

Reserved**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
JABALPUR**Original Applications Nos.200/01110/2016 &**
200/01156/2016

Jabalpur, this Friday, the 08th day of March, 2019

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

Original Applications Nos.200/01110/2016

1. Anirudh Kumar Tiwari S/o Shri Narendra Kumar Tiwari
Aged about 26 years, Occupation Unemployed, R/o
H.No.A-1 Satsang Nagar, O.F. Road, Itarsi, District
Hoshangbad (M.P.) PIN 461122

2. Pradeep Kumar Chourey S/o Krishna Kumar Chourey,
Aged about 30 years, Occupation, Unemployed R/o
Quarter No.3329/C, O.F. Itarsi District Hoshangabad
(M.P.) PIN 461122

-Applicants

(By Advocate –**Shri Mukesh Mishra**)

V e r s u s

1. Union of India Through its Secretary, Department of
Defence Production, Ministry of Defence, New Delhi
110001

2. Ordinance Factory Board, through Director General,
O.F. & Member 10-A S.K. Bose Road, Kolkata, (W.B.)
PIN 700001

- Respondents

Original Application Ns.200/01156/2016

1. Arun Sirvaiya S/o Shri Harishankar Sirvaiya Aged about 35 years, Occupation Unemployed R/o Quarter No.3198/III O.F. Itarsi District Hoshangabad (M.P.) PIN 461122
 2. Vikas Sao S/o Shri Prabhudas Aged about 36 years, Occupation Unemployed R/o Plot No.21 Phase-2 Krishna Colony Old Itarsi District Hoshangabad (M.P.) PIN 461111
 3. Rajneesh Maurya S/o Shri C.P. Maurya Aged about 30 years, Occupation Unemployed R/o Quarter No.3329/C O.F. Itarsi District Hoshangabad (M.P.) PIN 461122
 4. Devendra Kumar Lodhiya S/o Shri Rameshwer Prasad Lodhiya Aged about 30 years, Occupation Unemployed R/o Village Pandhari Post O.F. Itarsi District Hoshangabad (M.P.) PIN 461122
- Applicants**

(By Advocate –**Shri Mukesh Mishra**)

V e r s u s

1. Union of India Through its Secretary, Department of Defence Production, Ministry of Defence, New Delhi 110001
2. Ordinance Factory Board, through Director General, O.F. & Member 10-A S.K. Bose Road, Kolkata, (W.B.) PIN 700001
3. General Manager, Ordinance Factory, Itarsi, District Hoshangabad (M.P.) PIN 461122

4. Satvat Infosol Pvt. Ltd. Corporate Office #23 Lattice
Bridge Road Nibav Building III Floor Adyar, Chennai
600020 - **Respondents**

(By Advocate –**Shri S.K. Mishra**)
(Date of reserving the order:26.02.2019)

COMMON ORDER

By Ramesh Singh Thakur, JM:-

Both the O.As No.1110/2016 and 1156/2016 are similar in nature and issued involved in both the O.As are common.

2. The applicants are aggrieved by the action of the respondents whereby the candidatures of the applicants have been rejected with the reasons that as per advertisement the applicants are not fulfilling the requisite qualifications and no such type trade with the name of ‘Operator Material Handling Equipment’ is available in ITI under National Council for Vocational Training (N.C.V.T.). However, a trade namely ‘Operator Material Handling at Raw Material Handling Plant’ is available under Apprentice Training Scheme (ATS) which is imparted through Industrial establishment.

3. The applicants have prayed for the following reliefs:-

“8.a That, the Hon’ble Tribunal may kindly be pleased to direct the respondent to fulfill the selection procedure in the light of advertisement Annexure A-1 and amended advertisement Annexure A-3 issued by O.F. Muradnagar by allowing the applicants in skill test and appoint them if they have qualified in the skill test.

b. Any other relief which this Hon’ble Tribunal deems fit and proper including the cost of this application be granted.”

4. Precisely the case of the applicants are that the respondent No.3 issued an advertisement dated 27.02.2016 for fulfilling various posts including the post namely Operator Material Handling Equipment. A copy of said advertisement dated 27.02.2016 issued by respondent No.3 is annexed as Annexure A/1. The respondent No.4 is an agency authorized on behalf of respondent No.3, to conduct the process of selection and appointment in question and ultimately the respondent No.4 agency communicated the impugned order on behalf of respondent No.3 and declared the applicant disqualified.

5. The case of the applicant is that as per Annexure A/1, particularly S.No.14, the required essential qualification for this post in addition to matriculation certificate and the certificate issued by N.C.V.T. Such type of trade is not available in not only the State of Madhya Pradesh but also in India. Even otherwise such trade course is available other than the State of M.P. and the person belonging to State of M.P. would not be eligible because of their domicile. However, immediately after issuance of the advertisement, trade union of respondent No.3 requested to the management to modify the advertisement vide letter dated 03.03.2016. It is stated in the letter that in the similar situated Ordnance Factory Muradnagar has also issued advertisement but later on amended advertisement has been issued due to non availability of the trade and certificate. A copy of letter dated 03.03.2016 wrote by trade union O.F. Itarsi is annexed as Annexure A-2 and amended advertisement issued by Ordnance Factory Muradnagar as annexed as Annexure A/3.

