



WP No.19276 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

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P.V. Premjith

... Petitioner

versus

- 1.Union of India,
Represented by its Chairman,
Ordnance Factory Board,
Kolkatta 700 001.
- 2.The General Manager,
Engine Factory, Avadi,
Chennai-600 054.
- 3.The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai 600 104.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,

1/12



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for the issuance of a writ of Certiorarified Mandamus to call for the records of the third respondent Tribunal in its order dated 18.06.2019 made in OA No.102 of 2015, quash the same and consequently, allow OA No.102 of 2012 as prayed for.

For the Petitioner :Mr.Karthick

For the Respondents :Mr.N.Ramesh, SSC
for respondents 1 and 2
third respondent- Tribunal

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

Challenging the order passed by the Tribunal in OA No.102 of 2015, dated 18.06.2019, the petitioner has filed the present writ petition before this Court.

2. Brief facts of the case:

2.1. The petitioner originally joined in the Ordnance Factory, Itarsi, as a Chemical Process Worker. Subsequently, through a departmental competitive examination (LDCE), in the year 2008, he was promoted to the post of Chargeman Grade II (Technical/Mechanical) in the same factory. The petitioner satisfied the requirement, which are laid down in the



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Recruitment Rules (SRO 66) for the post of Chargeman Grade II Technical, which is a three year diploma or equivalent certificate in the respective field duly affiliated by A.I.C.T.E. The petitioner possesses a diploma in Mechanical (Lateral Entry) Engineering Certificate issued by the Janardan Rai Nagar Rajasthan Vidyapeeth University in short J.R.N Univeristy. The said University is a deemed University under the provisions of the U.G.C. Act, 1965 and its courses through distance education have been recognized by the Government of India for the purpose of employment under the Central Government. Further, approval has also been granted by the U.G.C. on 03.07.2006 in respect of students admitted under the distance education mode from J.R.N. University from 01.06.2001 to 31.08.2005 & 2007-2008. It is relevant to state that the petitioner enrolled for the diploma course in July 2005 and completed the same in January 2007 and therefore, he is entitled for the benefit of approval granted by the U.G.C.

2.2. According to the petitioner, the Hon'ble Supreme Court has time and again held that the competent authority to accord approval for technical courses conducted by deemed universities/universities is only the U.G.C.,



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and . has no role whatsoever. While so, the first respondent, by its letter dated 24.10.2014, had stated that the diploma qualification acquired from J.R.N. University is not approved by A.I.C.T.E. and therefore, persons who have been promoted or appointed on the basis of the said qualification may be reverted. On the basis of the said letter, the second respondent has issued a show cause notice on 20.01.2015 stating that the copy of the diploma certificate produced by the petitioner is obtained from Rajasthan Vidyapeeth deemed univeristy and as per the OFB order appointments/promotion through LDCE based on diploma qualification acquired from Janardan Vidyapith University is not approved by A.I.C.T.E and therefore it is not in conformity with the provision of SRO 66 dated 27.05.2003. In the said notice it has been further stated that as the appointments/promotions through LDCE based on the diploma qualification acquired form the said University are not approved by A.I.C.T.E, such appointments are irregular and accordingly, the petitioner will be reverted to CPW (S) and the petitioner will be transferred back to the OF Itarsi by 06/02/2015 without further intimation.



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2.3. The impugned order is styled as a show cause notice. It is indeed an intimation sent to the petitioner informing him the decision of the respondents to revert the petitioner to the lower post of C.P.W. (S) and further to be transferred to Ordnance Factory, Itarsi. Aggrieved by the same, the petitioner has filed an Original Application in OA No.102 of 2015 before the Central Administrative Tribunal. The Tribunal, by order dated 27.01.2015, has granted an interim order directing the respondents to maintain status quo with regard to the impugned order passed by them which was continued till the disposal of the said OA.

2.4. Subsequently, the Ministry of Human Resource Development, Department of Higher Education on 10.06.2015 has issued a notification in and by which all degrees/diplomas/certificates including technical education degrees/diplomas awarded through distance education mode by universities including deemed universities stand automatically recognized for the purpose of employment to posts and services in the Central Government, provided they have been approved by the University Grants Commission. However, the Tribunal, without taking into consideration all the aforesaid



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aspects, has dismissed the said OA on 18.06.2019, upholding the order of reversion passed against the petitioner. Challenging the said order passed by the Tribunal, the petitioner has filed the present writ petition before this Court.

