

**LIBRARY****CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA**

No. O.A. 131 of 2013

Date of order : 16.8.2018

**Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**Shri Tushar Maity,  
Son of Parimal Maity,  
Aged about 36 years,  
Residing at Vill. & P.O. – Barbajitpur,  
District – Purba Medinipore,  
Pin – 721645 (WB).**

**.. Applicant****- VERSUS -**

- 1. Union of India through the  
General Manager,  
Eastern Railway,  
Fairlie Place,  
Kolkata - 700 001.**
- 2. The Dy. Chief Personnel Officer/RP,  
Eastern Railway,  
17, N.S. Road,  
1<sup>st</sup> Floor,  
Fairlie Place,  
Kolkata - 700 001.**

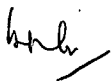
**.. Respondents**

**For the Applicant : Mr. A. Chakraborty, Counsel  
Ms. P. Mondal, Counsel**

**For the Respondents : Mr. P. Kumar, Counsel**

**ORDER****Per Dr. Nandita Chatterjee, Administrative Member:**

Aggrieved at not being appointed as Technician Grade – III  
(Diesel/Mechanic) with reference to Special Recruitment Drive with persons with  
disability as notified in employment Notice No. 1/2012/PWD (ER), the applicant  
has sought the following relief in the instant O.A.:-



"(a) An order do issue directing the respondents to include the name of the applicant in the panel of Physically Handicapped quota against Special Recruitment Right vide Employment Notice No. 01/2012/PWD(ER) published by the Chief Personnel Officer, E. Rly., and to grant him appointment in the post of Technical Grade- III."

2. Heard both Ld. Counsel, examined pleadings and documents on record.

Ld. Counsel for applicants submits written notes of arguments.

3. The case of the applicant, as canvassed by his Ld. Counsel, is that the Eastern Railway had conducted a Special Recruitment Drive to fill up 23 posts of Technician Gr. III (Diesel/Mechanic) in Eastern Railway and that, it was stipulated in the said Employment Notice that the educational qualifications required for the said post was successfully "course completed Act Apprentice and / or ITI passed candidates in the relevant trade approved by NCVT/SCVT."

That, the applicant's name was not included in the panel of Physically Handicapped quota against such Special Recruitment Drive although he was declared successful in the written test and hence being aggrieved, the applicant has approached this Tribunal in the instant O.A.

The applicant, in his support has advanced the following grounds, namely,

- (i) the applicant is an ITI passed candidate in both Petrol & Diesel Vehicle (Mechanic)
- (ii) the syllabi for Mechanic Motor Vehicle and Diesel Mechanic makes it evident that training in respect of Diesel Mechanic is mandatorily included in the syllabus of Mechanic Motor Vehicle; hence the cancellation of the applicant's candidature on the ground that he had failed to procure the certificate of Diesel Mechanic from the concerned ITI is erroneous and therefore seeks judicial intervention.

4. The respondents, in their written statement of defence as well as during oral arguments have argued that the applicant did apply for the post of Technician Gr. III in in response to Railway Employment Notice 1/2012/PWD (ER) which was a Special Recruitment Drive for PWD quota and having qualified in the written examination appeared for document verification before the

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Verification Committee. The verification Committee, upon examination of the documents of education/technical qualification of the applicant found that his trade certificate certifies his trade as "Mechanic Motor Vehicle" against the respondents' requirement of Diesel Mechanic and as the applicant had not fulfilled the requisite minimum educational qualifications, the applicant was considered unsuitable for the said post and was not finally empanelled for appointment.

5. The sole point for determination in the context of the instant Original Application is whether the certificate of Mechanic Motor Vehicle is a certificate in the "relevant trade" as asked for in the recruitment notification.