6. The respondents without taking the note of the letter written by union, proceeded with the advertisement, the application of the applicants had been accepted which were filled up online. For the ready reference the online application of applicant No.1 is annexed as Annexure A/4. The applicants after due scrutiny of their applications has been called for written test. Copy of one of the admit card for written test and one of the admit card for skill test are annexed at Annexure A-5. All the applicants participated in the written test and also qualified the said test. The applicants were not called for skill test and again uploaded the documents. A copy of impugned communication dated 09.09.2016 received by present applicants is annexed as Annexure A-6. It is clear from Annexure A-6 that candidature of present applicants including 7 others has been rejected basically on the ground that they have not in possession of N.A.C./N.T.C. issued by N.C.V.T. with the relevant trade OMHE prior to skill test and during scrutiny of documents as it was asked in the advertisement.

Immediately thereafter some of the applicants filed applications under the R.T.I. and obtained information that such trade certificate is not covered under C.T.S. A copy of information received by applicant under R.T.I. is annexed as Annexure A-7. All the applicants submitted representation for their selection and appointment on the ground that in the similar set of facts Ordnance Factory Muradnagar selected and appointed the candidates. A copy of representation dated 03.08.2016 and 16.08.2016 are annexed as Annexure A-8. The respondents failed to consider and decide the representation and hence applicant approached this Tribunal.

7. The respondents have filed their reply. In the preliminary submissions the respondents have submitted that the advertisement for recruitment of 554 vacancies in 34 trades/posts, including 20 vacancies of Operator Material Handling Equipment (Semi Skilled) trade was published by Ordnance Factory, Itarsi in employment news dated 27 Feb-04 Mar 2016. The copy of full

advertisement is available on website of the respondent-department. It has been submitted by the respondent-department that the entire recruitment process was outsourced to the outside agency (Satvat Infosol Pvt. Ltd. Chennai i.e. the respondent No.4). The respondent No.4 was entrusted and was solely responsible for all the work connected with the entire recruitment process such as designing of webpage, designing of applications, scrutiny of applications, issue of admit cards, conducting of written test, conducting of trade test & preparation of merit list etc.

8. It has been specifically submitted by the replying respondents that the applications as per Annexure R/1 at Point No.15, it was clearly mentioned that application would be scrutinized only online. After written examination, detailed verification of hard copy of application as well as credential/mark-sheets would be done in respect of candidate whose name appeared in the merit list. If the application is found to be not fulfilling the criteria, the candidature will be straightway rejected. The

documents and other information furnished by the candidates would be verified after declaring the result. During documents verification, the candidates will have to produce their original certificates. No additional time will be given and the candidature of the candidates, not producing their original documents on the date of verification is liable to be cancelled.

9. The applicants had applied online vide their applications (referred as Annexure R/2). The applicants have furnished their educational details as well as technical qualification details in online application forms. From the details furnished by the applicants, it is clear that the applicants did not possess the requisite technical qualification for the post of OMHE (SS) as was published by OFI it is advertisement and was not eligible for consideration for the post. The applications were received against the advertisement for all the posts including OMHE (SS). Due to the large number of applications, manual scrutiny of each and every applications and each

and every certificate uploaded by the candidates could not be carried out by the Agency. So the software was designed by the agency in such a way that non-eligible applicants would not have been able to submit the application online, if they furnished incorrect information. In the instant case, both the applicants deliberately furnished wrong/incorrect information in the application forms by clicking on the “Crane Operator (Overhead Steel Industry)” thereby affirming that they possess NTC certificate issued by NCVT in the said trade and thereby escaping the computer system software check designed by the Agency. So, the applicants acted in a malafide manner and deliberately furnished wrong information in the online application format with the intention to circumvent the online application system. It was also submitted by the replying respondents that it was the responsibility of the candidates to read the application format carefully and satisfy himself that he/she fulfills all the eligibility criteria including the educational and technical qualification

prescribed for the post of OMHE (SS) and they apply for the post only if he was eligible for the said post. Based on the performance of written test, candidates including applicants were short-listed for appearing in the Trade Test (2nd Stage). Before allowing the candidates in the Trade Test, they were directed to upload their NAC/NTC certificate issued by NCVT for verification. However, the applicants failed to submit the required documents within the stipulated time and since both the applicants did not possess the prescribed qualification, they were not allowed to appear in the Trade Test and therefore they were not considered further for selection.