3. Learned counsel for the petitioner submits that the petitioner is fully eligible for appointment to the present post and only based on his qualification, the respondent Department has granted promotion to the petitioner by conducting competitive examination. After he was allowed to serve in the promoted post till the year 2015, suddenly the show cause notice dated 20.01.2015 has been served by the second respondent stating that the diploma certificate produced by the petitioner is not approved by A.I.C.T.E and therefore it is not in conformity with the provision of SRO 66 dated 27.05.2003. Accordingly, the petitioner would be reverted to CPW (S) and the petitioner would be transferred back to the OF Itarsi by 06/02/2015 without further intimation.

4. Learned counsel for the petitioner further submits that the petitioner



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has also placed various documents before the respondent Department to establish his case that he is eligible for the said promotion post since he has completed three years diploma course in mechanical engineering as per the diploma certificate issued by the J.R.M.University. Learned counsel further submits that the distance education for diploma degree course conducted by the deemed Univesities has been approved by the Distance Education Council. The Hon'ble Supreme Clourt ***in the case of Orissa Lift Irrigation Corporation limited vs Rabi SankarPatro and Others reported in (2018) 1 SCC 468*** has held that the courses conducted by the deemed universities without getting approval from A.I.C.T.E are held to be valid. Therefore, the show cause notice dated 20.01.2015 issued by the second respondent is not in consonance with the factual details submitted by the petitioner.

5. Learned Standing Counsel appearing for the respondent 1 and 2 has strongly objected to the challenging of the impugned show cause notice on the ground that as per the recruitment regulations, three year diploma course duly affiliated by A.I.C.T.E is required for granting promotion to the post of Chargeman Grade II. He further submitted that in the decision of the Hon'ble



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Supreme Court cited supra, it has not been specifically discussed about the Diploma Course. Therefore, according to the respondent Department, the petitioner did not possess the three year diploma in mechanical engineering recognized by the A.I.C.T.E and therefore, the validity of the said degree is being disputed as not genuine and therefore, the second respondent has issued the said show cause notice.

6. Learned Standing Counsel for the respondent Department further submitted that if the petitioner places all the factual materials before the authority, the same will be considered in accordance with the recruitment notification as well as the regulations of the Department and will take appropriate decision in accordance with law.

7. Heard the parties and perused the materials available on record.

8. Considering the submissions made by the learned Standing Counsel for the respondent Department, we are of the view that the impugned notice



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dated 20.01.2015 served on the petitioner shall be construed as a notice issued by the second respondent for submitting the explanation of the petitioner and as the facts in the present case are all disputed facts, the petitioner shall submit all the details with relevant documents and records before the second respondent to prove that he has satisfied all the eligible requirements as per the notification issued by the respondent Department for getting promotion to the post of Chargeman Grade II.

9. We are making it clear that if such an explanation is submitted by the petitioner within the time stipulated by this Court, the second respondent has to consider the same and to take appropriate decision without being influenced by any of the observations made in this order.

10. In the light of the above, we are inclined to pass orders as follows:

(i) The petitioner is directed to submit a detailed explanation along with relevant records to the second respondent in response to the said



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impugned notice dated 20.01.2015, within a period of two weeks from the date of receipt of a copy of this order.

(ii) The second respondent is directed to consider the said explanation of the petitioner and take appropriate decision at the earliest, on its own merits and in accordance with law, as expeditiously as possible, within a period of eight weeks thereafter.

(iii) Since the petitioner has got the benefit of the interim order pending the writ petition, the said interim order shall continue till the final orders passed by the second respondent. Till Such time, status quo as on date shall be maintained.

(iv) It is needless to say that the second respondent has to take into consideration the fact that the petitioner has been promoted and he continued in the said post for more than 15 years as of now and more than seven years as of now from the date of show cause notice issued to him.

11. With the above directions, the writ petition stands disposed of. There will be no order as to costs. Consequently, WMP No.18720 of 2019 is closed.



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[D.K.K., J.] [N.S., J.]

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Index : Yes/No
Neutral Citation : Yes/No
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To

1.The Chairman,
Union of India,
Ordnance Factory Board,
Kolkatta 700 001.

2.The General Manager,
Engine Factory, Avadi,
Chennai-600 054.

D.KRISHNAKUMAR, J.

and

N.SENTHILKUMAR, J.

(mrn)



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