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W.P.No.8826 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

**W.P.No.8826 of 2020
and
WMP No.10718, 10719 & 10721 of 2020**

1. K.V. Vijayakumar

2. S. Thirumurugan

3. P. Vellikkannan

4. P. Ashok Kumar

5. K. Raja

...

Petitioner

Vs

1 The Registrar,
Central Administrative Tribunal,
Chennai Bench, High Court Buildings,
Chennai 600 104.

2. Union of India,
represented by the Chairman,
Ordnance Factory Board,
10-A, S.K.Bose Road, Kolkatta.

3. General Manager, Engine Factory,
Avadi, Chennai 600 054

4. S. Karthik



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5. R. Vijayakumar

6. K. Uma Shankar

7. R. Prakash

8. Institution of Mechanical Engineers'(India)

Hasmukhbhawan, Plot No.24,

Behind CIDCO Office,

Near Hiranandani Park,

Sector 4, Khargar,

Navi Mumbai, Maharashtra 410 210 ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent Tribunal in its order dated 19.03.2020 made in O.A.No.1328 of 2013, quash the same and consequently declare that the petitioners are eligible and have valid and equivalent qualification to participate in the Limited Departmental Competitive Examinations (LDCE) already held and to be held in future for the post of Chargeman (T/Mech) and further open the sealed covers of the petitioners with regard to their results in the Limited Departmental Competitive Examinations of the year 2013 and 2015 and upon being found suitable, appoint the petitioners as Chargeman(T/Mech) from the due date on par with other appointees of such LDCEs with all consequential benefits flowing therefrom including monetary benefits and seniority.

For Petitioner : Mr.Karthik Rajan,
for Mr. Menon

For Respondents : R1-Tribunal



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- : Mr. A.R.L.Sundaresan,
ASGOI,
Assisted by Mr.V.Ashokkumar,
for R2 & R3
- : Mr. N. Balamurali Krishnan,
for R4 to R7.
- : Mr.S.Sivashanmugam,
for R8

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Common Order dated 19.03.2020 passed by the Central Administrative Tribunal, Chennai Bench in batch of Original Applications are under challenge in the present writ petition.

2. The petitioners filed original applications challenging the order of rejection issued by the General Manager, Engine Factory, Avadi in proceedings dated 19.09.2013 rejecting their eligibility to appear in the Limited Departmental Competitive Examinations (LDCE) for the post of Chargeman (T&NT). The Tribunal, after considering the issues raised between the parties, declined to grant relief to the in-service candidates to participate in the LDCE for the post of Chargeman (T& NT), which provided cause to institute the



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present writ proceedings before this Court under Article 226 of the Constitution of India.

3. The learned counsel for the petitioners, Mr.Karthikrajan, would mainly contend that the petitioners possess the diploma in Mechanical, qualification as prescribed under the notification. The validity of the diploma certificate possessed by the petitioners were confirmed by the Ministry and treated as equal to the regular diploma course in mechanical. Having treated the diploma certificate as equal, the right to participate in the departmental examination cannot be denied to the petitioners. The rejection order was challenged further on the ground that All India Council for Technical Education passed a resolution considering the O.M. dated 06.12.2012 issued by MHRD regarding conducting a recognition of technical educational courses conducted by various professional societies. In this context, the petitioners would rely on the judgment of the Hon'ble Supreme Court in the case of ***Institution of Mechanical Engineers (India) through its Chairman /vs./ State of Punjab and others in MA No.2367 of 2018 in Civil Appeal No.17922 of 2017 date 13.08.2019.*** The learned counsel for the petitioners relied on paragraph 44 and 45 of the judgment, which reads as under:



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" 44. However, the fact remains that the equivalence to the certificates awarded by the appellant was granted by the HRD in consultation with AICTE upto 31.05.2013 as is evident from Notification dated 06.12.2012 issued by the Central Government and Public Notice issued by AICTE in August, 2017. These communications also indicate that all those students who were enrolled upto 31.05.2013 would be eligible for consideration in accordance with MHRD office memorandum/ order in course. Though we have laid down that the Certificates issued by the appellant on successful completion of its bi-annual examination to its Members cannot be considered to be equivalent to a degree, an exception needs to be made in favour of the students enrolled upto 31.05.2013 and benefit in terms of the notification dated 06.12.2012 and Public Notice as aforesaid ought to be extended to such candidates. The candidates had opted to enroll themselves so that they could appear at the examinations conducted by the appellant under a regime which was put in place by the Central Government itself and the course content as well as the curriculum were reviewed by the AICTE. However, the aforementioned notification and public notice were clear that after 01.06.2013 the concerned orders granting equivalence would cease to have any effect.

