

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2132/2012

Monday, this the 7th day of September, 2015

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Mohd. Nasir s/o Mr. Naseeruddin
r/o F-107 Metro Vihar
Najafgarh, New Delhi-43

..Applicant

(Applicant in person)

Versus

Through Managing Director
Delhi Metro Rail Corporation Ltd.
13, Metro Bhavan, Fire Brigade Lane
Barakhamba Road, New Delhi-1

..Respondent

(Mr. V S R Krishna, Advocate)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

With a view to provide an opportunity to departmental candidates for accelerated promotions to the posts of Station Controller/ Train Operator (SC/TO), Junior Engineer (Electrical), Junior Engineer (Electronics), Junior Engineer (Mechanical), Junior Engineer (Civil) and Diesel Shunter/Tower Wagon in the pays scale of Rs.13500-25520 IDA, the respondent – Delhi Metro Rail Corporation (DMRC) decided to hold a Limited Departmental Selection and invited applications from the eligible departmental candidates. The eligibility criteria, mentioned in the Notice dated 20.6.2011, whereby the applications were invited, read thus:-

Post Code	Name of Post	*Minimum length of Service rendered in DMRC.	Educational Qualification for LDS
01	Station Controller/ Train Operator	3 years service as ASC	Graduation in any discipline / 3 years Engineering Diploma from Govt. recognized University/Institute.
02	JE/Electrical/ DSL Shunter/ Tower Wagon Driver	4 years service as Maintainer	Graduation in Science with Physics, Chemistry& Maths./ 3 years Diploma in Electrical Engineering from Govt. recognized University/ Institute.
03	JE/ Mechanical /DSL Shunter/ Tower Wagon Driver	4 years service as Maintainer	Graduation in Science with Physics, Chemistry& Maths./ 3 years Diploma in Mechanical Engineering from Govt. recognized University/ Institute.
04	JE/Electronics	4 years service as Maintainer	Graduation in Science with Physics, Chemistry& Maths./ 3 years Diploma in Electronics Engineering from Govt. recognized University/ Institute.
05	JE/Civil	4 years service as Maintainer	Graduation in Science with Physics, Chemistry& Maths./ 3 years Diploma in Civil Engineering from Govt. recognized University/ Institute.
06	JE/IT	4 years service as Maintainer	Graduation in Science with Physics, Chemistry& Maths./ B.Sc. (IT) or BCA/ 3 years Diploma in IT from Govt. recognized University/ Institute.

2. The applicant, who had 4 years experience as Maintainer (Civil), applied for the post of Junior Engineer (Civil). When the respondent considered him ineligible for the post (want of Diploma in Civil Engineering as well as alternate qualification, i.e., graduation in Science with Physics,

Chemistry and Maths., he filed the present Original Application praying therein:-

“(a) To Direct the Respondent to allow the applicant to sit in the next LDS exam for the Post of JE/Civil.

(b) To allow the OA with cost.

(c) To pass such other and further orders which their lordships of this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

3. In terms of the Order dated 27.11.2012, this Tribunal directed the respondent to allow the applicant to submit his application for the post in question. In the wake, the application of the applicant was accepted and he was allowed to participate in the written examination.

4. When it is the case of the respondent that the applicant is not eligible for the post of Junior Engineer (Civil), according to the applicant, once he had 4 years service as Maintainer (Civil) and the respondent had given him permission to complete Diploma in Electronics, it cannot nix his eligibility for the post. According to him, in the years 2009 and 2011, the candidates, who possessed Diploma in different streams, were made Junior Engineers in other streams. Paragraph 5.2 of the Original Application reads thus:-

“5.2 Because in Year 2009 and 2011 candidates those who possess different diploma and became JE in different field and if it was allowed to earlier candidates then it should be applicable to applicant.”

5. It is also the case of the applicant that the DMRC never apprised him that in order to become eligible for Junior Engineer (Civil) he need to have Diploma in Civil Engineering alone. During the pendency of the Original Application, result of the examination was declared and the applicant was

found successful, thus his expectation could further enhance. Mr. V.S.R. Krishna, learned counsel for respondent submitted that the only prayer made in the Original Application was to allow the applicant to participate in the examination and the relief has been granted, thus the Original Application has become infructuous and should be disposed of accordingly.

6. Technically the stand taken by Mr. V.S.R. Krishna, learned counsel is quite justified and plausible. Nevertheless, the core issue involved in the matter is “whether the applicant who did not satisfy either of the required qualifications for the post of Junior Engineer (Civil) can be considered eligible for the post and given appointment”. Normally, a candidate not eligible for a post cannot be even allowed to participate in the examination and further it is also *stare decisis* that it is for the expert Institute / user Department to decide the eligibility condition and qualification for the post. Nevertheless, in the present case, the stand of the applicant is that in the past the respondent could permit the candidates from different streams to apply for the post of Junior Engineer in other streams and it is the respondent alone, which gave him permission to complete Diploma in Electronics when he was working in Civil Wing all alone.

7. In the facts and circumstances, to secure the ends of justice, we dispose of the present Original Application with direction to the respondent to examine the aforementioned stand put forth by the applicant, i.e., it is the respondent alone, which gave him permission to complete Diploma in Electronics while he was working in Civil Wing and during the years 2009 and 2011 certain candidates, who had Diploma in different streams, were

allowed to participate in the examination for the post of Junior Engineer in other streams and pass a speaking order.

(K. N. Shrivastava)
Member (A)

(A.K. Bhardwaj)
Member (J)

September 7, 2015

/sunil/