

**Central Administrative Tribunal
Madras Bench**

**MA/310/00441/2015 (in)(&) OA/310/00925/2015, OA/310/00325/2016 &
OA/310/00361/2016**

Dated 25th day of April Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

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|----------------------|------------------------------|
| 1. A.Sayed Aboubaker | |
| 2. A.Rajavel | |
| 3. D.Elangovan | |
| 4. S.Murugan | |
| 5. M.Ravichandiran | |
| 6. K.Dayalan | .. Applicants in OA 925/2015 |
| 7. Tota Vinod Kumar | .. Applicant in OA 325/2016 |
| 8. K.Kumar | .. Applicant in OA 361/2016 |

By Advocate M/s.V.Ajayakumar

Vs.

1. Union of India rep by the
Government of Puducherry through the
Secretary to Govt. for Power,
Chief Secretariat,
Puducherry.
2. Superintending Engineer-I,
Electricity Department,
Puducherry.
3. Secretary to Govt. for M/o Human Resources
Development, Department of Higher Education,
New Delhi. .. Respondents in OA 925/2015

By Advocate Mr.R.Syed Mustafa(R1&2)

4. Union of India, rep by

The Secretary,
M/o Human Resources Development,
Chief Secretariat, New Delhi.

5. The University Grants Commission, rep by its Secretary, No.35, Bhadursha Road, New Delhi.
6. All India Counsel for Technical Education rep by its Member Secretary, 7th Floor, Chanakkiya Buildings, Janpath, New Delhi.
7. The Secretary to Government (Power), Chief Secretariat, Puducherry.
8. The Superintending Engineer-I, Electricity Department, Puducherry.
9. Thiru V.Veeraputhiran, Tester, Division-VIII, Electricity Department, Puducherry.
10. Thiru L.Lourduraj, Tester, Division-III, Electricity Department, Puducherry.
11. The Registrar, I.A.S.E. Deemed University, Sardarshahr, Rajasthan.

..Respondents in OA 325/2016

By Advocate **Mr.R.Syed Mustafa(R4&5), Mr.P.R.Gopinathan(R2), Mr.B.Babumanohar(R3)**

12. Union of India rep. by the Government of Puducherry through the Chief Secretary to Government, Chief Secretariat, Puducherry.
13. The Superintending Engineer-I, Electricity Department, Puducherry.

.. Respondents in OA 361/2016

By Advocate **Mr.R.Syed Mustafa**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

OA 925/2015:

“To direct the respondents 1 and 2 to consider and promote the applicants to the post of Tester on the basis of the Diploma obtained by them alongwith others in the feeder category with all other consequential benefits and to pass such other or further orders in the interest of justice and thus render justice.”

OA 325/2016:

“To call for the records of the 4th respondent with No.A.12012/ID(P)D/01/2004/PS dated 25.6.2015 and to quash the same and consequently to quash the promotion order with No.2-7/ED/Estt./A.3/2009 dated 3.12.2009 in respect of the promotion of the respondents 6th and 7th and consequently to direct the first respondent to promote the applicant to the post of Tester with effect from 3.12.2009, the date on which the respondents 6 and 7 were promoted with all other consequential benefits including seniority, arrears of wages etc. and to pass such other or further orders in the interest of justice and thus render justice.”

OA 361/2016:

“To direct the second respondent to consider and promote the applicant to the post of Junior Engineer on the basis of the qualification obtained by the applicant from the Indira Gandhi National Open University (IGNOU), New Delhi under ON CAMPUS programme along with the other candidates with all other consequential reliefs and to pass such other or further orders in the interest of justice and thus render justice.”

2. Since the relief sought and the issues raised therein are of a similar nature, these OAs are taken up together and disposed of by this common order.

3. The case of the applicants is that the applicants are working in various capacities in the electricity department. According to them, the next promotion available to them as per Recruitment Rules is the post of Tester. As per the Recruitment Rules the applicants should possess 5 years of service and should have passed Diploma from recognised University. The applicants in this case have passed Diploma in Electrical Engineering (DEE) through distance education mode from a deemed University. But the respondents had denied promotion to the applicants stating that the Diploma possessed by the applicants are not valid and cannot be accepted. So, the applicants are filing these OA.