6. The relevant portion of the advertisement bearing No. 1/2012/PWD(ER) is reproduced below:-

Employment News 21-27 July, 2012  
SPECIAL RECRUITMENT DRIVE FOR PERSONS WITH DISABILITY QUOTA,  
EASTERN RAILWAY  
Employment Notice No. 1/2012/PWD(ER)

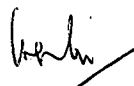
Category No.	Post	Scale	No of Post Reserved				Qualification of PWD	Class-Educational Qualification required	Minimum Training Period
			OH	VH	HH	Total			
4.	Technician Gr.II(Dsl/Mech.)	5200-20200/- G.P. 1900	23	0	0	23	OL	Successfully completed Act Apprentices and/or ITI passed candidate in the relevant trade approved by NCVT/SCVT	As per extant rules

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The relevance of trade has not been defined in the copy of the advertisement produced before us. The Ld. Counsel for the applicant during oral submissions has, however, submitted documents stating that certain information had been procured by the applicant through RTI consequent to which the following has come to light:



- (i) That employment notification No. 10/2010(SRD) of the post of Technician Gr. III / Diesel Mechanic had stated that the minimum educational qualification was Matriculation plus Course Completed Act Apprenticeship/ITI approved by NCVT/SCVT in the trade of Fitter, Millwright Maintenance Mechanic, Mechanic Motor Vehicle, Tractor Mechanic, Mechanic Diesel, Heat Engine.
- (ii) That the CPIO of the respondent authorities have clarified that the required minimum qualification set out by the RRB, Malda for the post of Technician Gr. III / Diesel Mechanic against category No. 45 in EN 01/2008 and Category No. 26 in CEN 09/2010 dated 22.5.2010 is Matriculation plus course completed Act Apprenticeship/ITI approved by NCVT/SCVT in the trade of Fitter/Fitter General.
- (iii) Further, a corrigendum/addendum to CEN No. 04/2012 lays down that the eligibility conditions for Technician Gr. III is as follows:-  
Matriculation plus Course Completed Act Apprenticeship/ITI approved by NCVT/SCVT in the trade of Fitter/Instrument Mechanic/Millwright Mechanic/Motor Vehicle Mechanic/Diesel Mechanic/Heat Engine / Turner /Mechanist / Welder / Mechanic Draftsman / Engineering Drawing and while specifying vacancies for RRB/Gorakhpur & Srinagar, the Respondents advertised that the minimum requisite educational qualification set in the CEN 01/2014 for the category No. 39 (Tech. Gr. III Diesel Mechanic) is "Matriculation plus course completed Act Apprenticeship/ITI approved by NCVT/SCVT in the trade of Auto Mobile/Mechanical Fitter."
- (iv) The RRB, Siliguri has also stated that the qualification for Technician Gr. III Diesel Mechanic is "Matriculation plus course



completed Act Apprenticeship/ITI approved by NCVT/SCVT in the trade of Auto Mobile/Mechanic Fitter".

(v) Again, RRB, Chennai in the CEN No. 01/2014 has laid down the following as the eligibility conditions for Technician Gr. III Diesel Mechanic:

"Matriculation plus course completed Act Apprenticeship/ITI approved by NCVT/SCVT in the trade of Fitter/Millwright Maintenance/Mechanic (Motor Vehicle)/Tractor Mechanic/ Mechanic (Diesel)/Heat Engine.

(vi) RRB, Jammu Srinagar laid down the following as the eligibility conditions for Technician Gr. III Diesel Mechanic:

"Matriculation plus course completed Act Apprenticeship/ITI approved by NCVT/SCVT in the trade of instrument Mechanical/Motor/Tractor Mechanical/Fitter/Diesel Mechanic."

The Ld. Counsel for the applicant furnishes copies of the syllabus for Mechanic Diesel as well as for Mechanic Motor Vehicle to prove his case and points out that the syllabi for both are similar in content.

During oral submissions, Ld. Counsel for the applicant reiterates that while the applicant underwent the course of Diesel Mechanic for a year, he had to train in the course for Motor Vehicle Mechanical for an additional year implying thereby that the course of diesel Mechanic is included in the overall course for Motor Mechanic.

7. We find, that however, that the Ld. Counsel for the applicant has produced two Employment Notifications namely, 9/2010 and 1/2008 which are prior to the Employment Notice No. 1/2012/PWD (ER). The other notifications are post notification No. 1/2012/PWD (ER).

