

**CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi**

O. A. No. 2979/2016

Reserved on: 15.05.2017

Pronounced on: 02.06.2017

**Hon'ble Mr Raj Vir Sharma, Member (J)
Hon'ble Ms Praveen Mahajan, Member (A)**

Shri Tarun Katula

S/o Shri Ram Prakash Katula,

R/o House No. BD-61 B,

West Shalimar Bagh,

Delhi-110088.

.....Applicant

(By Advocate: Mr Rakesh Kumar with Mr Ravi Verma)

Versus

1. Government of NCT of Delhi through
the Hon'ble Lt. Governor,
Lt. Governor's Office, 6, Raj Niwas Marg,
Delhi-110054.

2. Department of Planning,
Govt. of NCT of Delhi through
its Principal Secretary, 6th Level,
'B' Wing, Delhi Secretariat,
Delhi – 110002..

3. Delhi Subordinate Services Selection Board,
Government of NCT of Delhi through
its Secretary, FC-18, Institutional Area,
Karkardooma, Delhi-110092.

.....Respondents

(By Advocate : Mr B N P Pathak)

ORDER

By Hon'ble Mr. Praveen Mahajan, Member (A):

The present Original Application has been filed U/s 19 of
Administrative Tribunals Act, 1985 by the applicant seeking the
following relief(s):

*(a) Direct the respondents to appoint the applicant as Statistical Assistant
(Post Code 66/14) in the Planning Department of the Government of NCT*

of Delhi with seniority above the twenty three candidates selected vide Result Notice No. 462 dated 02.05.2016 mentioned hereinabove in Sub-para (xiv) of para 4.

(b) This Hon'ble Tribunal may further be pleased to grant any other relief to the applicant or pass such other or further order or direction that may be deemed just and appropriate in the facts and circumstances of the case.

2. The brief facts of the case are that the Govt. of NCT of Delhi (respondent No. 1) issued a Gazette Notification dated 01.06.2012 (Annex. A/2) vide which recruitment rules for the post of Statistical Assistants in various office/departments were framed cancelling the earlier recruitment rules for the post of Statistical Assistants/Inspector issued on 03.04.2007. In pursuance to the aforesaid Gazette Notification, the Delhi Subordinate Services Selection Board, Govt. of NCT of Delhi (respondent No. 3) issued a vacancy notice vide Advertisement No. 01/14 for various posts, including the post of Statistical Assistant in the Planning Department having Post Cord 66/14 (Annex. A/3). As per the said Advertisement, the essential qualification for the post of Statistical Assistant in the Planning Department is 'Post Graduate degree in Statistics/Operational Research/Mathematical Statistics/Applied Statistics or Post Graduate Degree in Economics/Mathematics/Commerce (with Statistics as one of the subjects/paper in Post Graduation/Graduation Level)'. Below the said essential qualification a note was appended that "The candidates who have passed Statistics as one of the papers/subjects including Quantitative Method/Techniques or costing & Statistics/Basic Statistics/Business Statistics/Introduction

to Statistics etc. at Graduation/Post Graduation Level are also eligible". The applicant states that he obtained Bachelor of Science (Honours) Degree from University of Delhi and had 'Statistics' as one of the subjects in Paper No. 304 in his Third Semester of the said graduation course (Annex. A/4). Thereafter, he obtained a Degree of Master of Business Administration at Post Graduate Level from Guru Govind Singh Indraprastha University, Delhi having one of the subject 'Quantitative Methods' Paper Code 103 in the first Semester (Annex. A/5). The applicant finding himself eligible for the post of Statistical Assistant, applied for the said post against advertisement No. 01/14 for unreserved (UR) vacancies and took written competition bearing roll No. 87003186, held by the respondent No. 3 on 28.06.2015 for the Post Code 66/14, i.e. Statistical Assistant. Vide Notice dated 02.02.2016 (Annex. A/3), the respondent No. 3 declared the marks obtained by 633 candidates who had appeared in the written examination for the Post Code 66/14, i.e. Statistical Assistant. The applicant's name found place at Serial No. 493 having obtained 90.50 marks in the said written examination. Vide public Notice dated 23.02.2016 issued by the respondent No. 3, all the candidates whose names were mentioned in Annexure 'A' to the said Notice were asked to appear on 08.03.2016 and submit their documents for verification. The applicant's Roll No. 87003186 found place at Serial No. 41 of the said notice under the UR category. The applicant appeared before the concerned official

