

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA

LIBRARY

O.A. 1353 of 2013

Dated: 23.9.2015

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. R. Bandyopadhyay, Administrative Member

Sumit Chakraborty,
Son of Sri Prasad Kumar Chakraborty,
Aged about 33 years,
Unemployed youth,
Residing at 76/H/25,
Beleghata Main Road,
Kolkata – 700 010.

..... Applicant.

VS.

1. Union of India
Through the Secretary,
Ministry of Defence,
Dept. Of Defence Production
& Supplies, South Block,
New Delhi – 110 011.
2. The Chairman,
Ordnance Factory Board,
Ministry of Defence,
Govt. of India,
10A, Shaheed Khudiram Bose Road,
Kolkata – 700 001.
3. The General Manager,
Field Gun Factory,
Ministry of Defence
Govt. of India,
Kalpi Road,
Kanpur 208 009, U.P.

..... Respondents.

For the Applicant : Mr. K. Sarkar, Counsel

For the Respondents : Mr. K.L. Chatterjee, Counsel
Mr. M.K. Ghara, Counsel

ORDER

Per Ms. Bidisha Banerjee, JM:

This application has been filed seeking the following reliefs:

- "8.(a) To issue direction upon the respondents to cancel, quash, set aside the impugned order dated 19.09.2013 forthwith.
- (b) To issue appropriate direction upon the concerned respondents to allow the applicant to call for appearing in the selection for the post of HT Observe along with the candidates appearing in the selection in terms of new advertisement made in October 2013,
- (c) to pass necessary order for age relaxation forthwith.
- (d) To pass any other order or orders as the Ld. Tribunal deem fit and proper."

2. The order impugned in the present O.A. is extracted verbatim hereinbelow for clarity:

"No. 1155/Notices Vig/2013

Dated: 19-09-2013

To
Shri Sanjib Das, Advocate
C/o Goutam Chakraborty
9, Old Post Office Street
1st Floor, Kolkata – 700001

Sub: Legal Notice

Ref: - Your notice dated: 08/08/2013

Kindly refer your letter under reference vide which you have asked to reply the matter contained therein. In this connection the following is submitted.

There are two types of certificates issued by NCTVT (National Council for Training in Vocational Trades) i.e. NTC National Trade Certificate & NAC – National Apprentice Certificate.

Normally a person who has passed 10th standard is eligible for admission to ITI. These persons are trained in basic skills required to do jobs of operator. The course of ITI is designed in a way to impart skill in the trade specified. After completion of desired period of training the person is eligible to appear in the AITT (All India Trade Test) conducted by NCTVT. After passing this test the person is awarded National Trade Certificate (NTC) in concerning trade by NCVT.

After passing ITI and/or obtaining NTC a person has to undergo practical training in his trade in an industry for one or two years. After this practical training the person again has to appear and pass in a test to be conducted by NCVT to get the National Apprenticeship Certificate (NAC).

Ordnance Factory organization & Field Gun Factory also impart training to eligible candidates both 10th pass as well as ITI pass candidates as per Apprentices Act, 1961 and after that these candidates appear in the required test. NAC (National Apprentice Certificate) is issued to them.

As NTC (National Trade Certificate) can be obtained just after completion of desired period of training in an ITI and appearing in the test, hence this was considered as equivalent of ITI and these types of persons were not allowed to appear in the written test.

It is also mentioned that in the same advertisement following was clearly written in **bold letters**

IMPORTANT

"The General Manager reserves the right to restrict the number of candidates to be called for written test/practical test (Trade Test) to a reasonable limit and also reserves the right to increase/decrease the number of vacancies in the trade/category depending upon the actual requirement."

And according to that clause the decision was taken that only NAC (National Apprentice Certificate) holders will be allowed to appear in the written test.

In view of the above, it may be seen that the reason of not sending the admit card is in line with the laid down recruitment rules & hence no further action is required to be taken by FGK on the given notice.

