

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

**ORIGINAL APPLICATION Nos.605 & 717 of 2013,
64, 65, 66, 116, 122 of 2014, 659/2015,
762, 772, 774, 765, 783, 784 of 2016,**

Dated this Wednesday, the 16th day of October, 2019

**CORAM: R.VIJAYKUMAR, MEMBER (A)
R.N.SINGH, MEMBER (J)**

OA No.605/2013

1. Dinesh H. Prasad, Age 36 years,
Working as HSK-II, Personal No.4687,
Ordnance Factory, Ambernath,
residing at H Type-80/1, Ordnance Estate,
Ambernath (West) Pin 421 502.
2. Vijaykumar Amarnath Jaiswar, Age 32 years,
Working as HSK-II, Personal No.4689,
Ordnance Factory, Ambernath,
residing at Flat No.004, Mari Gold-D, Kailash Nagar,
Vadavali Section, Ambernath (East) Pin 421 502.
3. Prahalad R. Chauhan, Age 31 years,
Working as HSK-II, Personal No.4793,
Ordnance Factory, Ambernath,
residing at Room No.2292/4, Indira Colony,
Behind Bethal Church, Gautam Nagar,
Ambernath (West) Pin 421 502.
4. Shri Naushad Moideen, Age 32 years,
Working as HSK-II, Personal No.4772,
Ordnance Factory, Ambernath,
residing at Benedict Apartments, Flat No.9/A,
Opp. Panvelkar Gardens, S.V.P. Road, Woollen Chawl,
Ambernath (West) Pin 421 502.
5. Shri Nitin Pandurang Bhor, Age 35 years,
Working as HSK-II, Personal No.4697,
Ordnance Factory, Ambernath,
residing at Flat No.202, B-Wing, Krish Apartment,
Near Ram Mandir, Khojgaon,
Ambernath (West) Pin 421 502.

- Applicants.

Versus

1. Union of India, through the Chairman,
Ordnance Factory Board, Ayudh Bhavan,
10-A, Shaheed Khudiram Bose Road,

Kolkata – 700 001.

2. The General Manager, Ordnance Factory,
Ambernath Pin Code 421 502. **- Respondents.**

OA No.717/2013

1. Anilkumar M. Shikeria (Age 33 yrs), Turner
(Highly Skilled Gr. II), Machine Tool Prototype Factory,
Ambernath West, Dist : Thane, Pin 421 502.
R/o : H.No.548, Defence Colony, Near Ayappa Temple,
Ambarnath West 421 502.

2. Ramkeval R.Pal (Age 41 yrs.) Machinist Master
Craftsman, Machine Tool Prototype Factory,
Ambaranath West, Dist. Thane Pin 421 502. R/o H.No.108,
Mahatma Phule Nagar, Ambarnath West 421 502.

3. Md. Mobarak Karim (Age : 32 yrs),
Machinist (Highly Skilled Gr. I), Machine Tool Prototype
Factory, Ambernath West, Dist. Thane, Pin 421 502.
R/o New Type III-18/2 Quarter, Ordnance Estate,
Ambarnath West 421 502.

4. Yogesh G. Gaikar, (Age 31 yrs), Machinist
(Highly Skilled Gr. II) Machine Tool Prototype Factory,
Ambarnath West Dist. Thane Pin 421 502.
R/o At Madh, Post Ambaje, Tal Shahapur,
Ambarnath West 421 502.

5. Neeraj Singh Indrajeet Singh Ranas (Age 43 yrs)
Upper Division Clerk, Machine Tool Prototype Factory,
Ambaranath West, Dist. Thane, Pin 421 502.
R/o Flat No.401, 4th Floor, B Wing, Shanti Sadan,
Majiwada Thane West.

