

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

OA/020/01077/2017

Date of CAV : 25.09.2018  
Date of Order : 04-10-2018

Between :

01.Koduru Sudheer Babu S/o Late K. Srinivas Rao,  
Age : 31 years, D.No.15-8-12/1, Islampet, Poonur,  
Guntur District, 522124. ....Applicant

AND

01. Union of India, Through Ministry of Defense,  
South Block, Cabinet Secretariat, Raisina Hill,  
New Delhi 110011.

02. The Group Captain, Head Office,  
South Indian Airforce, Indian Airforce Office,  
Akkulam, Trivendrum, Kerala-695031.

03. The Wing Commander O/o Civil Administration,  
Indian Air Force Station, Suryalanka, Bapatla (P.O),  
Guntur, Andhra Pradesh 522101. ...Respondents

---

Counsel for the Applicant: Mr. P. Ratna Jai Kiran  
Counsel for the Respondents : Mr. M. Brahma Reddy, Addl.CGSC

---

CORAM :

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

---

This application is filed under section 19 of A.T.Act, 1985, to set aside the proceedings issued by the first Respondent in Air HQ/23039/293/RET/PC-5, and the consequential proceedings issued by the second Respondent in Davak/7520/A/1/PC, Dated 17-03-2017 and the consequential proceedings of the third Respondent in AFS

Surya/1631/6/PC, dated 05-05-2017, rejecting his case for appointment on the ground that his qualification of 'Diploma in Mechanical Engineering' is not equivalent to 'Intermediate Course', and consequently to direct the Respondents to consider the applicant for the post of Group-'C'(GP Rs.1900/-) by appointing the applicant on compassionate grounds without delay and to pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The brief facts of the case are that, the father of the applicant by name Sri Late K.Srinivas Rao, who worked as a Cook, with Employment Identity PA No.40837-F, under the Control of the Respondents, has expired while in service on 27.03.2015 and his family left on roads without livelihood and the applicant who is taking care of his family, made an application on 11.11.2016 requesting the respondents to consider his case for Compassionate Appointment.

3. The applicant states that, he has completed his Diploma in Mechanical Engineering after his secondary School Certificate Course, which is equivalent to Intermediate Course and the required educational qualification for the post of Group-C (GP Rs.1900/-) is Intermediate. A notification issued by the 1<sup>st</sup> Respondent in April, 2017, for the recruitment of Group-X (Technical Post), which is equivalent to Group-C (GP Rs.1900/-), categorically mentioned that Diploma in Engineering is equivalent to intermediate, a copy of such notification is also enclosed to the OA but the 1<sup>st</sup> Respondent issued proceedings in Air HQ/23039/293/RET/PC-5, and the

consequential Proceedings issued by the 2<sup>nd</sup> Respondent in Davak/7520/A/1/PC, Dated 17.03.2017 and the consequential proceedings of the 3<sup>rd</sup> Respondent in AFS Surya/1631/6/PC, dated 5.5.2017 rejecting his case for appointment on the ground that his qualification of 'Diploma in Mechanical Engineering' is not equivalent to 'Intermediate Course'.

4. The applicant further submits that, the remarks of the Respondents are that, "on scrutiny of application of Shri K.Sudheer Babu, it is observed that the applicant has given his preference for Group 'C' post (GP Rs.1900/) for which the minimum educational qualification is 10+2 or 12<sup>th</sup> pass. The applicant has done Diploma in Mechanical Engineering after Matriculation. As such he does not possess the minimum educational qualification for Group 'C' post (GP Rs.1800/-) at Command level provided the applicant submits his willingness for the same.

5. It is further stated in the application that, the Govt., of Andhra Pradesh issued a G.O in GO Ms.No.112, dated 27.10.2001 in which they provided that, Diploma in Engineering is equivalent to Intermediate and the applicant made another application enclosing the above mentioned G.O requesting them to consider for the post of Group- C (GP Rs.1900/-) but the Respondents refused the same on the ground that, the GO issued by a state government cannot be looked into by them. Hence this application.

6. Respondents have filed para-wise comments stating that, the Air Force Station Suryalanka has received the application of the applicant for

consideration of Compassionate Appointment and the same was forwarded to HQ SAC, IAF (OIC PC) and further from HQ SAC, IAF to Air HQ for consideration. However, Air HQ rejected the case for considering it under Group C post (GP Rs.1900/-) and returned the documents under intimation to applicant as the required qualification for the said post is Intermediate and that the individual did not possess the minimum education qualification for Group 'C' post (GP Rs.1900/-). The individual was advised to process his case for Group-C post (GP Rs.1800/-). The reconsideration application was forwarded to higher formation which was again rejected on the grounds that the GOMs referred by the individual are of AP Govt., and the same is only a direction to the Collectors of AP for considering Diploma as equivalent to Intermediate for appointment to the post of Junior Assist under scheme of compassionate appointment and hence not applicable for appointments on compassionate grounds in Central Government. However, HQ SAC had approached Air HJQ had advised to inform the applicant to submit a letter from Min of HRD for equating Diploma in Mechanical equivalent to Intermediate/10+2, if any, to consider his application for employment under compassionate ground.

7. The Respondents further state that they are unable to consider the application of the applicant for the Group C post (GP Rs.1900/-) in absence of the requisite qualification for the said post. If the individual produced a letter from Min of HRD equating Diploma in Mechanical equivalent with Intermediate / 10+2 then his case can be considered for compassionate appointment. In view of the forgoing submissions, the respondents pray for

dismissal of the OA.

8. We have heard Mr. P. Ratna Jai Kiran, learned counsel for the applicant and Mr. M. Brahma Reddy, learned Standing Counsel for Respondents, perused the material placed on record.