(Smt. Sharmishta Koul Sharma)
Dy. General Manager/ Admin
For General Manager

3. Since from the impugned order it transpired that the applicant possessed the NTC certificate as against the required NAC certificate and hence he was not found eligible for appointment, we had directed the authorities to clarify this aspect.
4. A supplementary affidavit has been filed pursuant thereto which revealed the following:

"It is humbly clarified that the Certificate placed by the petitioner in Annexure - A7 is, **National Trade Certificate** which is awarded to an ITI (Industrial Training Institute) candidate after completion of course (Trade) term by the National Council for Vocational Training whereas the certificate for recruitment to the post of Tradesman in the relevant case is **National Apprentice Certificate** which is also issued from national Council for Vocational Training but it is issued only to those candidates who undergo training of three years under Trade Apprentice Act - 1961 and appeared in All India Trade Test (AITT) conducted by Regional Directorate Apprentice & Training (RDAT) institute of Ministry of Labour & Employment. However, National Apprentice Certificate may also be obtained by an ITI (Industrial Training Institute) candidate after undergoing Apprenticeship training of one or two years based on the duration of trade and appearing in the

All India Trade Test (AITT) conducted by Regional Directorate Apprentice & Training (RDAT). From the above, the difference may easily be noticed that the petitioner is possessing National Trade Certificate (NTC) which is different from National Apprenticeship Certificate (NAC). Moreover, as per the stipulation mentioned in the Advertisement notified through Employment News dated: 15-21 September 2012 where it had been clearly mentioned that "**if sufficient applicants with NCVT certificates will not be available, then only applicants with ITI or equivalent Diploma/Certificate holders will be considered".**"

5. We have heard the learned counsels, considered the rival contentions and perused the materials on record. We have noted that the Relevant RR for semiskilled posts (at Annexure R-2 to O.A.) prescribes the following criteria:

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

The RR eminently and indebitably prescribes the NCTVT certificate as mandatory. If sufficient number of candidates had not applied, the authorities could resort to selecting from g ITI qualified.

6. We have also noted that the advertisement for the post explicitly prescribed the following:

"Important: If sufficient applicants with NCVT Certificates will not be available, then only applicants with ITI or equivalent Diploma/Certificate holders will be considered."

The necessary concomittent of the aforesaid express and unambiguous provision would be that the authorities had the right not to call persons not possessing NCTVT if sufficient number of candidates with such qualification were available, and they had rightly exercised their power.

7. We have also noted the clarifications furnished by the respondents as extracted verbatim hereinabove.

We are satisfied with the same. Having allowed, only those persons who had possessed NCTVT certificate, to participate we find no infirmity in the respondent's

BB

action in not issuing admit card to the present applicant on the ground that he did not possess NCTVT certificate.

8. We have further noted that it is not the case of the applicant that persons not having NCTVT or NAC have been recruited while he is deprived. No case of invidious discrimination is made out. The authorities have clarified that no person with NTC certificate was issued admit card.

9. Although at the first blush it seemed to be a case of change in the condition of recruitment midway, i.e. change of rules of game while the game is on, due to which the interim order was granted, at the conclusion of hearing it does not appear to be so. The selection of 2012 was a valid one, however 1 vacancy remained unfilled as a selected person did not join. The applicant was not empanelled hence there was no question of offering him employment.

10. We have noted that unfilled vacancy of Recruitment year 2012 merged with 2013 thus the panel of 2012 was no more operative.

11. We further noted that the applicant has failed to challenge the inclusion of unfilled vacancy of recruitment year 2012 in 2013, rather he has prayed for a permission to appear at 2013 selection.

12. In the aforesaid factual backdrop we direct the authorities to consider the case of the applicant, if he has already applied against 2013 notification, against an available vacancy and as per rules.

13. O.A. is accordingly disposed of. No costs.

(R. Bandyopadhyay)
AM

(Bidisha Banerjee)
JM

drh