10. The applicants have filed the rejoinder to the reply filed by the respondents. The applicants have reiterated their earlier stand taken in the O.A. It has been submitted by the applicants that respondent No.2 Ordnance Factory Board Kolkata vide letter dated 21.10.2011 clarify the position regarding education and other qualifications for direct recruits to semi-skilled grade. It has been clarified in

letter that SRO 185 of 1994 stipulates that the education qualifications for direct recruits for the trades at Annexure A is National Council of Trades for Vocational Training certificate in the relevant trade failing which by ITI are equivalent or equivalent diploma/ certificate holder. It is further clarified that in absence of NCVT certificates holder then only applicants with ITI or equivalent diploma/certificate holders will be considered. A copy of letter dated 21.10.2010 is annexed at Annexure A/9. The applicants under the Right of Information Act has also obtained the information from Ordnance Factory Ambajhari Nagpur for filling of the vacancies in O.M.H.E., semi-skilled and there is no necessity to possess certificate issued by NCVT. A copy of information received by applicant dated 11.02.2017 is annexed as Annexure A/10. It has been further submitted by the applicants that during the pendency of this instant case, the applicants came to know that Ordnance Factory Muradanagar realize the position that NCVT/ITI certificate

holder candidate have not applied for the post relates to OMHE trades and therefore they are going to direct recruitment in OMHE trade according to prescribed test of respondent No.2 board. The copy of letter dated 02.05.2017 is annexed as Annexure A/11.

11. We have heard the counsel for the both the parties and have also gone through the documents for the records. No rejoinder has been filed by the applicant in O.A. No.200/1156/2016

12. From the pleadings, it is not disputed that applicants had applied for the post of Operator Material Handling Equipment as per Annexure A/1. It is also not disputed that the essential qualification as prescribed in the advertisement as under:-

“(1) Essential qualification:

(i) Matriculation

(ii) The National Apprentice Certificate (NAC) and National Trade Certificate (NTC) issued by National Council of Vocational Training (NCVT) in the relevant trade. The relevant trades are as under:-

14.	Operator Material	Material Equipment	Handling Mechanic-cum-
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	<i>Handling Equipment</i>	<i>Operator/Crane (Overhead Industry)/Operator Steel Material Handling at Raw Material Handling Plant.”</i>
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13. It is also not in dispute that the applicants had applied through online and the admit card was issued to the applicants. It is also not disputed that the applicants have passed the written examination and they were called for certificate verification and skill test. It is admitted by the learned counsel for the applicants that the applicants are not fulfilling the requisite qualification as per advertisement A/1. The certificate produced by the applicants is not issued by the NTC for reference at page 32 of this O.A. can be looked into. From this Annexure National Trade Certificate has been procured from Birsa Technical Institute. From this document itself, it is clear that this certificate has not been issued by NCVT. This fact is also admitted by the learned counsel for the applicants. Learned counsel for the respondents has relied upon the order passed by this Tribunal in O.A. No.200/145/2017

whereby the issue of relevant qualification prescribed at the advertisement has been discussed and it has been held that the applications are to be considered as per the eligibility criteria depicted in the advertisement. In the instant case, this is not a case of the applicants that there is variance in the qualification prescribed in the statutes and the qualification prescribed in the advertisement. So it has a binding effect on the candidates who have applied as per advertisement. It is admitted by the counsel for the applicants that the applicants are not fulfilling the qualifications i.e. the certificate issued by the NCVT so this is the essential qualification and admittedly that the applicants are not holding such certificate issued by NCVT. So, the respondents have clearly indicated in their advertisement regarding the certificate issued by the NCVT. Moreover, the applicants are not challenging the advertisement. Arguments put forth by the learned counsel for the applicants is that the other institute as per Annexure A/9, it has been clarified that when applicants with NCVT

certificates as mentioned above are not available, then only the applicants with ITI or equivalent Diploma/Certificate holders will be considered. In the instant case, it is not the concession given by the respondent-department. This Tribunal in O.A.No.200/145/2017 has also relied upon the order passed by this Tribunal in ***Ravindar Bharti vs Union of India and others*** in O.A. No.200/01017/2016 decided on 31.07.2018 and it has been held that once the candidate have participated in the selection process thereafter they cannot challenge the said criteria. Relevant portion of the said order is as under:-

“16. It is pertinent to mention that as per advertisement Annexure A-1 the mode of selection has been made clear to the candidates who are contestants for the concerned post. It is settled law pronounced by various courts including the Apex Court that there shall not be approbation or reprobation at the same time. The candidates after approaching in the selection process can not challenge the method of selection later on after declaration of the final result.”

14. From the reply itself it has been clearly submitted by the replying respondents that in the advertisement (Annexure R/1) at point 15, the clear instructions has been

issued and it is incumbent on the part of the applicants to go through the instructions carefully failing which there is any shortfall the candidature will have to be straightaway rejected. Knowing the fact that the applicants are not eligible as per qualifications and also by their conduct the applicants have applied for the said post despite the fact that the certificates were not issued by the NCVT. As per Annexure A/6 the respondent-department has rightly rejected the candidature of the applicants as the applicants were not fulfilling the essential qualifications as per advertisement.

15. In view of the above, we of the view that there is no illegality and ambiguity on the action of the respondent-department and we do not find any reasons to interfere with the action of the respondent-department. Resultantly, both O.As are dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member