4. The respondents entered appearance and filed detailed objection denying the averments in the OA. According to them, 75% of the post of Tester is filled by promotion and 25% by Direct Recruitment. The promotion is from the feeder category of Wireman, Bill Collector and Commercial Assistant with 5 years regular service and the applicants should also possess a Diploma in Electrical and Electronics Engineering of a recognised University. The officials in the feeder category should possess a Diploma of a recognised University and should also have completed 2 years of service after acquiring the said Diploma. The applicants could not be considered for promotion to the post of Tester as the Diploma produced by the applicants were not approved by Distance Education Council (DEC) and All India Council for Technical Education (AICTE). The normal period for a Diploma course is 3 years but the applicants had obtained the Diploma within a period of 2 years from a deemed University. The AICTE, New Delhi from time to time through its Public Notice has

been informing the students, parents, general public that it has been the policy of the AICTE, New Delhi not to recognise the qualifications acquired through distance education mode at Diploma. Inspite of the above, the applicants have obtained the 2 years duration Diploma in Electrical Engineering through correspondence course from Institute of Advanced Studies in Education (IASE) a deemed University of Rajasthan. So, the qualification obtained by the applicants are not acceptable and cannot be considered as Diploma from a recognised University.

5. The applicants in these cases mainly contend that they have acquired the prescribed Diploma qualification and they are eligible to be appointed as Tester. According to them, there is no specific rule that the qualification should be obtained from regular course. In the absence of such a stipulation, the applicants are qualified to be appointed as Tester. According to them, the Degree of Diploma acquired by a deemed University stands automatically recognised for the purpose of employment under Central/State Government services as per the letter of Ministry of Human Resources Development dated 28.1.04.

6. We have anxiously perused the pleadings and arguments put forward by the applicants and the respondents. The counsel for the respondents have brought to our notice that the earlier decision of the Hon'ble High Court in ***S.Sudhagaran v. Superintendent of Electricity Department, Puducherry (WP 28309 & 24552 of 2013 dated 18.12.14)*** wherein the same question was considered by the Hon'ble Madras High Court and it has held that the Diploma acquired from IASE and other deemed Universities are not equivalent to Diploma in Electrical Engineering from a

recognised University. The above decision was rendered in appeal filed by the applicants in OA 772/09 which was dismissed by this Tribunal. Aggrieved by the above decision, the applicants had filed the above WP and the Hon'ble High Court has clearly laid down that the Degree or Diploma in Engineering subjects cannot be obtained through Distance Education Mode and it is not equivalent to the Diploma issued in a regular course and it cannot be considered as qualifying Degree for promotion. The above OA was filed by employees seeking promotion to the post of Junior Engineer under the same respondents. The Hon'ble High Court has held that there is nothing to show that the Institute of Advanced Studies in the Education, Rajasthan, was approved by the Distance Educational Council for commencing any Programme/Course/Degree/Diploma through distance mode. It was also noted that the AICTE has issued Public Notice stating that Universities, including deemed to be Universities, imparting technical education and educational institutions are required to obtain a specific prior approval from the Joint Committee of UGC/AICTE/DEC. Any Programme/Course for technical education conducted through distance mode without prior permission of the AICTE is illegal and will not be recognised. In this case also the applicants had not produced any record to show that the Diploma granted is approved by AICTE. The counsel for the applicants would content that the Course conducted by the deemed University have post facto approval granted by UGC through distance education mode. The Principal Bench of this Tribunal in **OA 1308/09 dated 21.12.11 (S.C. Jain & 5 Others v Secretary, M/o Information & Broadcasting & Others** had held that DEC may be an authority under the Act, and

pass orders only prospectively and it cannot grant recognition or approval for course retrospectively and it was held that the University has no jurisdiction to confer any degrees as it has no AICTE recognition. The Hon'ble Supreme Court in ***Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro & Ors.*** has also considered these aspects and has come to a finding that the Diploma or Degree granted by a deemed University without having AICTE approval is not equivalent to Degree or Diploma issued by the recognised University. In view of the above matter, it can be seen that the arguments raised by the counsel for the applicants cannot be sustained in view of the decision of the Hon'ble Madras High Court in S.Sudhagaran cited supra and in view of the finding of the Principal Bench in OA 1308/09 regarding the retrospective operation of the order of Distance Education Council as claimed by the applicants. So, we hold that the applicants has not succeeded in making out a case that a Diploma obtained by them from deemed University is equivalent to the Degree mentioned in the Recruitment Rules for the post of Tester.

7. We do not find anything to interfere in the order of rejection passed by the respondents regarding the qualification obtained by the applicants. Accordingly OAs will stand dismissed. Consequently MA for interim direction also stands dismissed with cost.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

25.04.2019

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