



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

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Date of decision: October 16, 2023

(58) + W.P.(C) 13619/2023, CM APPL. 53732/2023

UNION OF INDIA AND ORS.

..... Petitioners

Through: Mr. Piyush Beriwal,
Ms. Anandita Aggarwal and
Ms. Disha Choudhary, Advs.

versus

AMAN AND ORS.

..... Respondents

Through: Mr. Amit Tyagi and
Mr. Mukul Tyagi, Advs. for
R1 to R7

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioners challenging the order dated February 20, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in the Original Application being OA No. 949/2021, whereby the Tribunal has allowed the OA filed by the respondents herein by stating in paragraphs 4.1 onwards as under:

"4.1 It is seen that while dealing with the claim of the applicants that Moulder and Foundry man trades are one and the same and was sent for vetting to the Secretary, Ordnance Factory Board with the following observations:-



“From the above, it can be concluded that Moulder & Foundry man are same trades & only after the renamed of Moulder as Foundry man in the year 1998, a no. of Moulders having NTC/NAC in Foundry man trade have been appointed as Moulder in OFM & other factories also. It appear that this fact of renamed have been left unattended/un-noticed while publishing Advt. by OFRC & thus inviting litigation.”

4.2 On perusal of the aforesaid observation, it becomes clear that Moulder and Foundry man are one and the same and the change of nomenclature took place in the year 1998. Despite that, the respondents, without modifying the name of the trade in the recruitment rules notified in the year 1994, got the advertisement published for recruitment. It is also noticed that the respondents, while rejecting the representations of the applicants vide the impugned order dated 11.01.2021, have only stated that the advertisement was clear, unambiguous in specific requirement of having NAC/NTC qualification in “Moulder” trade only but they have not commented anything on the change of nomenclature of NAC/NTC trade, which was done in the year 1998, almost 20 years before publication of the advertisement in question. Moreover, the respondents themselves have admitted that this part remained unattended while getting the advertisement issued.

*4.3 Hon’ble High Court of Punjab & Haryana in an identical matter in case of **Manmanjit Singh vs. State of Punjab & Ors.** [CWP No.19510 of 2009 decided on 06.05.2014] has held as under:-*

“In support of his plea that both the courses are same, learned counsel for the petitioner referred to Training Manual for Industrial Training Institutes and Centres, updated in April, 2002, published by the Directorate General of Employment and Training, Government of India, wherein in Appendix XVI-C, at Sr. No. 24, it was mentioned as “Moulder” renamed as “Foundryman”. In addition, reference was made to the clarification dated 18.7.2011 (Annexure P-10), issued by Directorate General of Employment and Training, Ministry of Labour and



Employment, wherein it was clarified that curricula of “Moulder Trade” was revised in the year 1998 and during the revision the trade was renamed as “Foundry Man”. The new curricula was implemented from the session starting from August, 1999. However, under Craft Instructor Training, the name of Moulder Trade was changed as Foundry Man in the year 2009. The two trades viz. “Moulder” and “Foundry Man” are one and the same.

Further, the Committee constituted by the Department to opine as to whether both the courses are same, opined that NCO code of syllabi of Moulder and Foundry Man Trade is same...

From the material, as is referred to above, especially the clarification issued by Directorate General of Employment and Training, Ministry of Labour and Employment, Government of India, it is evident that trade of Moulder was renamed as Foundry Man. The petitioner in the present case had passed the aforesaid course way back in the year 1999. If with the passage of time there had been some changes in the course contents, it will not mean that persons, who had passed earlier, will become ineligible, once the definite opinion expressed by the Directorate General of Employment and Training, Ministry of Labour and Employment, Government of India is that trade of Moulder was renamed as Foundry Man. It is well known that with the passage of time and new developments taking place, the syllabi in every course continue to change. New things are introduced. The same may be the reason in the present case. We have to give due weightage to the clarification issued by the Directorate General of Employment and Training.

In view of the aforesaid discussion, in my opinion, rejection of the candidature of the petitioner for appointment to the post of Foundry Man Instructor on the ground that he lacked minimum qualification required for the post is erroneous. It is not in dispute that the petitioner had secured more marks than the candidates selected and



appointed. Another fact, which is not in dispute is that three posts are still lying vacant out of 8 posts advertised. Considering the aforesaid fact, it is directed that the petitioner be offered appointment on the post. The needful be done within a period of one month from the date of receipt of a copy of the order. As the petitioner had undertaken, he will be entitled to all the benefits from the date he joins service.”

