

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A. No.060/773/2017

Order Reserved on: 17.10.2019
Order Pronounced on: 29 .10.2019

Hon'ble Mr. Sanjeev Kaushik, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)

Nitish Kumar, Group 'B',
Aged about 28years,
S/o Sh. Rajeev Kumar,
R/o House No.448, LB Enclave,
Sector-49A, Chandigarh, - Applicant

(By Advocate: Mr. Aseem Rai)

VERSUS

1. Union of India
Through Secretary,
Ministry of Labour and Employment,
Shram Shakti Bhawan,
Rafi Marg, New Delhi
2. Director General,
Labour Burearu, SCO-28-31,
Sector 17-A, Chandigarh,
3. Deputy Regional Director,
Staff Selection Commission,
North West Region,
Block No.3, Kendriya Sadan,
Sector 9, Chandigarh
4. Assistant Director,
Staff Selection Commission,
North West Region,
Block No.3, Kendriya Sadan,
Sector 9, Chandigarh.
5. Gurpreet Singh, Roll No.7440502133
(Selection List No.1), H.No.240-C,
Sector 29, PO Pipli, Jindal Global City,
Distt. Kurukshetra, Haryana, Pin-136118
6. Suman Kumari,
Roll No.7440505364 (Select List No.2)

VPO Thana Khurd, Tehsil Kharkhoda,
Distt. Sonapat, Haryana, Pin-131402

7. Sanjay Kumar,
Roll No.7440503333 (Select List No.3)
H.No.3403, Sector 37-D, Chandigarh,
Pin-160036
8. Paritosh Srivastava,
Roll No.7440501535 (Select List No.5)
House No.C/120/274-A. Chowrahia Gola,
Buxipur, Gorakhpur, Uttar Pradesh,
Pin-273001
9. Dinesh Kumar, Roll No.7440501578
(Select List No.6) Vill.Thaska,
PO Mahra, Tehsil Gohana,
Distt. Sonapat, Haryana, Pin-131301
10. Naveen Pandeya, Roll No.7440502906
(Select List No.7) H.No.433,
LB Enclave, Sector 49-A, Chandigarh,
Pin 160047
11. Sonali Mukherjee, Roll No.7440502623
(Select List No.8)288, Power House Para,
Sarada By Lane, PO & Distt. Burdwan,
West Bengal, Pin-71310
12. Vivek Rajput, Roll No.7440504762,
(Select List No.9). H.No.1226,
Sector 5, Urban Estate,
Kurukshetra, Haryana,
Pin-136118
13. Ravi Rathi, Roll No. 7440501888,
(Select List No.10), H.No.D-78,
Gali No.3, Azad Nagar,
Opp. Sugar Mill, Panipat,
Haryana, Pin-132103
14. Mohit Kumar Gautam,
Roll No.7440500981
(Select List No.11)
Near Chamunda Devi Temple,
Chuligate, Gangapur City,
Distt. Sawai Madhopur,
Rajasthan, Pin-322001
15. Jitendra Kumar Yadav,

Roll No.7440503994
 (Select List No.12)
 77 FH 9th Avenue, Railway Colony,
 Nawan Yusuf Road, Allahabad,
 Pin 211001

16. Nirmala Pandia,
 Roll No.7440504261
 (Select List No.13) III-207,
 AG Colony, Bajaj Nagar,
 Jaipur, Pin-302015
17. Ram Murti Sharma,
 Roll No.7440501871
 (Select List No.14)
 Vill. Mahal Shahan,
 PO Ramgarh, District Samba,
 Jammu & Kashmir, Pin-181141
18. Rohit Chauhan, Roll No.7440502450,
 (Select List No.15)
 Rajpoot Colony, Govt. Hospital Road,
 Hasanpur, Amroha, Uttar Pradesh,
 Pin 244241
19. Manoj Kumar Raghav,
 Roll No. 7440500960
 (Select List No.16)
 D-90, Shanti Sarover,
 Ramghat Road, Aligarh
 Pin 202001
20. Hemant Kumar Yadav,
 Roll No.7440501543
 (Select List No.17)
 H.No.500, Near Masjid,
 Nehru Nagar, Lalitpur,
 Uttar Pradesh, Pin-284403
21. Shikha Bhandari,
 Roll No.7440502114
 (Select List No.18) C-32 A,
 Gali No.3, Mahendru Enclave,
 2nd Floor, Near Azadpur, Delhi,
 Pin-110033
22. Balbir Singh,
 Roll No.7440502935
 (Select List No.20),
 Vill. Nahar Majra,

