

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Applications Nos.200/00051/2014,
200/00052/2014, 200/1045/2016 &
200/1046/2016

Jabalpur, this Friday, the 05th day of October, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Smt. Aruna Patel (Lodhi), Aged 29 years, w/o Shri Rampal Lodhi, R/o 172, 4th Miles, Mandla Road, Tilheri, Tahsil & District Jabalpur, Permanent Resident of House No. 2561/1B, Shivpuri Kajarwara, Katiaghat Road, Post Office Temar Bheeta, P.S. Cantt., Sadar, District Jabalpur (M.P.) PIN 482 001.

-Applicant in OA No.200/00051/2014

Amita Singh, Aged about 26 years, D/o Shri Ramnath Singh Rajput, R/o Quarter No. 2766, Sector-2, Type-II, Vehicle Estate, Jabalpur 482009 (M.P.) -**Applicant in OA No.200/00052/2014**

Shekhar Kuppuswami, Aged 43 years, S/o Shri Kuppuswami R/o Block No. 53/C Type II Sector-I, Ordnance Factory, Chanda, Estate District Chandrapur 442 401 (M.S.)

-Applicant in OA No.200/01045/2016

Rekha Rapartiwar(Darji), Aged 36 years, D/o Shri Ramesh Rapartiwar, W/o Prashant Darji, at present R/o Plot No.42, COD Colony, Suhagi, Adhartal, Jabalpur-482 002 (M.P.) Permanent R/o Geeta Gents Tailor Near Swami Narayan Mandir Bhavsar Ward, Nadiad, District Kheda 387001 (Gujarat)

-Applicant in OA No.200/01046/2016

(By Advocate –**Shri K.N. Pethia in all O.A.s**)

V e r s u s

1. Union of India, Through its Secretary, Ministry of Defence Production, South Block , New Delhi 110 001

2. The Chairman, Ordnance Factory Board, 10-A, Shahid Khudi Ram Bose Road, Kolkata (W.B.) 700001

3. General Manager, Vehicle Factory, Govt. of India, Ministry of Defence Ordnance Factory Board, Jabalpur (M.P.) PIN 482009

-Common respondents in OA No.200/51 & 52/2014

1. Union of India, Through its Secretary, Ministry of Defence Production, South Block , New Delhi 110 001

2. Chairman-cum-Director General Ordnance Factory Board, “Ayudh Bhawan” 10-A, Shaheed Khudiram Bose Marg, Kolkata 700001 (W.B.)

3. Senior General Manager, Vehicle Factory, Jabalpur (M.P.) PIN 482009

- Respondents in OA No.200/1045/2016

1. Union of India, Through its Secretary, Ministry of Defence Production, South Block , New Delhi 110 001

2. Chairman-cum-Director General Ordnance Factory Board, “Ayudh Bhawan” 10-A, Shaheed S.K. Bose Marg, Kolkata 700001 (W.B.)

3. General Manager, Vehicle Factory, Jabalpur (M.P.) PIN 482009

- Respondents in OA No.200/1046/2016

(By Advocate –**Shri S.S. Chouhan in all O.As.**)

(Date of reserving the order:29.08.2018)

COMMON ORDER

By Navin Tandon, AM:-

The applicants are aggrieved by the fact that they have not been issued appointment letters in spite of being selected by the respondent-department in an open selection.

2. These four Original Applications are being disposed off by this common order as the issues raised are same. The facts of O.A.

No.200/51/2014 are being stated in this order unless otherwise mentioned.

3. The brief facts of the case are that the respondent-department issued an employment notification in March 2011 (Annexure R/1) inviting applications for Semi Skilled Group 'C' posts in Grade Pay of Rs.1800/-. The applicants were selected after going through all the procedures. However, their appointment letters were not issued as they did not have the requisite qualification.