*4.4 In view of the facts and circumstances of the case and in light of the decision in Sh. Manmanjit Singh’s (supra), we are of the considered opinion that both the trades i.e. Moulder and Foundry man are one and the same but only the name of Moulder trade was changed to Foundry man in the year 1998 i.e. much before publication of the advertisement in question. Hence, it was incumbent upon the respondents to take appropriate steps for modification of the recruitment rules qua the requisite apprenticeship for the post of Moulder before advertising the vacancies in question. Due to this error on the part of the respondents, the applicants cannot be put to a disadvantageous position. Therefore, the action of the respondents in rejecting the applicants’ candidature on the ground that they lack in qualification is not tenable in the eyes of law as well as the law settled by the Hon’ble High Court of Punjab & Haryana in **Sh. Manmanjit Singh’s** case (supra).*

4.5 In the result, for the foregoing reasons, the impugned order dated 11.01.2021 is quashed and set aside. The respondents are hereby directed to re-consider the case of the applicants for the post of Moulder by taking into account the NAC in Foundry man as equal to the NAC in Moulder. Upon such consideration, if they are found otherwise eligible and suitable, they be offered appointment on the post of Moulder. In such eventuality, the applicants would be notionally entitled to all consequential benefits from the date their juniors (in terms of their merit position) have been given these benefits.

4.6 The exercise, as ordained above, shall be completed by the respondents within a period of three months from the date of receipt of a certified copy of this Order.



4.7 This disposes of OA No.949/2021 with the aforesaid directions.

5. No order as to costs."

2. The submission of the learned counsel appearing for the petitioners is that the Tribunal should not have allowed the OA when the advertisement issued by the petitioners is very clear that only NAC/NTC (National Apprentice Certificate / National Trade Certificate) in 'Moulder' trade was to be considered as permissible in respect of recruitment to the post of 'Moulder' as no other equivalent trade was mentioned against the post of 'Moulder' in the advertisement and hence the NAC issued by NCVT in 'Foundry Man' trade could not have been considered as the essential qualification for seeking recruitment to the post of 'Moulder' and as such the action taken by the petitioners in rejecting the candidature of those respondents who are having NAC issued by NCVT in 'Foundry Man' trade was justified and could not have been interfered with by the Tribunal.

3. He also submits that the reliance placed by the respondents on inter-departmental communication is misconceived, inasmuch as, the communication has not resulted in any final decision for the Tribunal to rely on the same for allowing the OA.

4. It is further his submission that granting of benefits to the respondents by the Tribunal vide the impugned order, shall be violative of doctrine of equality as large number of candidates having NAC from NCVT in 'Foundry Man' trade, may not have applied for the post in question, considering themselves to be ineligible under the statutory rules and in terms of the advertisement.



5. We are not impressed by the submissions made by the learned counsel for the petitioners. This we say so, for the reason, noted by the High Court of Punjab & Haryana in the Judgment of *Manmanjit Singh vs. State of Punjab & Ors. [CWP No.19510 of 2009, decided on May 6, 2014]*, that as per the 'Training Manual' for 'Industrial Training Institutes and Centres' prepared by the Directorate General of Employment and Training, Government of India ('DGoET', for short), 'Moulder' trade was re-named as 'Foundry Man' in the year 1998. Pursuant thereto, a communication dated July 18, 2011 was issued by DGoET whereby it was clarified that two trades viz. 'Moulder' and 'Foundry Man' are one and the same. In fact, a reference in that regard has been made by the Tribunal to the notifications dated September 9, 1996 / December 22, 1996 whereby the Government of India with the approval of the CAC / NCVT had changed the names of number of trades including 'Moulder' to 'Foundry Man' and thereafter, the usage of the word 'Moulder' was stopped and apprentice training was started in the name of 'Foundry Man'.

6. There is no doubt that the advertisement was issued seeking qualification / eligibility of NAC / NTC in 'Moulder' trade, but the fact remains that the petitioners by not updating the Recruitment Rules, which resulted in the issuance of the advertisement, cannot justify the same which shall cause prejudice to the respondents.

7. In fact, we find that the Tribunal has rightly relied upon the judgment of the High Court of Punjab and Haryana in the case of *Manmanjit Singh (supra)*, wherein the facts demonstrate that the petitioner therein had applied for the post of 'Foundry Man Instructor'.