PO Golpura, Distt. Kurukshetra,
Haryana, Pin-136135

23. Sandeep B, Roll No.7440500231
(Select List No.21)
PanamkavelLaksham Veedu,
Chirakkal, PO, Kannur,
Kerala, Pin-670011
24. Ranjan Kumar Sinha,
Roll No.7440500871
(Select List No.23),
Vill. Ghatkan, PO Dhangawan,
PS Kako, Distt. Jehanabad,
Bihar, Pin-804417
25. HimanshiDua,
Roll No.7440504650
(Select List No.24)
H.No.305, HUDA Colony,
Mandi Township Pundri,
Distt. Kaithal, Haryana,
Pin 136026
26. Ritesh Kumar
Roll No.7440503938
(Select List No.25),
Vill. & PO Kamla Gopalpur,
PS Maner, Distt. Patna,
Bihar, Pin-800111
27. Nisha Rathe, Roll No.7440501121
(Select List No.26)
H.No.15/302, Jattan Mohalla,
Jattan Gate, Karnal,
Haryana, Pin-132001
28. Chiranji Lal Tanwar,
Roll No.7440501487,
(Select List No.27)
C-13, Maruti Colony,
Dausa, Rajasthan
29. Ved Prakash, Roll No.7440504200
(Select List No.28)
Nasirabad Milak, Rampur,
Uttar Pradesh, Pin-243701
30. Mukesh Kumar Meena,
Roll No.744050, Select List No.29

V&PO Dantli, Via-Kanota,
Tehsil Sanganer, Distt. Jaipur,
Rajasthan

31. Sonu Kumar, Roll No.7440500374
(Select List No.30)
At-Satbighi, Near Rago Sewa Sansthan,
Sheikhpura, Bihar, Pin-811105
32. Hemant Laxkar, Roll No.7440500253
(Select List No.31)36, Shiv Nagar,
Dadi Ka Phatak, Jhotwara,
Jaipur, Rajasthan, Pin-302012
33. Roshan Jangir, Roll No.7440502152
(Select List No.32)Vill. Basri, Via Kanwat,
Tehsil Kandela, Sikar, Rajasthan,
Pin-332708
34. Subhash Chand, Roll No.7440500746
(Select List No.33) VPO Barkoda,
Tehsil Narnaul, Distt. Mahendragarh,
Haryana, Pin-123001
35. Mohd. Arif Mukeem, Roll No.7440504488
(Select List No.34) Mohalla Pathanpura,
Near Purana Kanji House,
Najibabad, Distt. Bijnor,
Uttar Pradesh, Pin-246763
36. Shashi Bhushan Kumar,
Roll No.7440501984
(Select List No.35) Vill. Khoska Kalyan,
PO Khoska Bururug Distt. Vaishali,
Bihar, Pin-84450
37. Namo Narayan Meena,
Roll No.7440500775 (Select List No.37)
V&PO Nangal Bersi, Tehsil Dausa,
Distt. Dausa, Rajasthan, Pin-303303
38. Hemant Kumar, Roll No.7440501350
(Select List No.38), A-33, Street No.1,
Sadat Pur Extension, Delhi, Pin-110094
39. Amit Chaudhary, Roll No.7440501993
(Select List No.39), F-25, Gali No.12,
Rajapuri, Uttam Nagar, New Delhi
Pin-110059

40. Mohd. Jafar, Roll No.7440504455
(Select List No.40), Katoratal Eye
Hospital Road, Kashipur,
Udham Singh Nagar, Uttarakhan,
Pin-244713 - Respondents

(By Advocates : Mr. Sanjay Goyal for respondents 1 to 4
Mr. Vinay Puri for Mr. DK Bhati for respondent
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ORDER

Ms. Nita Chowdhury, Member (A):

The applicant has filed the present OA, seeking the following
reliefs:-

- i. that this Hon'ble Tribunal may be pleased to quash the final select list dated 10.03.2017 (A-6).
- ii. That this Hon'ble Tribunal may be pleased to direct the respondent Commission to recast and reframe the final select list dated 10.03.2017 for appointment to the post of Investigator Grade II, in pursuance to said advertisement No.SSC/NWR-03/2014 dated 18.10.2014, in accordance with law as also strictly in terms of the actual scope, intent and purpose of the Essential Qualification prescribed thereunder.
- iii. That this Hon'ble Tribunal may be pleased to hold and declare that the computer qualification, as held by the applicant, is valid and sufficient for the purpose of determining eligibility under EQ II as laid down in the recruitment rules.
- iv. That accordingly this Hon'ble Tribunal may be pleased to direct the respondent authorities to determine the inter se merit of the applicant with respect to other eligible candidates. If finally the applicant figures in the revised merit/select list, he may be offered appointment as Investigator Grade II in the Labour Bureau Chandigarh, from due date, along with consequential benefits.
- v. That this Hon'ble Tribunal may be pleased to pass any other order or directions that it deems proper in the peculiar facts and circumstances of the present case."