6. Srinivasan V. Mudaliyar, (Age 29 yrs)
Turner (Highly Skilled Gr. I), Machine Tool Prototype
Factory, Ambarnath (W), Dist. Thane, Pin 421 502.
R/o G-20, Ordnance Factory Estate, Ambernath (W)
Pin 421 502. **- Applicants**

Versus

1. The Union of India, Through the Secretary,
Dept. of Defence Production, Ministry of Defence,
DHQ PO, New Delhi 110 011.

2. The Director General, Ordnance Factories Board,
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road,
Kolkata 700 001.

3 OA Nos.605 & 717 of 2013, 64, 65, 66, 116,
122 of 2014, 659/2015, 762, 772, 774, 765, 783, 784/2016

3. The General Manager, Machine Tool Prototype Factory,
Ordnance Estate, Ambernath West 421 502.-**Respondents**

OA No.64/2014

Kamble Santosh Mohan, Aged about 32 years,
R/o MD Kamble Chawl, Near Nanekar Flour Mill, Pimpri Gaon,
Pune 411 017. Employed in Ammunition Factory, Khadki,
Pune 411 003.

- **Applicant**

Versus

1. Union of India, Through the Secretary,
Ministry of Defence Production, South Block,
New Delhi 110 011.
2. The Chairman, Ordnance Factory Board,
10-A, S.K.Bose Road, Kolkata 700 001.
3. The Senior General Manager, Ammunition Factory,
Khadki, Pune 411 003. - **Respondents**

OA No.65/2014

Mrs. Surekha Nitin Sonawane, Age about 35 years,
R/o Survey No.14/1, Shivnery Colony, Dwarka Building,
Flat No.6, 3rd Floor, Pimple Gaurave, Pune 411 061.
Employed in Ammunition Factory, Khadki,
Pune 411 003.

- **Applicant**

Versus

1. Union of India, Through the Secretary,
Ministry of Defence Production, South Block,
New Delhi 110 011.
2. The Chairman, Ordnance Factory Board,
10-A, S.K.Bose Road, Kolkata 700 001.
3. The Senior General Manager, Ammunition Factory,
Khadki Pune 411 003. - **Respondents**

OA No.66/2014

Sonawane Vijay Arvind, Aged about 35 years,
Survey No.13, Room No.521, Thite Wasti, Kalubainagar,
Chandanagar, Pune 411 014. Employed in Ammunition Factory
Khadki, Pune 411 003.

- **Applicant**

Versus

1. Union of India, Through the Secretary,
Ministry of Defence Production, South Block,
New Delhi 110 011.
2. The Chairman, Ordnance Factory Board,

4 OA Nos.605 & 717 of 2013, 64, 65, 66, 116,
122 of 2014, 659/2015, 762, 772, 774, 765, 783, 784/2016

10-A, S.K.Bose Road, Kolkata 700 001.

3. The Senior General Manager, Ammunition Factory,
Khadki, Pune 411 003. **- Respondents**

OA No.659/2015

1. Samaresh Kumar Nayak
(Son of Shri Ashok Kumar Nayak) Aged 32 yrs.
Employed as Chemical Plant Worker (Highly Skilled
Grade II), High Explosives Factory, Khadki,
Pune 411 003. (R/at 24/8, Type 'H' Quarter,
Range Hills Estate, Pune 411 020).

2. Amit Kumar Arya, (Son of Shri Upendra Prasad),
Age 28 yrs, employed as Chemical Plant Worker
(Highly Skilled Gr. II), High Explosives Factory, Khadki,
Pune 411 003. (R/at 30/7, Type 'H' Quarter,
Range Hills Estate, Pune 411 020). **- Applicants**

Versus

1. The Union of India, Through the Secretary,
Ministry of Defence Production, South Block,
New Delhi 110 011.

2. The Chairman, Ordnance Factory Board,
10-A, Saheed Khudiram Bose Road, Kolkata 700 001.

3. The General Manager, High Explosives Factory,
Khadki, Pune 411 003.

4. The Secretary, Institution of Mechanical Engineers (India)
Hqrs. Hasmukh Bhavan, I.M.E. Behind CIDCO Office,
Plot No.24, Sector 24, Kharghar,
Navi Mumbai 410 210. **- Respondents**

