



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (S/B) No. 419 of 2025

25th September, 2025

JC332036L SUB (JEEM) Sajikumar V -----Petitioner

Versus

Bengal Engineer Group and Centre Roorkee and others
-----Respondents

Presence:-

Mr. Sanjay Bhatt and Devansh Rana, learned counsel for the petitioner.
Mr. Saurabh Adhikari, learned Standing Counsel for the respondents.

JUDGMENT: (per Mr. SUBHASH UPADHYAY, J.)

Petitioner has filed the present Writ Petition
with the following prayers:

- (i) *A writ, order or direction in the nature of certiorari to call for the record of the case and to quash the impugned communication dated 01.09.2025 (Annexure No.11) so far as relates to inclusion of name of petitioner in the list of ineligible candidates set out in Appendix "E" at serial No. 30.*
- (ii) *A writ, order or direction in the nature of mandamus commanding the respondents to reconsider the*



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candidate of petitioner for re-employment on the post occupied by him, under the relevant scheme as per his qualification of diploma obtained in 2008.

2. Learned counsel for the petitioner contends that the petitioner was appointed as Storekeeper in Madras Engineer Group and Center on 05.09.1995; that while the petitioner was posted as Storekeeper, he was allowed to obtain a service Diploma under the policy of the Department with the object to overcome the deficiency of JEs and in MES under special drive made to select suitable candidates for undergoing the said Diploma; that for the aforesaid diploma the requisite qualification was 10th Pass and the petitioner was having the said qualification; that the petitioner after obtaining the Diploma was given posting as Junior Engineer and he is working as JE since the year 2008 and after completing 30 years of service would be retiring on 30.09.2025 and he is also entitled for the benefit of the deputation-cum-re-employment policy (DCRE).

3. The counsel for the petitioner submits that the petitioner applied for re-employment as per the procedure prescribed, however, on 20.04.2020, another policy for diploma course was issued by the office of respondents, wherein minimum educational qualification



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of 10th pass was amended to 10+2 examination with Physics and Chemistry as compulsory subjects with Mathematics/Biology subject; that the respondents sought information from All India Counsel for Technical Education (AICTE) and the AICTE *vide* letter dated 26.02.2024 and 05.03.2025 has clarified the qualification for conducting the Diploma as per the AICTE Approval Process Handbook (APH), which provides the qualification for obtaining diploma as 10+2; that based on the said communication dated 05.03.2025, respondents issued a circular dated 12.03.2025 for appointment of Junior Engineer under DCRE and on the basis of the said Circular dated 12.03.2025, the impugned order dated 01.09.2025 was passed, by which, the petitioner has been placed in the list of ineligible candidates for re-employment as Junior Engineer (Electrical and Mechanical) owing to the fact that the petitioner is lacking the educational qualification as required by the AICTE *vide* orders dated 26.02.2024 and 05.03.2025.

4. Learned counsel for the petitioner submits that the petitioner is working on the post of Junior Engineer and had obtained the Diploma in 2008 when the qualification was only 10th pass, which was changed only



on 20.4.2020, as such, the petitioner cannot be declared as ineligible on the ground of lacking educational qualification. He further submits that the petitioner cannot be denied re-employment based on the subsequent qualification prescribed by the order dated 20.04.2020.

5. *Per contra*, learned counsel for the respondents submits that the qualification as provided by the respondents vide order dated 20.04.2020 provides that for Diploma in Electrical/Mechanical, the candidate should be having the qualification of passed 10+2 examination with Physics and Chemistry as compulsory subjects along with Mathematics/Biology subject *or* 10+2 Science (with Mathematics as one of the subject) *or* 10+2 Science with Technical Vocational subject *or*, 10th + (2 Yrs ITI) with appropriate Trade.

6. Learned counsel for the respondents thus submits that the petitioner, who is having the qualification of 10th pass and Diploma from Indira Gandhi National Open University (IGNOU) is not having the prescribed qualification as enumerated above; that the AICTE *vide* its letter dated 05.03.2025 had clarified the criteria for conducting a Diploma at the College of



Military Engineering, Pune; and the AICTE approved handbook for Diploma/under Graduate Engineering entry level qualification was prescribed as 10+2; that the petitioner, who was having lesser qualification was allowed to continue on the post held by him but for the deputation-cum-re-employment, the qualification of a candidate is to be seen as on today, i.e., the date, on which, the case is to be considered for appointment on re-employment after the retirement of an employee. Moreover, re-employment cannot be claimed as a right and if other eligible candidates are available then considering the case of an ineligible candidate in violation to the qualification prescribed by the employer on 20.04.2020 and in violation to the AICTE Notification would be unjust and improper.

7. Having heard the learned counsel for the petitioner and counsel for the respondents and after perusal of the record, we are of the considered view that the re-employment after the retirement is not an indefeasible right of an employee and the employer can lay down the qualification for re-employment after retirement. The policy for Diploma course was amended by the employer, i.e., respondent no.3 on 20.04.2020 and admittedly, the petitioner does not possess the said



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qualification. As per the AICTE letter dated 05.03.2025 also the qualification for Diploma in Engineering is 10+2. The petitioner was allowed to undergo the Diploma in Engineering/Mechanical with 10th pass in pursuance to the then policy dated 18.10.2003, which is annexed as Annexure-1 to the Writ Petition. The said circular, under which, the petitioner obtained the Diploma at Clause-2 (a) & (b) reads as under:

2. To overcome the deficiency of JEs in MES, special drive is being made to select suitable candidates for undergoing B/R & E/M Diploma. As a one time measure special dispensation is being given in QR for candidates applying for diploma courses. The QR laid down is as under and will operative till further instrs:-

(a) Trade restns imposed vide our policy letter No. 63739/Diploma/4/ES3 dt 04 June 202 be lifted discretionally for one year duration, with a view of accelerating intake into the cadre.

(b) Academic qualification may be diluted upto 10th Cl (math and science) retaining preference for candidates meeting the stipulated QR.”

8. The said Circular/Policy dated 18.10.2003 was to operate till further instructions and, as such, the policy dated 20.04.2020 now holds the field and the action of the respondents cannot be faulted, if they are adhering to the said policy for re-employment. The impugned order reveals that the candidates, who are



eligible as per the new policy, are available and they are selected for the deputation-cum-re-employment (DCRE) and, as such, the decision taken by the respondents for selecting the eligible candidate and excluding the ineligible candidates is neither arbitrary nor illegal. The petitioner has no indefeasible right to seek re-employment and the employer can fix the qualification for re-employment. It is not a case where the petitioner is being discriminated or has been singled out as the list of ineligible candidates include 31 persons and valid reasons have been assigned for their dis-qualifications. The Court cannot prescribe the qualification which an employer has to fix for re-employment. The Hon'ble Apex Court in the case of *Zahoor Ahmad Rather and others Vs. Sheikh Imtiyaz Ahmad and others* reported in (2019) 2 SCC 404 held that "*judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Therefore, the equivalence of a qualification is not a matter that can be determined in the exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine.*"

9. For the aforesaid reasons, we do not find any illegality or perversity in the decision taken by the



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respondents in declaring the petitioner and other candidates as ineligible for re-employment under the Deputation-cum-re-employment policy (DCRE).

10. The Writ Petition fails and is dismissed.

No order as to costs.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 25.09.2025
Kaushal