

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3207/2013

with

O.A. No. 3407/2013

M.A. No. 2706/2015

O.A. No. 3408/2013

M.A. No. 2475/2013

M.A. No. 2708/2015

O.A. No. 3409/2013

M.A. No. 4026/2015

O.A. No. 3410/2013

M.A. No. 2314/2013

M.A. No. 2315/2013

M.A. No. 4030/2015

Reserved on : 19.10.2016

Pronounced on : 27.10.2016

HON'BLE MR. P.K. BASU, MEMBER (A)

HON'BLE MR. RAJ VIR SHARMA, MEMBER (J)

OA No. 3207/2013

1. Manoj Kumar
S/o Shri Bholi Sah
Machinist H.S.I.
Under General Manager,
Ordnance Factory,
Muradnagar.

2. Anuraj Yadav
S/o Shri Dharamvir Singh
Machinist H.S.I.
Under General Manager,
Ordnance Factory,
Muradnagar.

3. Karamvir Singh
S/o Shri Raj Pal Singh
Machinist H.S.I.
Under General Manager,
Ordnance Factory,
Muradnagar.
4. Mahipal Singh
S/o Shri Samman Singh
Turner H.S.II.
Under General Manager,
Ordnance Factory,
Muradnagar.
5. Rakesh Kumar
S/o Shri Samay Singh
Turner (MCM)
Under General Manager,
Ordnance Factory,
Muradnagar.
6. Ajeet Singh
S/o Shri Satyavir Singh
Gen. Fitter H.S.II.
Under General Manager,
Ordnance Factory,
Muradnagar.
7. Atul Kumar Saxena
S/o Shri Krishana Kumar Saxena
Gen. Fitter H.S.II.
Under General Manager,
Ordnance Factory,
Muradnagar.
8. Amit Sharma
S/o Shri Sushil Sharma
Machinist H.S.II.
Under General Manager,
Ordnance Factory,
Muradnagar.
9. Vikas Choudhary
S/o Shri Kuljeet Singh
Turner H.S.II.
Under General Manager,
Ordnance Factory,
Muradnagar.

10. Rambabu
S/o Shri Lokman Singh
Machinist
Under General Manager,
Ordnance Factory,
Muradnagar.
11. Singh Amit Kumar
S/o Shri Lal Singh
Machinist H.S. II
Under General Manager,
Ordnance Factory,
Muradnagar.
12. Jitendra Singh
S/o Shri Mukund Lal
Welder H.S. II
Under General Manager,
Ordnance Factory,
Muradnagar.
13. Sushil Kumar
S/o Shri Bhagwan Singh
Under General Manager,
Ordnance Factory,
Muradnagar.
14. Ravi Kumar
S/o Shri Parmal Singh
Machinist H.S. I
Under General Manager,
Ordnance Factory,
Muradnagar.
15. Manoj Kumar Singh
S/o Shri Brahmadeo Singh
Welder
Under General Manager,
Ordnance Factory,
Muradnagar.
16. Anil Kumar Sharma
S/o Shri Radhey Shyam Sharma
Welder
Under General Manager,
Ordnance Factory,
Muradnagar.

17. Pankaj Chadha
S/o Shri Satish Chadha
Machinist H.S. I
Under General Manager,
Ordnance Factory,
Muradnagar.
18. Rajnish Kumar
S/o Shri Vinod Parsad Srivastava
Machinist H.S. I
Under General Manager,
Ordnance Factory,
Muradnagar.
19. Naveen Poswal
S/o Shri Jai Singh Verma
Machinist
Under General Manager,
Ordnance Factory,
Muradnagar.
20. Muniraj Tyagi
S/o Shri Mahavir Singh
Gen. Fitter
Under General Manager,
Ordnance Factory,
Muradnagar.

.. Applicants

(By Advocate : Mrs. Meenu Mainee)

Versus

UNION OF INDIA

THROUGH :

1. The Secretary
to the Government of India,
Ministry of Defence,
South Block,
New Delhi.
2. The Director General,
Ordnance Factory Board,
Ministry of Defence,
Government of India,
10-A, Saheed Khudiram Bose Road,
Kolkata – 700 001.

3. The General Manager,
 Ordnance Factory,
 Ministry of Defence,
 Government of India,
 Muradnagar (U.P.) .. Respondents

(By Advocate : Shri S.M. Arif for official respondents and
 Shri B.S. Mathur for interveners)

O.A. No. 3407/2013

1. Tan Singh Gaur,
 S/o Shri Sahan Sahar Pal Singh,
 Chargeman
 Under Ordnance Factory,
 Muradnagar (U.P.)

2. Satender Pal Singh
 S/o Shri Surajpal Singh
 Fitter
 Under Ordnance Factory,
 Muradnagar (U.P.)

3. Vinay Kumar Garg,
 S/o Shri Ram Bharose Garg,
 Moulder
 Under Ordnance Factory,
 Muradnagar (U.P.) .. Applicant

(By Advocate : Mrs. Meenu Mainee)

Versus

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 THROUGH :

1. The Secretary
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 Ministry of Defence,
 South Block,
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2. The Director General,
 Ordnance Factory Board,
 Ministry of Defence,
 Government of India,

10-A, Saheed Khudiram Bose Road,
Kolkata – 700 001.