and got all his testimonials verified. No deficiency in his qualification was found or pointed out. However, the Result Notice No. 462 dated 02.05.2016 (Annex. A/8) declaring the result of the selected candidates for the post of Statistical Assistant (Post Code 66/14) came, it showed selection of 62 candidates in the UR category, which did not include the roll number of the applicant. Vide Rejection Notice No. 463 dated 02.05.2016 (Annex. A/1), the candidature of the applicant was rejected assigning the reason as "QUALIFICATION NOT AS PER RR". The applicant states that his candidature was rejected even though the marks obtained by him in the written examination were higher than at least 23 selected candidates for the said post. He, therefore, submitted his representation dated 09.05.2016 (Annex. A/9) to the Respondent No. 3 for reconsideration of his claim to which he did not receive any response. Therefore, he gave another application dated 01.06.2016 (Annex. A/10) to the Hon'ble Deputy Chief Minister of Delhi State requesting him to intervene in the matter. Vide letter dated 08.06.2016 received from the office of the Deputy Chief Minister of Delhi State, he has been informed that his application has been sent to the respondent No. 3 for necessary action. Even after a lapse of more than three months, since submission of the representation dated 09.05.2016, the same has not yet been disposed of. Therefore, aggrieved of the rejection of his candidature on the ground of lack of essential qualification as per Recruitment Rules (RR) for the post of Statistical Assistant in UR

category, despite securing the requisite marks in the written examination, which merit selection, the applicant has challenged his Rejection Notice No. 463 dated 02.05.2016 (Annex. A/1) seeking relief mentioned in preceding paragraphs.

3. In counter reply, the respondents have not disputed the facts mentioned by the applicant regarding Essential Educational Qualification for the post of Statistical Assistant mentioned by him in the OA. The respondents, however, state that the Board advertised 247 vacancies for the post of Special Education Teacher vide Advt. No. 01/14 pertaining to the Planning Department, Govt. of NCT of Delhi. As per advertisement for the said post and clause/column (7) of Recruitment Rules (RRs) of Statistical Assistant mentioned in the Annex. 1 of Planning Department Notification dated 01.06.2012, the candidate should have done either PG in one of the subjects listed in clause 17(a) of RR or else as per the provision of note below clause 17(a), he should have studied Statistics as one of the subjects at graduation/post graduation level. However, the applicant had studied Statistics only in Semester-III of B.Sc.(H) Computer Science and Quantitative methods of Maximum marks 69 only in one year of Master in Business Administration (MBA). Hence, his candidature was rejected due to non fulfilment of eligibility criteria as mentioned in RR vide Rejection Notice No. 463 dated 02.05.2016 (Annex. A/1). Since, the applicant Shri Tarun Katula,

Roll No. 87003186 did not fulfil the qualifications as per RRs thus, the OA filed by him is devoid of any merit and deserves to be dismissed.

4. In rejoinder to the counter reply, the applicant has stated that Clause 17 (a) of RRs provided that candidate should possess graduation or post-graduation degree in any one of the subjects mentioned therein. However, by a Note appended to the said Rule, the eligibility has been extended to such graduates or post-graduates, who may not have obtained a graduation or post-graduation degree in any of the subjects mentioned in the said Rule but had, any one of the papers, mentioned under the said Note, in his graduation or post-graduation course.

5. Heard both the parties.

6. Learned counsel for the applicant contended that even though the applicant fulfilled all the eligibility requirements for the post of Statistical Assistant as per the Notification, Advertisement and the Recruitment Rules, the respondent No. 3 rejected the candidature of the applicant. The candidature of such applicants who obtained lesser marks in the written competitive examination than the applicant has been considered for selection. It is further submitted that as per the recruitment rules for the post of Statistical Assistant, a candidate was required to possess a Post Graduate degree in Statistics/Operational Research/Mathematics Statistics/Applied Statistics or Post Graduate Degree in

Economics/Mathematics/Commerce (with Statistics as one of the subjects/paper in Post Graduation/Graduation level). However, as per the 'Note' appended to the Educational Qualification, it was mentioned that the candidates who have passed Statistics as one of the papers/subjects, including Quantitative Method/ Techniques or Costing & Statistics/Basic Statistics/Business Statistics/Introduction to Statistics etc. at Graduation/Post Graduation level were also eligible. The applicant in his Graduation level had pursued Bachelor of Science Course with Honours Degree in Computer Science and Statistics as Paper No.304 in the Third Semester. In his Post Graduation level he had pursued Masters of Business Administration Course with 'Quantitative Methods' as Paper Code MS 103 as one of the subjects/Papers, making the applicant eligible in terms of the 'Notes' appended to the RRs. Thus, he submitted that Rejection Notice number 463 dated 02.05.2016 rejecting the candidature of the applicant for the post of Statistical Assistant is illegal and arbitrary and prayed that the respondents may be directed to appoint the applicant on the post of Statistical Assistant.

