

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No.13732/2009**

% **Date of Decision: 22.12.2009**

Ministry of Railways & Ors Petitioners
Through Mr.Kumar Rajesh Singh, Advocate.

Versus

Shri Gaurav Shankhdhar & Ors Respondents
Through Nemo.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE VIPIN SANGHI

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioners have impugned the order dated 25th May, 2009 in O.A No.2236/2008 passed by the Central Administrative Tribunal, Principal Bench, New Delhi titled Sh.Gaurav Shankhdhar v. Union of India and Ors wherein the petitioners were directed to consider the respondent No.1 for selection to the post of Health Inspector III/Malaria Inspector III as he was found to be eligible for selection to the said post under the rules.

The respondent No.1 had applied for the post of Health Inspector III/Malaria Inspector III pursuant to an advertisement issued by

Railway Recruitment Board in 2006. He possessed a B.Sc degree with Chemistry along with a one year certificate of Health/Sanitation Inspector issued by the National Industrial Training Centre. According to the petitioners the respondent No.1 did not have the requisite qualification as per the rules, as he had a 'certificate', though the eligibility conditions prescribed a diploma issued by the National Industrial Training Centre. A clarification whether a diploma and a certificate are equivalent in terms of qualification was sought from the Ministry of Labor and Employment, and the said Ministry had communicated to the petitioners that after 1959, the diploma in Craftsmanship awarded by National Industrial Training Centre had been done away with and in its place a certificate is issued in respect of certain trades. Such certificate issued by National Industrial Training Centre was thus deemed to be equivalent to the diploma. The petitioners, however, contended that such equivalence can only be considered prospectively from 2008 and therefore the respondent's certificate which he had obtained prior to 2008 cannot be accepted as equivalent to Diploma as required under the eligibility condition for selection to the said post.

The contention of the respondent No.1 before the Tribunal was that since he has a certificate from National Industrial Training Centre, which is equivalent to the diploma which had been previously discontinued, he is as such eligible for the post of Health Inspector

III/Malaria Inspector III. He also submits that despite the equivalence communicated to the petitioners by order dated 30th December, 2008, he has not been considered for the selection process to the said post which was held in 2006 on the ground that the certificate issued by National Industrial Training Centre is only valid from 2008 prospectively and not retrospectively.

While allowing the petition of the respondent No.1, the Tribunal held that National Industrial Training Centre comes under the Ministry of Labour and Employment. The Ministry had itself acknowledged that the diploma had been discontinued from 1959 and in its place the certificate which is issued in certain trades, is deemed to be equivalent to diploma. Thus it was further held that the petitioner is eligible for selection to the said post. The Tribunal also relied on **Basic Education Board, U.P v. Upendra Rai and Ors**, 2008(1) SCC (L&S) 771 wherein it was held that the laying down of qualification for equivalence is the prerogative of the Ministry of Labour and Employment and National Industrial Training Centre.

The Tribunal also noted that the petitioners had cancelled the candidature of respondent No.1 even without waiting for the opinion of the Ministry of Labour and Employment (which is the expert body) which had categorically communicated its opinion that the diploma had been discontinued since 1959 and the certificate issued in its place was

equivalent to the diploma issued by National Industrial Training Centre in respect of certain trades.

The petitioners have impugned the Tribunal's order contending, inter-alia, that diploma course is still continuing and the certificate course is valid from the year 2008. It is contended that the certificate shall be valid from the year 2008 and, therefore, the benefit of the diploma course cannot be granted to the respondent No.1, who is a certificate holder. They have contended that only the candidates who had passed one year diploma course in Health/Sanitary Inspectors were eligible in 2006 for direct recruitment against the post of Health and Malaria Inspector Grade III.

The petitioners did not contend before the Tribunal that the diploma course had not been discontinued since 1959 which is apparent from the reply filed by Shri Shailendra Kumar, Chairman Railway Recruitment Board, Gorakhpur. The respondent no.1 had passed the prescribed trade test in the trade of Health Sanitary Inspector in July, 2005 after undergoing training from August, 2004 to July, 2005 and he was awarded 82% marks and a certificate dated 16th November, 2005 was issued to him by Directorate of Training and Technical Education, Government of N.C.T of Delhi. The Deputy Director of Training, Government of India, Ministry of Labour and Employment, D.E.G.E.& T in her letter dated 1st June, 2007 has categorically stated that the purpose of recruitment to the subordinate

posts and services under the Central Government, the Diploma in Craftsmanship, awarded to trainees admitted under the Craftsman/Dispatched Persons Training Scheme before February, 1959 and the National Trade Certificate awarded thereafter in the Trades, is recognized.

The respondent no.1 was found eligible for the post of Health Inspector on contract basis by the Central Railway, Divisional office, Personnel Branch, Mumbai pursuant to respondent no.1's application dated 9th January, 2008 which was communicated to the petitioners vide letter dated 15th January, 2008.

The learned counsel for the petitioners have failed to give any rational or valid reason as to why the certificate was not valid prior to 2008 even though the Ministry of Labour and Employment was categorical in its communication dated 1st June, 2007 that the certificate is valid after 1959. Petitioners' plea is not that the certificate course has undergone any major structural changes since 2008, and therefore it cannot be equivalent to the Diploma Course, or that prior to 2008, there had been major differences in the courses of Diploma and Certificate.

The petitioners cannot contend that the certificate is valid only after 2008 and not prior to 2008 because according to the concerned

authorities, the diploma has been done away with since 1959 and in place certificate is issued in certain trades which is equivalent to diploma. In the circumstances, the plea of the petitioners that the certificate issued prior to 2008, contrary to the opinion of Ministry of Labour and Employment, is not equivalent to Diploma course cannot be accepted nor are the petitioners entitled to such interference by this Court against the impugned order of the Tribunal.

The writ petition is, therefore, without any merit and it is dismissed.

ANIL KUMAR, J.

December 22, 2009

VIPIN SANGHI, J.

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