.2016.

6. The applicant has taken the ground that the respondents have violated his fundamental rights under Articles 14 and 21 of the Constitution, and discriminated against him, while other similarly placed persons were allowed to appear at the interview, and he has been denied an opportunity to appear at the interview, without assigning any reasons, which he has alleged to be discriminatory and arbitrary, and in gross violation of rule of law.

7. He has further taken the ground that he had submitted all the supporting documents, which clearly indicated that he was fully qualified, and despite producing final transcript of the result of M.S.E. declared by the University of Texas at Austin, U.S.A., he

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was not interviewed, while similarly placed persons were allowed to be interviewed on 08.03.2016, even subject to their giving an undertaking regarding the production of appropriate documents later. He has taken the ground that no organizations or institutes which select candidates purely on merit basis, prescribe the criteria of only interview in selection, while the selection process for the post of Scientists as had been issued by the respondents, was based purely on the basis of interview for the final selection, which is not a proper criteria, since he has not even been interviewed, despite being the most meritorious candidate, and having fulfilled all the required criteria. He had, therefore, prayed for the following relief:

"i. direct the Respondents to conduct an interview of the Applicant as mandated under the notification dated 02.02.2016 issued by the respondents before declaring the results."

8. The applicant had also prayed for the following interim relief:

"(a) Pass an order restraining the respondents from declaring the results qua selection of appropriate candidate for Post Code S-06 (UR) Category i.e. for Bridges and structural, till the present Original Application is decided by this Hon'ble Tribunal."

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9. His prayer for interim relief was never granted, before the matter came to be heard and reserved for orders.

10. MA No.1067/2016 filed by the applicant seeking interim directions was also not considered separately, and the same is also being disposed off through this order, along with the main OA.

11. Learned counsel Shri B.S.Billowria, appeared on behalf of the respondents, and though on 01.04.2016 he had sought time to file reply, but when the prayer for the learned counsel for the applicant for advancement of the date of hearing was allowed, he argued the case on merits, even without filing his counter reply.

12. Heard. It is seen from the Advertisement dated 01.11.2014 (Annexure A-2) that the qualifications for the post applied for by the applicant had been prescribed as follows:

Post Code / Area of Specialization (1)	Name of the Post, Pay Band& Grade Pay (2)	No. of Posts/ Reservation (3)	Essential Qualification (4)	Desirable Qualification (5)	Job Requirement/Description and Desirable Knowledge Base (6)
Post Codes: S-06 to S -07 Bridges & Structural Engineering	-Do-	02 (Two) S-06 :UR S-07 :OBC	M.E./M.Tech in Civil Engineering with specialization in Structural Engg./ Strucral Dynamics/Earthquake/ Engg. of Infrastructure and Disaster Mitigation	-Do-	Ability to carry out R&D studies and consultancy projects related to Bridges and Structures including analysis and design of bridges, health assessment of bridges, strengthening/ rehabilitation of bridges, performance evaluation of bridges, bearings and expansion joints, earthquake engg. and composite materials.

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13. The applicant had relied upon his marks certificate (Pages 39 to 42 of Paper Book of the OA) as well as his certificate of M.S.E. conferred upon him by the University of Texas at Austin, U.S.A., and copies of the same were also submitted by the applicant's counsel during the course of arguments, along with copies of the set of his emails referred to earlier.

14. Learned counsel for the respondents, on his part, submitted that a reply dated 29.03.2016 had been since issued to the applicant, with the approval of Respondent No.2. It is seen from pages 39 to 42 of the Paper Book of the OA that the applicant had appeared for the coursework undertaken by him for the MSE Course of University of Texas at Austin, U.S.A., Fall Semester 2008, Spring Semester 2009, Summer Semester 2009 and Fall Semester 2009, and his result had been declared accordingly, but he had actually attended the studies towards that Course at the Sardar Vallabhbhai National Institute of Technology, from where itself he had completed his B.Tech. Computer Engineering also, and the result stated as follows:

"CUMULATIVE TOTALS EARNED AS A GRADUATE STUDENT AT U.T. AUSTIN HRS UNDERTAKEN 33 HRS PASSED 33 GPA HRS 27 GR PTS 103.98 GPA 3.8511."

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15. The MSE certificate, issued by the University of Texas at Austin, U.S.A., on 16.08.2010, thereafter, had stated as follows:

"University of Texas at Austin
has conferred on
Abhinav Sultania
the degree of
Master of Science in Engineering

*and all the rights and privileges thereto appertaining.
In Witness Thereof, this diploma duly signed has
been issued and the seal of the University affixed.*

Issued by the Board of Regents upon recommendations of the Faculty.

AWARDED ON THIS SIXTEENTH DAY OF AUGUST, 2010."

16. The applicant has also annexed his degree in respect of Bachelor of Technology in Civil Engineering, awarded by the Sardar Vallabhbhai Institute of Technology, Surat, on 28.10.2007 (Page 51 of the Paper Book of the OA), and the Grade report at page 50 of the Paper Book of the OA. Learned counsel for the applicant had submitted that the MSE Course of the University of Texas at Austin on 16.08.2010 was fully equivalent to a M.Tech Degree. On the other hand, learned counsel for the respondents pressed his contention that as per the Advertisement, as reproduced above, M.E./M.Tech. Degree was an essential qualification for selection for the post concerned, and the certificate issued by the University of Texas at Austin, U.S.A., in respect of the Off-Campus course pursued by him at Sardar

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Vallabhbhai National Institute of Technology for B.Tech. Computer Engineering, shows that MSE was only a Diploma course, which had been wrongly christened as Master of Science and Engineering, though its nature as being only a diploma was reflected in the body of the said certificate itself. It was, therefore, contended that since the applicant is not having ME/M.Tech degree, he could not have been considered to be eligible for the post concerned, and that he was rightly not interviewed by the Interview Board/Committee on 08.03.2016 and 09.03.2016.

17. We have given our anxious consideration to the facts of the case. It is absolutely clear from the wording of the certificate awarded to him by the University of Texas at Austin, U.S.A., for their Off-campus M.S.E. Course, that course was merely a Diploma Course, and was not in any way equivalent to the ME/M.Tech Degree Courses. We are not convinced by the strenuous arguments of the learned counsel for the applicant that the as per the Mark-sheets produced along with the OA, as well as during the course of arguments the coursework undertaken by the applicant goes to show that he had indeed attended a Masters degree course of the University of Texas at Austin, U.S.A., whether On-campus, or Off-campus.

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18. It is clear that any other Course, even though called a Masters Course, would not have sufficed for the purpose of the essential qualification of ME/M.Tech., and a Diploma, just because it was called as a Master of Science and Engineering, could certainly not have been considered by the respondents as equivalent to a proper ME/M.Tech Degree. Therefore, we find that the respondents had not erred in rejecting the contention of the applicant that his certificate dated 16.08.2010 (supra) was equivalent to a ME/M.Tech Degree.

19. As a result, we find no merit in the OA, and the same is dismissed, but there shall be no order as to costs.

(Raj Vir Sharma)
Member (J)

(Sudhir Kumar)
Member (A)

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