

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA No. 2622/2014**

New Delhi, this the 22<sup>nd</sup> day of October, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**  
**Hon'ble Mr. Mohd. Jamshed, Member (A)**

Abdul Kadir,  
S/o Late Jamil Baqsh,  
Aged about 37 years working as Peon,  
In the office of Commander Works Engineer, Jammu,  
R/o.....

...Applicant

(By Advocate: Ms. Meenu Mainee)

Versus

Union of India & Ors: through

1. Secretary,  
Ministry of Defence,  
South Block, New Delhi.
2. Chief Engineer,  
Military Engineering Services,  
Headquarters Chief Engineer,  
Pathankot Zone, Pathankot.
3. Principal,  
J. K. Sen Secondary School,  
Shivpuri Road, Jhansi (UP).

...Respondents

(By Advocate: Ms. Aishwarya Dobhal for Mr. Hilal Haider and  
Dr. Ch. Shamshuddin Khan)

**ORDER (ORAL)**

**Mohd. Jamshed, Member (A):-**

The applicant was appointed as Chaprasi (Peon) under the respondents on 09.03.2013. He was issued a show cause notice on

14.03.2014 by the respondents stating that during verification of his matriculation certificate issued by Board of Higher Secondary Education (BHSE), Delhi it was revealed that the said Board did not figure in the list of members of COBSE nor in the list of recognized Boards of Secondary Education of MHRD. On 15.04.2014, the applicant submitted a representation against the show cause notice stating that the said Board has been recognised under the UP Education Act. However, the respondents passed the impugned order terminating the services of the applicant dated 13.05.2014 under Sub Rule 1 of Rule 5 of Central Civil Services (Temporary Service) Rules, 1965. This OA is filed challenging the same.

2. The applicant contends that his services have been terminated without making any proper verification regarding BHSE, Delhi and its recognition. It is stated that the applicant passed the Secondary School examination conducted by BHSE, Delhi in the year, 2009 and, thereafter, Sr. Secondary School examination, which is also conducted by the same agency. He submits that the respondents found him eligible and selected for the post of Peon in the office of Chief Engineer, Military Engineering Services HQ, Pathankot vide appointment letter dated 09.03.2013. He contends that there existed valid recognition of the BHSE, when he studied the courses.

3. The respondents have opposed the OA and filed a counter affidavit, stating that on verification of the education certificate produced by the applicant, it was found that BHSE, Delhi did not figure in the list of members of COBSE or in the list of recognized Boards of Secondary Education of MHRD. It is further stated that the applicant was provisionally selected and that his services have been terminated after issuance of the show cause notice in view of his matriculation certificate not being in order.

4. We heard Ms. Meenu Mainee, learned counsel for the applicant and Ms. Aishwarya Dobhal for Mr. Hilal Haider and Dr. Ch. Shamshuddin Khan, learned counsel for the respondents, perused the records and relied upon judgments.

5. The applicant was appointed as Peon by the respondents vide letter dated 09.03.2013. He had produced matriculation certificate issued by BHSE, Delhi in support of his educational qualification. On verification, the respondents found the same to be not in order as the BHSE, Delhi neither figured in the list of members of COBSE nor in the list of recognized Boards of Secondary Education of MHRD. He was issued a show cause notice dated 14.03.2014, giving him an opportunity to explain, as to why, his services should not be terminated. His representation in response to the show cause notice was not found satisfactory and his services were terminated vide order dated 13.05.2019.

6. It is observed that in reply to the show cause notice the applicant had stated that his certificate has been issued by BHSE, Delhi, which is a recognised Board and enclosed certain documents in support of his contention. Later on BHSE, Delhi, vide their letter dated 11.04.2014 indicated that JK Sen Sec. School, Shivpuri Road, Jhansi, U.P. from where the applicant passed his examination, is recognised by Higher Secondary Education Delhi. The BHSE, Delhi is an autonomous body, which is registered under the Indian Society Act, 1882 and the Board is recognised under the UP Education Act, 1921. It was also argued that the status of the BHSE, Delhi was the subject matter of litigation before the Allahabad Bench of this Hon'ble Tribunal as well as the Allahabad High Court in which it was observed that the said Board was duly recognized by UP Intermediate Board but subsequently it was derecognized in the year 2012. The applicant had, however, passed his Secondary examination in 2009 and Sr. Secondary examination in 2011.