OA No.762/2016

Abhishek Upadhyay S/o Parasuram Upadhyay
Residing at Door No.18/22, Range Hills Estate,
Khadki, Pune 411 020. **-Applicant**

Versus

1. The Union of India, Through the Secretary,
Ministry of Defence Production, South Block,
New Delhi 110 011.

2. The Chairman, Ordnance Factory Board,
10-A, Saheed Khudiram Bose Road, Kolkata 700 001.

3. The Senior General Manager, Ammunition Factory,
Khadki, Pune 411 003.

4. The Principal Director, Ordnance Factory Institute of Learning, Ambernath 421 502.
5. The Director General All India Council for Technical Education East Plaza, Indira Gandhi Sports Complex, I.P. Estate, New Delhi 110 002.
6. The Secretary, Institution of Mechanical Engineer (India) Hasmukh Bhavan, Behind CIDCO Office, Near Hiranandani Park, Kharghar, Navi Mumbai 412 210.

- Respondents

OA No.772/2016

Rakesh C. Naidu, Aged about 28 years, R/a: E/7, Shiv Basav Nagar, Shiv Mandir Road, Ambarnath (E) 421 501. - Applicant

Versus

1. The Union of India Through the Secretary, Ministry of Defence Production, South Block, New Delhi 110 011.
2. The Chairman, Ordnance Factory Board, 10-A, Saheed Khudiram Bose Road, Kolkata 700 001.
3. The General Manager, Ordnance Factory, Ambarnath 421 502.
4. The Director General All India Council for Technical Education East Plaza, Indira Gandhi Sports Complex, I.P. Estate, New Delhi 110 002.
5. The Secretary, Institution of Mechanical Engineer (India), Hasmukh Bhavan, Behind CIDCO office, Near Hiranandani Park, Kharghar, Navi Mumbai 410 210.

- Respondents

OA No.774/2016

Bais Krishnakant Laxman, Aged about 28 years, R/at Survey No.67/1B/3/1/70, Dhanori Road, Near Vimant Building, Bhairav Nagar, Dighi Camp, Pune 411 015. - Applicant

Versus

1. The Union of India Through the Secretary, Ministry of Defence Production, South Block, New Delhi 110 011.
2. The Chairman, Ordnance Factory Board, 10-A, Saheed Khudiram Bose Road, Kolkata 700 001.

6 OA Nos.605 & 717 of 2013, 64, 65, 66, 116,
122 of 2014, 659/2015, 762, 772, 774, 765, 783, 784/2016

3. The Senior General Manager, Ammunition Factory, Khadki, Pune 411 003.
4. The Principal Director, Ordnance Factory, Institute of Learning, Ambernath 421 502.
5. The Director General, All India Council for Technical Education East Plaza, Indira Gandhi Sports Complex, IP Estate, New Delhi 110 002.
6. The Secretary, The Secretary, Institution of Mechanical Engineer (India), Hasmukh Bhavan, Behind CIDCO Office, Near Hiranandani Park, Kharghar, Navi Mumbai 410210.

- Respondents

OA No.765/2016

Deepak Sharma, Aged about 30 yrs,
Son of Rajendra Prasad Sharma, R/at Door No.12/11,
Range Hills Estate, Khadki, Pune 411 020. - Applicant

Versus

1. The Union of India, Through the Secretary, Ministry of Defence Production, South Block, New Delhi 110 011.
2. The Chairman, Ordnance Factory Board, 10-A, Saheed Khudiram Bose Road, Kolkata 700 001.
3. The Senior General Manager, Ammunition Factory, Khadki, Pune 411 003.
4. The Principal Director, Ordnance Factory, Institute of Learning, Ambernath 421 502.
5. The Director General All India Council for Technical Education East Plaza, Indira Gandhi Sports Complex, I.P. Estate, New Delhi 110 002.
6. The Secretary, Institution of Mechanical Engineer (India), Hasmukh Bhavan, Behind CIDCO Office, Near Hiranandani Park, Kharghar, Navi Mumbai 410210.