3. The General Manager,
Ordnance Factory,
Ministry of Defence,
Government of India,
Muradnagar (U.P.) .. Respondents

(By Advocate : Shri Amit Anand)

O.A. No. 3408/2013

1. Mahender Kumar
S/o Shri Mool Chand
Fitter (Electronics)
Under Ordnance Factory,
Muradnagar (U.P.)

2. Krishanpal
S/o Shri Rampal Singh
LDC
Under Ordnance Factory,
Muradnagar (U.P.)

3. Ravinder
S/o Shri Jaipal
CMD
Under Ordnance Factory,
Muradnagar (U.P.) .. Applicant

(By Advocate : Mrs. Meenu Mainee)

Versus

UNION OF INDIA
THROUGH :

1. The Secretary
to the Government of India,
Ministry of Defence,
South Block,
New Delhi.

2. The Director General,
Ordnance Factory Board,
Ministry of Defence,

Government of India,
10-A, Saheed Khudiram Bose Road,
Kolkata – 700 001.

3. The General Manager,
Ordnance Factory,
Ministry of Defence,
Government of India,
Muradnagar (U.P.) .. Respondents

(By Advocate : Shri Arun Nischal for Shri Rajinder Nischal)

O.A. No. 3409/2013

1. Virendra Singh
S/o Shri Daulat Singh
Machinist, Highly skilled Grade-I
Opto Electronics Factory,
Raipur, Dehra Dun.

R/o Q-80/3, New Area,
O.F.O. Estate,
Raipur, Dehra Dun.

2. Satish Kumar,
S/o Shri Samey Singh
Turner, Highly skilled Grade-II,
Opto Electronics Factory,
Raipur, Dehra Dun.

R/o P-33/1, O.F.O. Estate,
Raipur, Dehra Dun.

3. Amit Kumar Pant,
S/o Shri Adesh Kumar Pant,
Fitter Instruments, Semi skilled,
Opto Electronics Factory,
Raipur, Dehra Dun.

R/o Village Sarangdharawala,,
P.O. Bhogpur, Distt. Dehra Dun. .. Applicants

(By Advocate : Mrs. Meenu Mainee)

Versus

UNION OF INDIA
THROUGH :

1. The Secretary
to the Government of India,
Ministry of Defence,
South Block,
New Delhi.
2. The Director General,
Ordnance Factory Board,
Ministry of Defence,
Government of India,
10-A, Saheed Khudiram Bose Road,
Kolkata – 700 001.
3. The General Manager,
Opto Electronics Factory,
Raipur,
Dehradun. .. Respondents

(By Advocate : Shri Arun Nischal for Shri Rajinder Nischal)

O.A. No. 3410/2013

1. Sandeep Kumar,
Skilled Fitter (I),
Under Opto Electronics Factory,
Raipur, Dehra Dun.
2. Ashutosh K. Tiwari,
Skilled Fitter (I),
Under Opto Electronics Factory,
Raipur, Dehra Dun. .. Applicants

(By Advocate : Mrs. Meenu Mainee)

Versus

UNION OF INDIA
THROUGH :

1. The Secretary
to the Government of India,
Ministry of Defence,

South Block,
New Delhi.

2. The Director General,
Ordnance Factory Board,
Ministry of Defence,
Government of India,
10-A, Saheed Khudiram Bose Road,
Kolkata – 700 001.
3. The General Manager,
Opto Electronics Factory,
Raipur,
Dehradun. .. Respondents

(By Advocate : Shri Arun Nischal for Shri Rajinder Nischal)

ORDER

By Hon'ble Mr. P.K. Basu

O.A. Nos. 3207/2013, 3407/2013, 3408/2013, 3409/2013 and 3410/2013 were heard together as the issue was the same and are being disposed of by a common order.

2. All the applicants have done their Certificate Course equivalent to Diploma from the Institute of Mechanical Engineers (IME), Mumbai (India). They are highly skilled Technician Grade-I as well as MCM under the Ordnance Factory, Ministry of Defence, Govt. of India, Muradnagar and Opto Electronics Factory, Raipur, Dehradun. 25% of the posts of Chargeman (T&NT) are to be filled up through the mode of Limited Departmental Competitive Examination (LDCE) for which the applicants claim they were eligible.

3. In accordance with the eligibility condition, it has been laid down that the candidates must possess three years diploma or equivalent qualification certificate in the respective field duly affiliated by AICTE and the candidates must have two years' experience in the grade as a skilled worker.

4. The grievance of the applicants is that they sent their applications to be considered for the LDCE. The respondents have rejected the eligibility of the applications on the following ground:

“Essential educational qualification not as per OFB letter dated 30.05.2013 and governing SRO notified by OFM FP Pt-I No.62 dtd. 22.06.2013.”