3.1 The essential qualification stated in notification reads as under:

“5 Qualification Essential a): For the post of Carpenter, Electroplater, Fitter Electronic, Fitter Genl, Fitter Pipe, Fitter Refrg, Fitter Instrument, Grinder, Machinist, Miller, Millwright, Painter, Tool Maker, Turner, Welder and Electrician: National Council for Vocational Training (NCTVT) Certificate in the relevant trade failing which by ITT or equivalent Diploma/Certificate holder. No inter changing of trade is permissible.

b) For the post of Cable Jointer, Exam Engg. Fitter Auto Elec, Fitter Automobile, Fitter Electric, Fitter T&G and Mason: National Council for Vocational Training (NCTVT) Certificate in the trades of Fitter, Machinist, Welder, Electrician, Fitter Electronic, failing which by ITI or equivalent Diploma/Certificate holder.”

3.2 Fourteen (14) candidates, who were having Diploma/Degree in Engineering and disqualified in the said selection, approached this Tribunal in Original Application No.303/2012 with 7 other connected O.A.(s), which was decided vide common order dated

06.09.2013 (Annexure A/4). While six (6) Original Applications, in respect of twelve (12) applicants were dismissed, two (2) O.As. (details below) were allowed by this Tribunal:

(i) Smt. Aruna Patel (Lodhi) O.A .No.317/2012 (present OA No.51/2014)

(ii) Smt. Amita Singh O. A No.408/2012 (present O.A. No.52/2014)

3.3 Subsequently, Review Application No.25/2013 in O.A. No.386/2012 was allowed on 10.05.2016 (Annexure A/11 filed in O.A. No.1046/2016) in respect of three similarly placed candidates, viz.

(i) Manisha Chandel

(ii) Shekhar Kuppuswami (present OA No.1045/2016)

(iii) Rekha Rapartiwar (Present O.A. No.1046/2016)

3.4 In all the above mentioned cases, where O.A. were allowed, the candidates were having certificates of one year apprenticeship training under the Apprenticeship Act, 1961, apart from having Diploma in Mechanical Engineering.

3.5 In the order dated 06.09.2013 (Annexure A/4) of this Tribunal, it was held that:

“27. In the instant case, as already observed, the essential qualification prescribed for semi-skilled workman for the trades at Annexure A appended under the rules is NCVT certificate in the relevant trades, failing which by ITI or equivalent diploma/degree holder as prescribed at entry No.5 of the Schedule, appended with the rules. The

Ordnance Factory Board is the competent authority to take a decision in relation to prescribed qualification under column 8 of the schedule. The question whether a qualification is equivalent to the prescribed qualification or not, and the Board has clarified that, degree and diploma in engineering, cannot be accepted as qualification for direct recruitment to the semi-skilled posts, and in view of the above clarification, the applicants, who admittedly do not possess the NCVT certificate or ITI, cannot claim that they were eligible for direct recruitment to semi-skilled post at Annexure A to the SRO 185 of 1994.

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30. On the basis of the aforesaid discussions, the Original Applications Nos.303, 344, 386, 395, 431 and 448/2012 filed by the applicants possessing only engineering diploma/degree are dismissed.”

4. In compliance to the orders of this Tribunal, respondents vide their letter dated 30.12.2013 (Annexure A/5) communicated a detailed and reasoned order rejecting the candidature of the applicant for appointment to the post of Examiner Engineer (Semi Skilled).

5. The applicants have submitted that her qualifications are equivalent or more skillful to NCVT. Also, similar placed persons were given appointment in Ordnance Factory, Khamaria (OFK) whereas the same was refused in Vehicle Factory Jabalpur (VFJ) even though both are under the administrative and technical control of same body, viz. Ordnance Factory Board. It is her case that she cannot be disqualified only on the basis of her higher qualifications.