7. A similar OA was decided by this Tribunal. The applicant therein was appointed as Peon and subsequently his appointment was cancelled on the ground that the certificate produced by him is not valid since the BHSE is not recognised from any Board or MHRD. Initially the OA was dismissed. In RA No. 46/2017 filed therein, a detailed order was passed on 17.09.2018. The operative paras of the same read as under:-

*“8. The only question, that arises for our consideration in this R.A. and for that matter, in the O.A. is whether the matriculation certificate produced by the applicant was recognized by any Board/University or not?”*

*9. The office of Garrison Engineer, by itself does not maintain any list of recognized Boards / Universities. The respondents have filed a list of Boards of School Education, recognized by the Council of Boards of School Education, in India. As many as 42 Boards / Institutions are mentioned therein. At Sr. No. 34, the U.P. Board of High School and Intermediate Education, Allahabad is mentioned. There is no dispute that BHSE, Delhi was recognized under the U.P. Act of 1921, and such recognition was cancelled or withdrawn only in the year 2012. The applicant passed Matriculation Examination during the academic session 2009-2010 i.e. at the time when the board was recognized by the U.P. Board.*

*10. It is no doubt true, that the School where applicant studied matriculation, was not in the State of U.P. but at the same time, it was recognized under the U.P. Act of 1921. In the context of interpretation of such a provision, the benefit of doubt deserves to be given to the applicant. Another reason is that the post in question is not skilled one and admittedly the nature of education undergone for the purpose of this post is not so significant. Since the applicant belongs to down trodden strata of society and post is menial in nature, we are of the view that the applicant can be treated as eligible for the post of Mate SSK, but without any right of promotion to any higher skilled post, unless he has improved his educational qualifications, while in service.*

*11. In the result, order dated 22.2.2017 is reviewed and T.A/O.A. shall stand allowed. The order of termination is set aside and the applicant shall be reinstatement into service, but without any back wages or promotion. The period from the date of termination to the date of reinstatement, shall be counted only for the purpose of pension and other retirement benefits. Needful be done within a period of 60 days from the date of receipt of a certified copy of this order.”*

8. In a similar case, the Hon’ble Allahabad High Court in Writ

– A No. 40083 of 2016 vide its order dated 29.08.2016, observed

as under:-

*“The petitioners are seeking a direction to the respondents to consider their claim for appointment under the Uttar Pradesh Police Department/Police Constable and Constable (Male) Direct Recruitment-2015 by treating their Class-X and XII certificates issued by the Board of Higher Secondary Education, Delhi in the year 2012 and 2014 to be valid and recognised.*

It is stated that the petitioners applied for the post of Constable (Male) in the Direct Recruitment-2015 Examination and submitted their educational testimonials of Class-X and XII issued by the Board of Higher Education, Delhi in the year 2012 and 2014 respectively (Annexure-1 to the writ petition). It is stated that the respondents however, declined to recognise the certificates on the ground that the said Board has been now de-recognised by the U.P. Government Order dated 8.3.2014. The submission is that the Board was derecognised on 8.3.2014, therefore, certificates issued prior to that date cannot be said to be invalid.”

It is thus evident that de-recognition of the said Board was only in the year 2014 and certificate issued prior to that would be considered as valid. The ratio of the order and judgment referred to above, squarely applies to this case.

9. In view of the above, the OA is allowed. The order of termination is set aside. The applicant shall be reinstated into service, but without any back wages or promotion. The period from the date of termination to the date of reinstatement, shall be counted only for the purpose of pension and other retirement benefits. Needful shall be done within a period of 02 months from the date of receipt of certified copy of this order. There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member (A)**

/ankit/

**(Justice L. Narasimha Reddy)**  
**Chairman**