2. The applicant in this OA is mainly aggrieved by the rejection of his candidature for the post of Investigator Grade II leading to exclusion of his name from the final Select List 10.03.2017. The applicant has submitted that his candidature for the said post has been wrongly rejected by the respondents on account of non-possession of the essential qualification by him under EQ-II, i.e. Certificate/Diploma Course in Computer Operation or software from a recognized Institution, whereas he has the certificate course in Computer operation in software issued by 'Bit-n-Byte Computers' Institute, Amritsar, Punjab. He has further submitted that in addition to this certificate, he has also done B.Tech from Rayat Institute of Engineering & Information Technology (approved by AICTE, affiliated to PTU, Jalandhar) in which had had studied computer subjects (which includes computer operation and software) in three semesters which met the requirements of EQ-II.

3. The applicant has submitted that in the initial tentative rejection list uploaded on 03.03.2016 prepared on the basis of essential qualifications under EQ-I and EQ-II, his name did not figure in the said rejection list, meaning thereby that he had met the essential qualifications, under EQ-I and EQ-II but the said list was cancelled and the respondents, after consultation with the user Department, vide notice dated 30.01.2016, had issued fresh lists of provisionally accepted/rejected candidates on the basis of the further clarifications sought in respect of EQ-I and EQ-II in

which the name of the applicant had been included in the provisional rejection list and the reason mentioned was “EQ-I NOT FULLFILL”. Accordingly, the applicant had submitted a representation clarifying that he had studied Mathematics in first 3 semesters of Graduation (B.Tech) and ultimately, on 13.07.2016, he was allowed to appear provisionally for exam on 23.07.2016 based on his representation. Thereafter he appeared in the written examination and was shortlisted. He was called for to report for document verification but on 23.01.2017, he was informed that the certificate produced by him does not prima facie appear to be issued by “Recognized Institute” in accordance with EQ-II mentioned in the Advertisement and accordingly, his candidature for the said post was rejected and a final select list dated 10.03.2017 for recruitment to the post in question was issued. The applicant has challenged the final select list dated 10.03.2017 on the ground that the respondents have failed to adhere to a uniform and well defined criterion with respect to the essential qualification for selection to the post in question and for this reason the EQI and EQ II has been subjected to re-interpretations and change in the interpretation of essential qualifications, after calling of applications from desirous candidates, amounts to unfairly changing the rules of the game once the selection process has already started. The applicant has further alleged that the respondents have misunderstood the true intent and import of the prescribed essential qualifications EQ I as

well as EQ II. He has also alleged that the aspect of computer proficiency, as prescribed under EQ II has been completely misread and misinterpreted and unnecessarily the emphasis has been laid on the words “from a recognized Institute”. Being aggrieved by this final select list dated 10.03.2017, he has filed the present OA.

4. In reply to the above, the contesting respondents, i.e. respondent Nos.3 and 4 have filed the counter affidavit in which they have submitted that Essential Qualifications, as per Recruitment Rules and Advertisement for the post of Investigator Grade II were as under:-

“(a) Bachelor’s Degree with Statistics or Mathematics or Economics or Commerce as one of the subject from a recognized University.

(b) Certificate/Diploma Course in Computer Operation or Software from a recognized Institution.”

5. The respondents have submitted that a tentative rejection list was uploaded on website on 03.03.2015 for representations of the candidates, if any, and on receipt of the representations from the candidates, a clarification was sought from the the indenting Department, i.e., Labour Burearu, Chandigarh which had provided the comments/clarifications on Essential Qualifications on 13.08.2015 with the approval of Ministry of Labour & Employment. The respondents have contended that in view of the clarifications provided by the indenting department, the list of provisionally accepted/rejected applications issued earlier on

03.03.2015 was cancelled and a fresh list of provisionally accepted/rejected candidates was issued on 30.01.2016 and the reasons pertaining to EQ-I or EQ-II were mentioned to enable the candidates to check their qualifications carefully as per the details given below:-

a) EQ-I

Candidates who have not studied Statistics/Mathematics/Commerce in Graduate/Degree level and the candidates who produced the degree/marks sheets of degree level in which name of the subject (Statistics/Mathematics/Economics/Commerce is not mentioned clearly, have been rejected.

b) EQ-II

Candidates who did not produce certificate/Diploma that ensures course of computer operation of software from a recognized Institution (Institution/body like AICTE, UGC, NELIT, Central/State, Union Territory Administrative etc.) have been rejected.

