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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9707/2016 & CM 38839/2016**
UNION OF INDIA & ANR

..... Petitioner

Through Ms Sangita Rai, Adv. for UOI
versus

ARVIND KUMAR MINHAS

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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26.10.2016

The Union of India by this petition impugns the order dated 11.05.2015 passed by the Central Administrative Tribunal in OA No.2351/2013 whereby relying upon the letter/clarification issued by the Government of India, Ministry of Defence (DRDO) and the Directorate of Medical Services it has been held that the respondent herein fulfils the eligibility requirement.

2. The respondent is an ex-serviceman who had served as a Hawaldar in the Indian Army from 30.11.1984 to 01.12.2008. While in service, he had completed a Diploma Course of Medical Laboratory Technician in the year 2006-2007 from IPH & H, Mahipalpur. The course, it is obvious, was undertaken with the prior permission and approval of the Ministry of Defence. The course was sponsored for army men by the Ministry of Defence, so as to enable them to seek re-employment.

3. In November, 2009, the respondent had applied for selection and appointment to the post of Technician – A (Tech-‘A’). The respondent was

successful in the written examination but was not called for the interview. The petitioners were of the opinion that the said Diploma course was not for a period of one year and, therefore, the eligibility requirement of Schedule – II of the Recruitment Rules was not satisfied. The said Rules postulated that the candidates must have 10th Class or equivalent qualification and have a certificate of minimum of one year duration from a recognized institution in the required discipline.

4. The impugned order refers to the communication dated 21.12.2010 written by the Research & Development Organization, Ministry of Defence i.e. DRDO to the Director, CEPTAM that the diploma course for Medical Laboratory Technician conducted by IPH & H Mahipalpur is treated as equivalent to the qualification for appointment as Technician – A. The said letter reads as under:

“1, Reference this HQ is Letter No.DHRD/76664/OC/2008 dated 28 June 2010 (Copy enclosed) and INMAS Letter No. EST / 3009/CC/TECH/2010 dated 01 Dec 2010 (Copy enclosed).

2. In view of the clarification received from Directorate General Resettlement Letter No.0014/MISC/PBOR/DGR/Res-8 dated 6th October, 2010 (Copy enclosed) and DGMS (Army) Letter No.B/74001/15/DGMS-3D dated 18th November 2010 (Copy enclosed) in respect of Ex. No.13960902P H/b Sub Arvind Kumar Minhas, it is confirmed that qualification of Diploma course in Medical Laboratory Technology conducted by IPH & H Mahipalpur can be treated as equivalent qualification for appointment as Technician ‘A’ in DRDO.”

The Directorate General of Medical Services (Army) has also certified that the Diploma Course in Medical Laboratory Technology conducted by IPH & H Mahipalpur is recognized and equivalent to one year

Diploma Course. The said certificate reads as under:

“TO WHOMSOEVER IT MAY CONCERN

Diploma course in Medical Laboratory Technology undertaken by Ex.NO.13960920 h/Nb Sub Arvind Kumar Minhas for nine months duration conducted by IPH & H Mahipalpur, Delhi is recognized as Equivalent to one year diploma course.

(Auth: Dte Gen Resettlement letter No.0014/Misc./PBOR/DGR/RES-8 dated 25 Oct

Sd/-

(A. Chattoraj)

Colonel

Dir. Med. Services (Trg. & Coord)”

5. Learned counsel for the petitioner accepts and admits that IPH & H, Mahipalpur has been sponsored by Indian Army for conducting the said diploma course for Army men so that they can secure re-employment post retirement.
6. We are surprised on the stand of the petitioners – Union of India, Ministry of Defence and the Directorate General Medical Services who assert and profess that the diploma course should not be treated as equivalent qualification and the respondent is disqualified and not eligible for appointment on the said ground. The assertion is clearly contrary to the said letters/certificated.
7. The petitioners submit that the aforesaid letter and certificate are merely internal communications. This is not correct. Internal communications are notings made on the files. They remain internal notings until they are communicated to the person concerned for whom they are meant. In the present case, the letter and certificate quoted above are communications addressed by the DRDO to the Director CEPTAM who had

issued the advertisement. The certificate issued by the Director General of Medical Services (Army) is to the same effect. The certificate is not an internal noting. These communications are clear and leave no room for doubt or ambiguity that the aforesaid diploma course, which was for duration of 9 months, can be treated as requisite qualification.

8. In these circumstances, the decision of the Supreme Court in *Union of India and another v Kartick Chandra Mondal and another*, (2010) 2 SCC 422 would not be applicable. Obviously, the aforesaid letter and certificate, without any doubt and ambiguity, were issued with the objective that army men who had undertaken the said course and seek post-retirement employment are not harassed and would be eligible for appointment. Ironically, the appointment in the present case is sought in an organisation of the Ministry of Defence.

9. In view of aforesaid, we find no merits in the petition and the same is accordingly dismissed.

10. Pending CM is also disposed of.

SANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 26, 2016/rd