- Respondents

OA No.783/2016

Tejas Sadanand Jadhav, S/o Sadanand Dharmaraj Jadhav,
Residing at 2/10, Sant Tukaram Nagar, Pimpri,
Pune 411 018. - Applicant

Versus

1. The Union of India, Through the Secretary, Ministry of Defence Production, South Block, New Delhi 110 011.
2. The Chairman, Ordnance Factory Board, 10-A, Saheed Khudiram Bose Road, Kolkata 700 001.
3. The General Manager, Ordnance Factory, Dehu Road, Pune 412 101.
4. The Secretary, Institution of Mechanical Engineer (India), Hasmukh Bhavan, Behind CIDCO Office, Near Hiranandani Park, Kharghar, Navi Mumbai 410210.
5. The Director, All India Council for Technical Education 7th Floor, Chandra Lok Building Janpath, New Delhi 110 001.

- Respondents

OA No.784/2016

Abhijit Ravindra Pawar S/o Ravindra Baburao Pawar,
Residing at 72/8, Type II, Ordnance Factory Estate,
Dehu Road, Pune 411 020.

- Applicant

Versus

1. The Union of India, Through the Secretary, Ministry of Defence Production, South Block, New Delhi 110 011.
2. The Chairman, Ordnance Factory Board, 10-A, Saheed Khudiram Bose Road, Kolkata 700 001.
3. The General Manager, Ordnance Factory, Dehu Road, Pune 412 101.
4. The Secretary, Institution of Mechanical Engineer (India), Hasmukh Bhavan, Behind CIDCO Office, Near Hiranandani Park, Kharghar, Navi Mumbai 410210.
5. The Director, All India Council for Technical Education 7th Floor, Chandra Lok Building Janpath, New Delhi 110 001.
6. The Principal Director, Ordnance Factory, Institute of Learning, Ambernath 421 502. **- Respondents**

OA No.116/2014

Madane Samiran Sakharam, Aged about 30 years,
R/o A & P-Kolawadi, Tal. Haveli, Dist. Pune, Pin 412 207
working as DWD (Semi Skilled) Ammunition Factory,

Khadki, Pune 411 003.

- Applicant

Versus

1. The Union of India, Through the Secretary, Ministry of Defence Production, South Block, New Delhi 110 011.
2. The Chairman, Ordnance Factory Board, 10-A, Saheed Khudiram Bose Road, Kolkata 700 001.
3. The Senior General Manager, Ammunition Factory, Khadki, Pune 411 003.

- Respondents

OA No.122/2014

Rajesh Shridhar Bandkar, Aged about 31 years, R/o 4/9, A Type, Range Hills Estate, Khadki Pune 411 020 working as Turner Semi Skilled, Ammunition Factory, Khadki, Pune 411 003.

- Applicant

Versus

1. Union of India Through the Secretary, Ministry of Defence Production, South Block, New Delhi 110 011.
2. The Chairman, Ordnance Factory Board, 10-A, S.K.Bose Road, Kolkata 700 001.
3. The Senior General Manager, Ammunition Factory, Khadki, Pune 411 003.

- Respondents

Appearances:-

Shri S.V.Marne, learned counsel for the applicant in OA No.605/2013.

Shri P.J.Prasadrao, learned counsel for the applicants in OA Nos.64, 65, 66, 116 and 122 of 2014, 659/2015, 762, 772, 774, 765, 783 and 784 of 2016.

Shri S.R.Atre, learned proxy counsel for Shri S.P.Saxena, learned counsel for the applicant in OA No.717/2013.

Shri A.I.Bhatkar, learned counsel for the private respondents in OA No.605/2013.