Candidates who have studied computer as one of the subject in Degree/PG level (BBA/B.Com/B.Sc./BA/B.Tech/MBA/M.Sc.etc) but did not produce any other certificate/diploma as per EQ-II to the effect that they have operational knowledge of computers, have been rejected.”

6. They have further submitted that the in the list, it was informed to the candidates that candidates who have been included in the list of accepted application may note that their applications have been accepted provisionally and it does not mean that they have been selected/short listed for examination/interview.

7. The respondents have further contended that to make the recruitment process fast, they have decided to short list the candidates for written exam on the basis of EQ-I only with a view that EQ-II may be checked at the time of document verification after written exam and the list of provisionally shortlisted candidates for exam on the basis of EQ-I only was issued on 24.06.2016.

8. The respondents have further contended that with a view to some clarifications in interpretation/understanding of EQ-I and EQ-II, they had consulted the matter with Labour Bureau, Chandigarh, who had advised that the candidates having Degree/Post Graduation in core area of Computer software/operation (like B.Tch in Computer Science Engineering or Information Technology, Bachelor of Computer Applications, Master of Computer applications, B.Sc. in Computer Science) do not need an additional certificate in computer software/operation as core area in their degree or post graduation would need an additional certificate/diploma in Computer Software or operation from Recognized Institution.

9. The respondents have submitted that at the time of documents verifications, it was found that the applicant does not possess EQ-II as Computer Certificate produced by him was not issued by the “Recognized Institution” and an undertaking was taken to the effect that certificate/diploma in computer operation

or software is not from Institution recognized by any University/Board/Government or any accrediting agency thereof.

10. The respondents have also submitted that they have not denied that the applicant had mentioned in his undertaking that he had studied FCPIT and OOPS in his Graduation but the degree, i.e. B.Tech in Electronics & Communication is not in core area of Computer Software or Operation and study of these papers in this degree cannot be fulfilling EQ-II in accordance with EQ-II and advice of the Labour Bureau. The respondents have thus prayed that the present OA is liable to be dismissed as the applicant does not possess the essential qualification for the post in question under EQ-II.

11. After hearing both the parties and perusing the record, it becomes clear that the Bit-n-Byte Computers institute has issued a certificate dated 24.01.2017 which states as below:-

“To Whom It May Concern

This is to be certified that “The Institute Bit-n-Byte is registered with Punjab Government (Under Firm & Societies Department) and is ISO (9001:2008) certified Body under IBC.

The certificate course is of 1 year duration and its successful completion equip the candidate with complete functional knowledge of computers fundamental, MS-Office, Windows, Internet, C.C++.

The core function of this Institute is to provide training in Computers & Related Subjects.”

The Institute itself does not claim to be a recognized institution by any authorized body like AICTE, UGC, NELIT or recognized by

any Central Government or State Govt./UT Admn./or any accrediting agency thereto. Further the applicant has not been able to establish that he had studied during the graduation/post graduation in core area of Computer software/operation which are the essential qualifications as prescribed under EQ-II. It is also admitted fact that the applicant is a B.Tech in Electronics & Communications Engineering and this course is not in core area of Computer Software or Operation and therefore does not fulfill the requirements listed in EQ-II for the post in question. We have also noticed that the final select list dated 10.03.2017 was prepared by the respondents strictly as per the Recruitment Rules and only those candidates, who had fulfilled the essential qualifications under EQ-I and EQ-II have been shortlisted. Hence, in view of the same, we find the respondents have strictly followed the recruitment rules for the post in question without any deviation from the recruitment rules.

12. As regards the contention of the applicant that official respondents have challenged the criteria after start of the selection for the post in question, it is observed that EQ-II was not changed but only clarification with regard to recognition of the qualifications has been sought and clarified by the indenting department. As such, it cannot be said that the rule of the game has been changed. Moreover, the advice/clarification was applied not only in the case of the applicant but also in the matter of all

other candidates who participated uniformly and in a transparent manner by the respondents.

13. In view of the aforesaid factual position, this present OA being bereft of merit is accordingly dismissed. No order as to costs.

(Nita Chowdhury)
Member (A)

(Sanjeev Kaushik)
Member (J)

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