His candidature was rejected on the ground that he did not have the required minimum qualifications. So, he approached the High Court challenging the merit list prepared for selection to the said post and also sought a direction for his appointment. It was the conceded case that the petitioner therein had the qualification of 'Moulder' from Government Industrial Training Institute, Batala. Still his candidature was rejected only on the ground that he did not have the qualification in 'Foundry Man Instructor' trade. During the course of the hearing, reliance was placed on the clarification issued by DGoET whereby 'Moulder' was re-named as 'Foundry Man' in the year 1998 and also the communication dated July 18, 2011 from the DGoET.

8. On a finding that two trades viz. 'Moulder' and 'Foundry Man' are one and the same, the High Court allowed the writ petition by stating as under:-

"From the material, as is referred to above, especially the clarification issued by Directorate General of Employment and Training, Ministry of Labour and Employment, Government of India, it is evident that trade of Moulder was renamed as Foundry Man. The petitioner in the present case had passed the aforesaid course way back in the year 1999. If with the passage of time there had been some changes in the course contents, it will not mean that persons, who had passed earlier, will become ineligible, once the definite opinion expressed by the Directorate General of Employment and Training, Ministry of Labour and Employment, Government of India is that trade of Moulder was renamed as Foundry Man. It is well known that with the passage of time and new developments taking place, the syllabi in every course continue to change. New things are introduced. The same may be the reason in the present case. We have to give due weightage to



the clarification issued by the Directorate General of Employment and Training.

In view of the aforesaid discussion, in my opinion, rejection of the candidature of the petitioner for appointment to the post of Foundry Man Instructor on the ground that he lacked minimum qualification required for the post is erroneous. It is not in dispute that the petitioner had secured more marks than the candidates selected and appointed. Another fact, which is not in dispute is that three posts are still lying vacant out of 8 posts advertised.

Considering the aforesaid fact, it is directed that the petitioner be offered appointment on the post. The needful be done within a period of one month from the date of receipt of a copy of the order. As the petitioner had undertaken, he will be entitled to all the benefits from the date he joins service."

9. Suffice to state that in the aforesaid case, the facts are reverse of the facts which are available in this case, inasmuch as, in the said case, the petitioner therein had the qualification in 'Moulder' trade and the advertisement sought the qualification in 'Foundry Man Instructor'. Whereas, in the present case, the advertisement requires qualification in 'Moulder' trade, but the qualification possessed by the respondents is in 'Foundry Man' trade.

10. Be that as it may, as the Central Government itself through DGoET has re-named the trade of 'Moulder' as 'Foundry Man' and the fact that we have been informed during the course of the hearing that against 41 vacancies, 42 applications were received and out of which 37 persons with qualification in 'Foundry Man' trade have been selected, we are of the view that for all purposes, it is the qualification 'Foundry Man' which is recognized as the qualification for the post in question.



11. Insofar as, the plea of the learned counsel for the petitioners that granting of benefits to the respondents by the Tribunal vide the impugned order shall be violative of doctrine of equality as large number of candidates having NAC from NCVT in 'Foundry Man' trade, might not have applied considering themselves to be ineligible under the statutory rules is concerned, the same also does not appeal us, in view of the fact that as against 5 persons having qualification in 'Moulder' trade, 37 persons having qualification in 'Foundry Man', trade had applied for the post in question and in fact they have been found successful in the selection process. In any case, no person having 'Foundry Man' qualification has approached the Tribunal, complaining that as the advertisement stipulates 'Moulder' as qualification, he could not apply for the post in question.

12. Also, the plea of the petitioners, that the inter-departmental communication is in the process of consideration for appropriate decision and thus cannot be relied upon, is concerned, the same also does not appeal to us, for the simple reason that the decision has already been taken by the DGoET, way back in the year 1998, re-naming the trade in 'Moulder' as 'Foundry Man'. Moreover, the decision taken in 1998, has been followed by a communication of 2011.

13. It is not understood as to why the petitioners have not amended the Recruitment Rules despite re-naming the certificate in 'Moulder' trade as 'Foundry Man' that too even after 25 years when they issued advertisement with 'Moulder' trade. The inaction of the petitioners to update the rules cannot be to the prejudice of the respondents that too when they have been found successful in the selection process.



14. The writ petition is dismissed with cost of ₹10,000/- to be deposited with the Delhi High Court Advocates Welfare Trust.

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Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

OCTOBER 16, 2023/jg