Shri R.R.Shetty, learned counsel for the respondents in OA Nos.605 & 717 of 2013; 64, 65, 66, 116 and 122 of 2014, 772 & 783 of 2016

Shri A.M.Sethna, learned counsel for the respondents in OA Nos.762, 765 & 774 of 2016

Shri D.A.Dube, learned counsel for the respondents in OA Nos.762, 765, 772, 774, 783 & 784 of 2016, 64, 65, 66, 116 & 122 of 2014.

Shri V.B.Joshi, learned counsel for the respondents in OA No.717/2013.

Shri V.S.Masurkar, learned counsel for the respondents in OA No.659/2015.

COMMON ORAL ORDER
Per : R.Vijaykumar, Member (A)

These applications have been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs in OA No.605/2013 :-

“8(a). This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the Respondents and after examining the same, quash and set aside the impugned letters dated 11.12.2012 and 11.01.2013 with all consequential benefits.

8(b). This Hon'ble Tribunal may further be pleased to direct the respondents to forthwith declare the result of Limited Departmental Competitive Examination convene by notification dated 09.08.2011 and if the applicants are selected, direct the respondents to promote them to the post of Chargeman-Tech w.e.f. 18.12.2007 with all consequential benefits, including backwages.

8(c). Cost of the application be provided for.

8.d). Any other and further order as this Tribunal deems fit in the nature and circumstances of the case be passed.”

2. With the common consent of the learned counsels for the parties, considering that the applicants have applied for LDCE based promotion by virtue of their experience as Mechanical Engineer and similarly claimed qualifications, a common order is passed in respect of all the cases.

3. The applicants enrolled with the Institute of Mechanical Engineers on

different dates and have passed the examination conducted by the IME and fulfilled the requirements as contained in the matters considered and ordered vide notification of the Ministry of Human Resources Development, Department of Higher Education and published in Gazette on 26.11.2006 whereby recognition of certain courses for grant of Diploma conducted by the IME, Mumbai were restored with effect from 16.10.2006 pursuant to withdrawal previously ordered in the year 2002.

4. The learned counsel for the applicant has argued by reference to the orders of the same Ministry in file No.11-15/2011-AR(TS.II) dated 06.12.2012 (Annexure MP-1) which reads as follows:

“S.R.O. 66 – In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President is hereby makes the following rules to amend the Indian Ordnance Factories Group C Supervisory and Non-Gazetted Cadre (Recruitment and conditions of service) Rules, 1989, namely:-

1. (1) These rules may be called the Indian Ordnance Factories Group C Supervisory and Non-Gazetted Cadre (Recruitment and Conditions of Service) Amendment Rules, 2003.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Ordnance Factories Group C Supervisory and Non-Gazetted Cadre (Recruitment and conditions of Service) Rules, 1989 in the schedule-

(i). Against the post of Chargeman Gr. II (Technical) under column 8 for the existing entry, the following shall be substituted namely:-

The following will be the Educational Qualification for Direct Recruitment in different trades/discipline:

a) Mechanical Must possess three years diploma or equivalent qualification certificate in the respective field duly affiliated by AICTE.”

5. The learned counsel for the applicant, therefore contends that in accordance with the restoration of recognition granted by the Ministry of Human Resources Development from 2006 to 2013 and for those enrolled up to 31.05.2013, the applicants were eligible to be considered to be qualified in terms of the rules of the said LDC Examination conducted in different years by the respondents. He also refers to the rulings of the Hon'ble Apex Court which considered the matter in **Institution of Mechanical Engineers (India) Through its Chairman Vs. State of Punjab and others, reported in 2019 SCC Online SC 1023**, on appeal filed

against the decision of the Hon'ble High Court of Punjab and Haryana in the case of a petitioner who had obtained a Membership Certificate from the IME Mumbai and claimed its equivalence on par with a Degree in Engineering. The Hon'ble Apex Court considered the notification and direction issued by the Ministry of HRD and recorded the following orders:

“49. Consequently, neither can the appellant claim, as a matter of right to be entitled to confer any degree nor can it claim that Certificate awarded by it must be reckoned to be equivalent to a Degree in Mechanical Engineering.