6. The applicant has sought for the following reliefs in this

Original Application:-

“8. **Relief(s) Sought:**

8(i) *the non-applicants/respondents be commanded by appropriate order to produce the entire record of the case including the prescribed essential and desirable qualification pertaining to the instant controversy; and the qualification of candidates who have been appointed having similar case with that of present applicant in Ordnance Factory, Khamaria.*

8(ii) *the non-applicants be also directed to disclose the diploma certificate which is required for the post of Examiner Engineer in Semi Skilled as there is no diploma other than the diploma in Mechanical Engineering which is essential qualification for the trade;*

8(iii) *quash the impugned order dated 30.12.2013 (Annexure A-5) and it be held that the alleged over-qualification possessed by the applicant shall not come in the way of her appointment on the post of Examiner Engineer (Semi-Skilled) because the applicant is possessing two certificates issued under the authority of Apprenticeship Act 1961;*

8(iv) *direct the respondent No.3 to issue the appointment order to the applicant in pursuance to her selection already made for appointment on the post of Examiner Engineer (Semi-Skilled);*

8(v) *appropriate penal orders under the Contempt of Courts Act be passed against the respondent No.3 for misinterpreting the civility of the language of order dated 6.9.2013 particularly when the O.A. No.317/2012 was allowed by quashing the order dated 26.2.2012 whereby candidature of the applicant was rejected.*

8(vi) *Any other appropriate writ, order or direction which this Hon'ble Tribunal may deem fit be also issued.”*

7. As far as present state of O.As. are concerned, we will adjudicate only about whether Apprenticeship training of the applicants fulfils the qualifications criteria of the respondents. All other matters raised herein have already been decided by this Tribunal in order dated 06.09.2013.

8. The applicant has undergone one year Apprenticeship Training under the Apprenticeship Act, 1961 (as amended in 1973 and in 1986) at Gun Carriage Factory Jabalpur from 21.01.2005 to 20.01.2006 in the special field of Mechanical Engineering (Annexure A/1).

9. The respondents vide Gazette notification dated 01.11.1994 (Annexure R/3) have issued SRO-185, regarding recruitment rules for industrial employees in Ordnance Factories. It specifies in Note 10 that:

“Note 10: In relation to prescribed qualifications under Column 8 of this Schedule the question whether a qualification is equivalent to the prescribed qualification for any post shall be decided by the Ordnance Factory Board.”

10. The educational qualifications required for semi skilled workmen are as under:-

“(a.(i) For the Trades at Annexure A National Council of Trades for Vocational Training Certificate in the relevant trade failing which by III or equivalent Diploma/Certificate holder.”

11. The respondents have submitted that one year Apprenticeship training is not equivalent to the NCVT certified NAC/NTC certificates and, therefore, claim of the applicant has been rightly rejected.

12. We have heard the learned counsel for the parties and perused the pleadings available herein.

13. Learned counsel for the respondents brought the orders dated 06.01.2014 of Principal Bench of this Tribunal in the matters of ***Dr. Kamal Chouhan vs. Union of India and Ors.*** passed in O.A. No. 1918/2012 to our notice wherein Para 11 reads as under:

“(11). It is a well accepted fact that this Tribunal is not a substitute for expert of academic bodies constituted for specific purpose of deciding equivalence of degrees. The superior courts have repeatedly emphasized that the Tribunals/Courts should be content to adjudicate within their own realm and should be loath to venture into academic question like equivalent of degrees or their adequacy/inadequacy to particular requirements. These matters are beset left to such bodies or people who have been specially designated for this purpose.”

14. In the matters of ***State of Rajasthan and others vs. Lata Arun***, 2002 (6) SCC 252, Hon’ble Supreme Court has observed as under:

“(13). From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.”

15. In a recent judgment of this Tribunal in O.A. No.200/392/2016, we have held that the Ordnance Factory Board Kolkata is the competent authority to decide whether the qualification is equivalent to the prescribed qualification or not as per Note 10 of SRO.

16. Therefore, we are convinced that there is no ground for us to interfere in the decision taken by the respondent-department. Accordingly, these Original Applications are dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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