In other words, the certificate equivalent to diploma from the IME, Mumbai is not being treated as fulfilling the essential educational qualification as it is the case of the respondents that this Institute is not duly affiliated by AICTE. The issue to be decided by this court is whether this Institute is affiliated by AICTE or not.

5. Learned counsel for the applicant relies on the following in support of the applicants' claim:

(i) Judgment dated 27.11.2012 of the Madras Bench of the Tribunal in O.A. No.1416 and 1539/2010 (M. Saravanan vs. Union of India). It is stated that it was the same issue in that matter as well, i.e. whether the certificate through Distance Education Course of IME, Mumbai is to be treated as an institute, which is duly

affiliated by AICTE. The Tribunal came to the conclusion that the Diploma course offered by IME, Mumbai is recognised by AICTE. This conclusion was based, *inter alia*, on the following documents produced by the applicants therein:

- (a) OFB vide letter dated 12.11.2010 has stated that the diploma offered by this institute will be recognised for employment in Central Govt.
- (b) Notification dated 24.11.2006 by the Ministry of Human Resources Development (Ministry of HRD) which states that the Degree/Diploma by IME, Mumbai will be recognised for employment in Central Govt.

(ii) It is the contention of the learned counsel for the applicant that thereafter the AICTE has issued a letter dated 09.05.2011 in which the Gen. Secretary, ITI Association, Panipat Thermal Power Station has been informed that with reference to the Gazette Notification dated 24.11.2006 from Ministry of HRD, Govt. of India, the qualification (Degree/Diploma) acquired from the IME, Mumbai will be recognised for employment in Central Govt.

(iii) Further, vide letter dated 08.04.2009, Ministry of HRD in reply to an RTI query has stated as follows:

“It is also informed that, vide notification No.F.23-2/2001-TS.III dated 24.11.2006, recognition has been restored to Section A & B of Associate Membership Course of IME (India) Mumbai equivalent to Degree in Mechanical Engineering and Technician Engineers Course Part I & II equivalent to Diploma in Mechanical Engineering for the purpose of employment in Central Government as per terms and conditions contained in the above Notification.”

Learned counsel for the applicant, therefore, states that in view of the judgment of Madras Bench of the Tribunal as well as the above documents, it is clear that IME, Mumbai should be treated as duly affiliated by AICTE.

6. Learned counsel for the applicant also drew our attention to the order of the Hyderabad Bench of the Tribunal in O.A. 1457/2013 dated 07.01.2014 (Palle Raju & others vs. Director General, Ordnance Factory Board & others), in which those who had acquired Diploma from IME, Mumbai and other institutes were allowed to be considered in view of the fact that persons with similar qualification like the applicants therein were earlier appointed.

7. Per contra, learned counsel for the respondents has referred to the following in support of the decision of the respondents in rejecting the candidature of the applicants:

- (i) Order of the Hon'ble High Court of Punjab & Haryana at Chandigarh in CWP No.1640/2008 dated 06.11.2012, in which the Hon'ble High Court dismissed the claim of the applicant regarding qualification from IME, Mumbai (India).
- (ii) Letter dated 26.02.2013 issued by AICTE wherein it is clarified that IME, Mumbai, India is not under the approved list of AICTE.
- (iii) The approved list of AICTE has been placed before us, which does not include the name of IME, Mumbai, India.

(iv) Public Notice dated 13.04.2011 issued by AICTE in which it has been clearly stated as follows:

“It has been the policy of the AICTE not to recognise the qualification acquired through distance education mode diploma/bachelors and masters level in the fields of Engineering, Technology, Architecture, Town Planning, Pharmacy, Hotel Management and Catering Technology, Applied Arts and Crafts and Post Graduate Diploma in Management (PGDM).”

(v) In a clarification dated 04.09.2013, Ordnance Factory Board (OFB) has clearly stated that “those candidates, inter alia, obtained Diploma from IME, Mumbai also through distant mode cannot be considered as those diploma course is not affiliated/recognised by AICTE, which is the main requirement as per the relevant recruitment rules.”

8. The contention of the respondents’ counsel is that the diploma granted by IME, Mumbai through distance education mode is not recognised by AICTE neither is the Institute affiliated by AICTE and, therefore, there is no question of the applicants to be treated as eligible for the LDCE.

9. We have heard the learned counsel for both sides and perused the various orders/judgments cited by them.

10. We find that while the matter in O.A. Nos. 1416 and 1539/2010 was decided by the Madras Bench on 27.11.2012, the public notice dated 13.04.2011 and letter dated 04.09.2013 issued by OFB was not before the Tribunal (the latter could not have been

before the Tribunal as it was issued after the date of the judgment). In view of these documents, it becomes clear that diploma granted by IME, Mumbai through distance education mode is not recognised by AICTE. Therefore, the respondents are right in rejecting the candidature of the applicants for the LDCE. All the OAs are, therefore, dismissed. No order as to costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

/Jyoti/