

**Central Administrative Tribunal
Madras Bench**

OA/310/00102/2015

Dated the 18th day of June Two Thousand Nineteen

P R E S E N T

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

P.V.Premjith,
S/o.V.V.Narayanan,
Quarter No.35/8, Type-III,
HVF Estate, Avadi,
Chennai 600 054. .. Applicant
By Advocate **M/s.Menon, Karthik, Mukundan & Neelakantan**

Vs.

1. Union of India, rep by its
Chairman, Ordnance Factory Board,
No.10-A, S.K.Bose Road,
Kolkatta 700 001.
2. The General Manager,
Engine Factory, Avadi,
Chennai 600 054. .. Respondents

By Advocate **Mr.C.Kulandaivelu**

ORDER

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

This is an OA filed seeking the following relief:-

“To set aside Order No.2982/LDCE/CM(T&NT)/BIG/PER/NG dated 24.10.2014 issued by the 1st respondent and Order No.EFA/A/Admin/017/LDCE dated 20.01.2015 issued by 2nd respondent and quash the same and pass such further or other orders as may be deemed fit and proper.”

2. The case of the applicant is brief is as follows:-

The applicant is working as a Chargeman in the Engine Factory, Avadi. According to him, he joined the Ordnance Factory office as Chemical Process Worker in the Skilled Grade at Itarsi. According to him, the department has conducted a Limited Departmental Competitive Examination (LDCE) in the year 2008. The applicant applied for the same and he was successful in the examination and he was promoted to the post of Chargemen Grade II Technical/Mechanical. According to the applicant, he is eligible to the post of Chargeman Grade II as he had obtained a Diploma in Mechanical Engineering from the Janardan Raj Nagar Rajasthan Vidyapeeth University (JRN University) and passed the same in 2007. According to the applicant, JRN University is a deemed university under the UGC Act. The Government of India by letter dated 17.2.2004 had ordered all degrees, diplomas awarded by the universities established by an Act of Parliament or institutions deemed to be universities under Section 3 of the UGC Act, stand automatically

recognised for purposes of employment under the Central Government. All of a sudden on 10.10.2014, the 1st respondent ordered to identify the appointments for promotions made on the basis of diploma qualification not approved by AICTE and also directed to take further action for reversion of the persons who had got promoted on the basis of such qualification. On the basis of the above direction, the 2nd respondent had issued a short notice to the applicant to show cause. The 1st respondent cancelled the appointments and promotions based on the diploma. So, according to the applicant, the applicant was not given an opportunity to be heard and the diploma acquired by the applicant was recognised by UGC and the UGC, AICTE had granted one-time ex post-facto approval for the said post. The action of the respondents is in violation of natural justice and against the Article 14 and 16 of the Constitution of India. Hence the applicant seeks to set aside the order dated 24.10.2014 issued by the 1st respondent and the order dated 20.1.2015 issued by the 2nd respondent.

3. The respondents entered appearance and filed a detailed counter stating that as per the Recruitment Rules a 3 years diploma or equivalent duly affiliated to the AICTE is the required qualification for promotion to the post of Chargemen Grade II. According to them, a diploma issued by JRN University is not recognised by AICTE and AICTE never recognised Distance Education Mode for Technical education. According to the respondents, the rule has prescribed diploma recognised by AICTE and hence the applicant is not eligible for appointment as Chargeman Grade II as

ordered earlier.

4. So, the only point to be considered in this case is whether the diploma possessed by the applicant is approved by AICTE as prescribed by the Recruitment Rule.

5. We have anxiously heard the counsel for the applicant as well as the counsel for the respondents and it can be seen that the applicant had joined the 3 year diploma course conducted under Distance Education Mode of the JRN University in the year 2005 and he obtained a diploma therefrom. Eventhough the applicant would submit that UGC had approved the course of JRN University it has no case that the 3 year diploma certificate is recognised by AICTE as provided in the Recruitment Rules. The main contention put forward by the respondents is that as per the Recruitment Rules, the qualification prescribed for the post of Chargeman Grade II is 3 years diploma as it is equivalent duly affiliated to the AICTE. They have cited the decision of the Hon'ble Supreme Court in ***Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro & Ors.*** Wherein the Hon'ble Supreme Court has held that the degrees obtained by the applicants on the basis of diploma obtained by Distance Education Mode is not at all valid. It was held in the above case that "*the infirmity in their degrees is basic and fundamental and cannot be wished away*". The Hon'ble Supreme Court has directed the applicants to appear for a test conducted by AICTE for getting recognised to their degree obtained after passing the 3 year diploma which were not recognised by AICTE. It was also held that if the applicants does not opt for writing the test their degrees will be recalled. In an earlier case the Mumbai Bench of this

Tribunal in batch of cases in OA 665/2014 has held that the qualification prescribed in the Recruitment Rule for the post of Chargeman by Direct Recruitment is applicable to those who apply for LDCE for promotees. When the Recruitment Rule prescribes a specific qualification i.e. 3 years diploma or equivalent with AICTE affiliated, no other qualification can be accepted. For promotion to the post of Chargeman Grade II the approval of UGC of the course of JRN University is not helpful. The AICTE does not recognise any Distance Education Mode for diploma and Engineering courses. The respondents had issued a show cause notice to the applicant and had given an opportunity to give a representation. There is no violation of natural justice and there is no merit in the contention put forward by the applicant in this OA. Even the applicant has no case that 3 years diploma obtained from Distance Education Mode conducted by JRN University is recognised by AICTE and he is fully eligible for applying to LDCE test as per Recruitment Rule. As far as appointments are concerned, Recruitment Rule prescribe the criteria whether a person is qualified or not. If the qualification prescribed by the Recruitment Rule is not met by the applicant, he has no right to claim such an appointment.

6. In view of the above facts, we are of the considered view that the applicant has no case at all and there is no merit in the contention put forward by the applicant in this OA. The applicant is not qualified for the post of Chargeman Grade II and his appointment is liable to be cancelled. Accordingly we find that there is no merit in

the contention put forward by the counsel for the applicant. In the result the OA will stand dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

18.06.2019

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