Further, all the Employment Notifications referred to by the Ld. Counsel for the applicant are notifications for general recruitment and cannot be categorised as Special Recruitment Drive for Persons with Disabilities.

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Hence, there may not be a one to one correlation between the recruitment qualifications as laid down in the Employment Notice No. 1/2012 which sought to recruit the persons with disabilities through a Special Drive and the general recruitment notifications.

The respondents have not furnished the recruitment rules for the post of Diesel Mechanic as it prevailed with respect to Employment Notice, No. 1/2012/PWD(ER) before us.

The Ld. Counsel for applicants, however, has furnished in his written notes of arguments, the recruitment rules for Diesel Assistant/Electric Assistant as authorized by Railway Board letter No. E(MPP)2009/3/14 dated 26.9.11 and 13.3.2012 respectively. A note specifying trades for the purpose of filling 50% of such posts from Fitters, specifies trades for this purpose. It is noteworthy that Mechanic (Motor Vehicle) and Mechanic (Diesel) have been mentioned as two distinct trades and not interchangeably, implying that Mechanic (Diesel) is a separate trade as distinct from Mechanic (Motor Vehicle).

It is also a settled principle of law that in the matter of recruitment, Courts should not interfere in laying down qualifications or amending them through judicial intervention. As held in **Banarásidas v. State of UP, AIR 1956 SC 520** and in **Commissioner, Corpn. Of Madras v. Madras Corpn. Teachers' Mandram, 1997 (2) SLR 468 (SC)**, it is open to the appointing authority to lay down requisite qualifications for recruitment to Government service as it pertains to the domain of policy.

This has been reiterated in **Mangej Singh v. Union of India, (1998) 9 SCC 471** and **Surinder Singh v. Union Of India (2007) 11 SCC 599** that qualifications required are to be decided by the State as it is the prerogative and authority of the employer and courts cannot substitute the requirements.

Accordingly, we direct the applicant to submit a comprehensive representation to the competent respondent authority with all documents that he has garnered in his support within a period of 15 days from the date of receipt of

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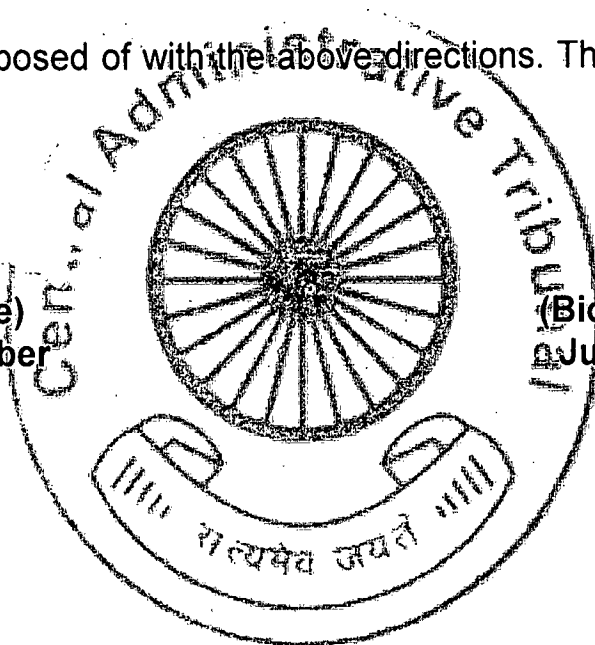
a copy of this order and we further direct the competent respondent authority to examine the same in the light of Employment notification issued by other RRBs and particularly, in the context of Special Recruitment Drive for Persons with Disabilities and Recruitment rules as it prevailed during the issue of CEN No. 1/2012, and to decide on the relevancy of trade in the context of the recruitment to Technician Gr. III Diesel Mechanic. In case it is decided by the respondents that the applicant's certification on Motor Vehicle Mechanic did adhere to the conditions of relevant trade, then necessary benefits may be accorded to him thereafter.

The entire exercise may be completed within a period of twelve weeks from the date of receipt of a copy of this order.

The O.A. is disposed of with the above directions. There shall be no order as to costs.

(Nandita Chatterjee)  
Administrative Member

SP



(Bidisha Banerjee)  
Judicial Member