9. The learned counsel for the applicant had filed copy of advertisement / notification issued by the 1<sup>st</sup> Respondent in the month of April, 2017, vide Annexure-7 to the OA, in which recruitment of Airmen in Group-X (Technical) Trades and Group 'Y' (Non-Technical) Trades. At para-4 of the said notification it has been mentioned as follows :-

“ Educational Qualification :

(a) Group 'X' (Technical) Trades.

(i) Passed **Intermediate / 10+2/Equivalent examination** with **Mathematics, Physics and English** with minimum **50% marks** in aggregate and **50% marks in English**. **OR** (ii) Passed **Three years Diploma Course in Engineering, as shown below**, from a Government recognized Polytechnic Institute with 50% marks in overall aggregate, and **50% marks in English in Diploma or in Intermediate/Matriculation, If English is not a subject in Diploma Course.**

(aa) .....

(ab) .....

(b) Group 'Y' (Non-Technical) Trades { except Auto Tech, GTI, IAF(P), IAF(S), Med Asst & Musician Trades) : Passed **Intermediate / 10+2 / Equivalent Examination** in any stream/subjects approved by Central / State Education Boards with minimum **50% marks** in aggregate and **50% marks in English.**

Thus the authorities have considered 'pass' in three years Diploma in Engineering from a Government recognized Polytechnic Institute as

equivalent examination with Intermediate/10+2 examination for the purpose of Group-X (Technical) Trades. Similarly for the purpose of Group-Y (Non-Technical) Trades, the authorities have considered equivalent examination in any stream /subjects approved by Central/State Educational Boards as equivalent to the qualification 'pass' in Intermediate/10+2 examination. The applicant has also filed copy of GO Ms No.112 issued by Govt., of Andhra Pradesh dated 27.10.2011 vide Annexure A-6 in support of his studies, issued by the HIGHER EDUCATION(TE-I) DEPARTMENT had directed all the Collectors to consider the Diploma Holders also for the post of Junior Assistant under the Scheme of Compassionate Appointment, provided the duration of study of the Diploma is equivalent to or longer than that of Intermediate. If the various Diplomas referred to in para 3<sup>rd</sup> above having duration of study of such Diploma as equivalent to or longer than that of Intermediate, are treated as equivalent to Intermediate for the purpose of recruitment. The said clarification was issued by treating the Polytechnic Diploma course as equivalent to Intermediate for the purpose of employment.

10. In this case, the Respondents have not filed any reply statement except the para-wise comments. The applicant in his representation dated 29.5.2017 vide Annexure A-1 had inter-alia mentioned that his educational qualification is also recognized by State Board of Technical Education & Training, AP, Hyderabad and under the norms of AICTE, Delhi. It was submitted by learned counsel for the applicant that the said Diploma course is for a period of three years and the same has not been challenged from the side of the Respondents. The representation of the applicant was

rejected on the ground that the GO Ms vide Annexure A6 is not applicable for appointment on compassionate ground in Central Government as mentioned in the letter dated 17.3.2017 (vide Annexure A3 to OA). In the para-wise comments at para-4, it has been mentioned that “ ..... Air HQ had advised to inform the applicant to submit a letter from Min of HRD for equating Diploma in Mechanical equivalent to Intermediate/10=2, if any, to consider his application for employment under compassionate ground”. A poor person like the applicant who is praying for appointment on compassionate ground after the death of his father who was working as a Cook under the Respondents cannot be expected to obtain such a letter, if any, from the HRD Department, New Delhi. Besides that, the action of the Respondents clearly shows that there is discrimination by the authorities while considering the case of the applicant vis-a-vis the advertisement vide Annexure A7. They have considered the applications of the candidates of the Diploma Courses in Engineering in Mechanical Engineering as pass in 10+2 examination, the Respondents cannot have two standards and two parameters one for the applicant and one for the other candidates appearing for recruitment examination for other posts which are conducted under the control of 1<sup>st</sup> Respondent. Therefore, this Tribunal finds that there is violation of principles of equality as enshrined in Article 14 of Constitution and in the absence of any cogent reasons, this Tribunal finds that the impugned order vide Annexure A2 is illegal, arbitrary and shows non application of mind. The mechanical disposal of the representation of the applicant by the Respondents is not justified. Hence this Tribunal find that there was no legal bar or hindrance on the part of the Respondents to

consider the qualification of the applicant ie Diploma in Engineering as equivalent to Intermediate / 10+2 examination. The fact remains that the authorities have found that the applicant can be considered for Group-C & D level posts with Grade Pay of Rs.1800/-. It was submitted by the learned counsel for the applicant that the minimum qualification for Group-D & D posts is pass in Class-X. Once the applicant has acquired higher qualification, it is incumbent on the part of the Respondents in the circumstances of the case to treat the same as equivalent to 10+2 and to consider him for appointment on compassionate grounds for Group-C post with Grade Pay of Rs.1900/-. The applicant had filed copies of the certificate to show that he had acquired 61.43% in the Diploma examination in question.

11. Accordingly the OA is allowed and the impugned order is set aside and the Respondents are directed to consider the qualification of the applicant as equivalent to Intermediate/10+2 and to consider his case for compassionate appointment for the post of Group-C post with Grade pay of Rs.1900/- within a period of three months from the date of receipt of a copy of this order and pass a reasoned speaking order.

12. Original Application is allowed accordingly with no order as to costs.

(SWARUP KUMAR MISHRA)  
JUDICIAL MEMBER

Dated : 4<sup>th</sup> October, 2018.

vi