7. Rebutting the arguments, learned counsel for the respondents contended that as per the Recruitment Rules (RRs) of Statistical Assistant, a candidate should have done either PG in one of the subjects listed in clause 17(a) of RRs or else as per the provision of note below clause 17(a), he should have studied Statistics as one of the subjects at graduation/post graduation

level. However, the applicant had studied Statistics only in Semester-III of B.Sc.(H) Computer Science and Quantitative methods of Maximum marks 69 only in one year of Master in Business Administration (MBA). Hence, his candidature was rejected due to non fulfilment of eligibility criteria as mentioned in RRs vide Rejection Notice No. 463 dated 02.05.2016 (Annex. A/1).

8. We have considered the rival contentions and perused the record. The controversy in the present case boils down to the interpretation of the RRs and sole issue to be resolved is whether the applicant possesses/possessed the essential qualification as per the RRs for the post of Statistical Assistant.

9. In the advertisement No. 01/14 (Annex. A/3), the essential qualification published for the post of Statistical Assistant in Planning Department are as under:

Essential Qualification: Post Graduate degree in Statistics/Operational Research/Mathematical Statistics/Applied Statistics or Post Graduate Degree in Economics/Mathematics/Commerce (with Statistics as one of the subjects/paper in Post Graduation/Graduation Level).

Note: The candidates who have passed Statistics as one of the papers/subjects including Quantitative Method/Techniques or costing & Statistics/Basic Statistics/Business Statistics/Introduction to Statistics etc. at Graduation/Post Graduation Level **are also eligible**.

A careful reading of the essential qualification required for the post of Statistical Assistant clearly shows that the eligibility for the post is Post Graduate degree in Statistics/Operational Research/Mathematical Statistics/Applied Statistics or Post

Graduate Degree in Economics/Mathematics/Commerce with Statistics as one of the subjects/paper in Post Graduation/Graduation Level. Furthermore, the note below the essential qualification also makes eligible those candidates who might not have Statistics as one of the subjects/paper in the Post Graduation/Graduation Level mentioned in the bracket, but still passed Statistics, as one of the papers/subjects including Quantitative Method/Techniques or costing & Statistics/Basic Statistics/Business Statistics/Introduction to Statistics etc. at Graduation/Post Graduation Level. The eligibility for essential qualification given in the Note cannot be interpreted in isolation of the main subjects mentioned in the essential qualification. In our considered view, the interpretation of the Note by the applicant is totally out of context. The applicant in his Graduation level had pursued Bachelor of Science Course with Honours Degree in Computer Science and Statistics as one of the paper in the Third Semester. In his Post Graduation level, he had pursued Masters of Business Administration Course with 'Quantitative Methods' as one of the paper. Had the applicant undertaken and passed the aforesaid papers under the main subjects of Economics/Mathematics/Commerce at the graduation or post graduation level, he would have been eligible for selection. However, this is not the case here. Therefore, the respondents have correctly concluded that the Educational Qualification of the applicant is not as per the RRs.

10. In the present case, the applicant was allowed to appear in the written examination and fared well. After the document verification by the respondents, rejection notice was issued to him. In the case of ***State of Gujarat v. Arvindkumar T. Tiwari***, [AIR 2012 (SC) 3281], the Hon'ble Supreme Court has held as under:-

*“A person who does not possess the requisite qualification cannot even apply for recruitment for the reason that **his appointment would be contrary to the statutory rules, and would therefore, be void in law. Lacking eligibility for the post cannot be cured at any stage** and appointing such a person would amount to serious illegality and not mere irregularity. Such a person cannot approach the court for any relief for the reason that **he does not have a right which can be enforced through court.**”*

Considering the above law laid down by the Hon'ble Supreme Court in this regard, no relief can be granted to the applicant and we see no reason for the Tribunal to interfere with the rejection notice dated 02.05.2016.

11. The OA is devoid of merit and is accordingly dismissed. No costs.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

/Rawat/