50. The High Court was, therefore, right in observing:-

“... ... the Institute of Mechanical Engineers (India), Mumbai is a registered Society and is thus a Technical Institution and is required to obtain approval from AICTE in respect of its courses in technical subjects. The membership of such institute cannot be treated as equivalent to a degree, as the candidate qualified from such institute cannot be said to be at par with the members of Institution of Engineers established under the Statute. (para 208)

... There is no document produced or alleged that Respondent No.4 has permanent recognition from any Council or Board in respect of its courses. Therefore, the degrees or the membership granted by respondent No.4 cannot be treated as equivalent to Degree in Engineering.” (para 211)

51. However, the fact remains that the equivalence to the Certificates awarded by the appellant was granted by the MHRD in consultation with AICTE upto 31.05.2013 as is evident from Notification dated 06.12.2012 issued by the Central Government and Public Notice issued by AICTE in August, 2017. These communications also indicate that all those students who were enrolled upto 31.05.2013 would be

eligible for consideration in accordance with MHRD office memorandum/order in course. Though we have laid down that the Certificates issued by the appellant on successful completion of its bi-annual examination to its Members cannot be considered to be equivalent to a Degree, an exception needs to be made in favour of students enrolled up to 31.05.2013 and benefit in terms of the Notification dated 06.12.2012 and Public Notice as aforesaid ought to be extended to such candidates. The candidates had opted to enroll themselves so that they could appear at the examinations conducted by the appellant under a regime which was put in place by the Central Government itself and the course content as well as the curriculum were reviewed by the AICTE. However, the aforementioned Notification and Public Notice were clear that after 01.06.2013 the concerned orders granting equivalence would cease to have any effect.

52. In the circumstances we do make an exception in favour of such candidates enrolled upto 31.05.2013 and declare that the conclusions drawn in the present matter will apply after 01.06.2013. The Certificate awarded by the appellant to such candidates enrolled upto 31.05.2013 shall be considered equivalent to a Degree in Mechanical Engineering for the purpose of employment in Central Government.

53. In the premises, we do not find any error in the assessment made by the High Court¹ in paragraphs 205 to 213 of its judgment. We, therefore, dismiss all the submissions raised by the appellant and reject Miscellaneous Application No. 2367 of 2018. No costs.

54. In the end, we express our sincere gratitude for the assistance rendered by Mr. C.A. Sundaram, learned Amicus Curiae.”

6. The learned counsel for the respondents was also heard in the matter in terms of the rulings and with reference to the rulings of the Hon'ble Apex Court on this particular issue whether such persons so enrolled up to 31.05.2013, could be

considered eligible in terms of the Recruitment Rules for the concerned promotions.

7. Pleadings have been examined and it is quite apparent from the discussions and rulings of the Hon'ble Apex Court that the rulings of the Hon'ble Apex Court will have to be squarely applied in cases of the applicants in accordance with the individuals' respective eligibility and with reference to the Recruitment Rules and examinations conducted in different years and in case they satisfy the requirements for grant of the said exception for enrollments made from 16.10.2006 to 31.05.2013, they shall be granted the benefit thereon.

8. In these circumstances, these OAs are allowed to the aforesaid extent. The respondents are directed to examine each individual's case and pass orders within a period of six weeks and for the eligible applicants, the subsequent relief in respect of promotion shall be granted. If on such examination if the applicants are found eligible, the result of the

applicants shall be declared for the post in question and if they are found to fall within required merit and suitable for the post in question, the applicant shall be entitled for promotion from the date from which their immediate juniors have been promoted and relevant fixation of pay keeping in view the immediate juniors. The applicants shall not, however be entitled for arrears of pay. There shall be no order as to costs.

(R.N.Singh)
Member (Judicial)

(R.Vijaykumar)
Member (Administrative)

kmg*

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22/10/19