45. In the circumstances, we do make an exception in



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favour of such candidates enrolled upto 31.05.2013 and declare that the conclusions drawn in the present matter will apply after 01.06.2013. The certificate awarded by the appellant to such candidates enrolled upto 31.05.2013 shall be considered equivalent to a degree in Mechanical Engineering for the purpose of employment in Central Government. :

4. The Government of India, Ministry of Defence, in its clarificatory letter dated 31.01.2020 has decided that all technical degrees/diploma through Open and Distance learning (ODL) mode from IGNOU will be valid, if enrolled upto 2009-10 as per AICTE letter, dated 11.12.2018. Similarly, all technical degrees/diplomas from Institutions/ Universities covered by MHRD OM dated 06.12.2012 will be treated as valid if the individual is enrolled upto 31.05.2013 as per AICTE advertisements.

5. Relying on the above clarificatory letter issued by the Ministry, the learned counsel for the petitioners would reiterate that all the petitioners have completed their diploma in mechanical engineering prior to 31st May 2013 and therefore, their diploma certificate are valid in the eye of law. Thus, denial of opportunity resulted in violation of the guidelines issued by the Ministry as well as the Apex Court in the order cited supra. The petitioners have studied diploma course in the Institution of Mechanical Engineering at Bombay. It is not in dispute that they have undergone the course through Distance Education mode.



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However, the same would not dis-entitle them from participating in the Limited Departmental Examination for promotion to the post of Chargeman (T&NT).

6. Mr.A.R.L.Sundaresan, learned Additional Solicitor General of India would oppose by stating that the validity of the Diploma Certificate obtained by the petitioners are one aspect of the matter, but, the respondents have to go by the Recruitment Rules as well as the notification issued pursuant to the Recruitments Rules in force. As per the notification and the clarification issued by the Director General, Ordnance Factory, the petitioners are not eligible to participate in the Limited Departmental Competitive Examinations since they possessed the diploma certificate through Distance Education mode. Thus, they have not satisfied the requirements as stipulated in the recruitment notification. Therefore, the Tribunal is right in rejecting the relief as such sought for by the petitioners in their respective Original Applications.

7. The issue raised in the present writ petition is that, whether the Diploma in Mechanical Certificate obtained by the petitioners are valid for the purpose of participating in the Limited Departmental Competitive Examinations



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conducted by the respondents, i.e., Engine Factory, Avadi as per the notification.

With reference to the issue raised, it become unnecessary for this Court to consider the validity of the Diploma Certificate obtained by the petitioners. The arguments advanced on behalf of the petitioners are about the validity of the Diploma Certificate obtained by the petitioners through Distance Education Mode from the Indian Institution of Mechanical Engineers (India), Bombay.

8. Even taking into consideration that the Diploma in Mechanical Certificate obtained by the petitioners are valid, since they acquired the same prior to 31.05.2013, this Court has to consider, whether such Diploma Certificate is valid for the purpose of participating in the Limited Departmental Competitive Examinations conducted by the Engine Factory, Avadi .

9. The governing legal principles in the matter of appointment/promotion are that, it is the provocation of the employer to prescribe educational qualifications, age limit, experience and other criteria for recruitment, promotion, etc. Such prescriptions if resulted in unconstitutionality or in violation of the Recruitment Rules, then alone the Courts would interfere, but not otherwise. Therefore, mere validity of a degree or diploma would be insufficient to hold that a person holding diploma certificate through Distance

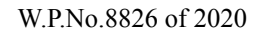


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Education Mode is eligible to participate in the Limited Departmental Competitive Examinations.

10. Let us examine the Recruitment Rules and the consequential notification issued by the respondents for conducting Limited Departmental Competitive Examination for the post of Chargeman (T &NT).

11. The Ministry of Defence notified the rules in Gazette of India on 14.06.2003 in exercise of the powers conferred by the Provisio 2 Article 309 of the constitution. The Rules are called the Indian Ordnance Factory Group Supervisory and non-existed cader (Recruitment and Condition of service)Amendment Rule 2003. Against the post of Chargeman Grade-II(Technical), the educational qualification for Direct Recruitment is prescribed as " Must possess 3 years diploma or equivalent qualification certificate in the respective field duly affiliated by AICTE. Thus, the Rule contemplates that a candidate submitting application to participate in the Limited Departmental Competitive Examinations must possess 3 years diploma or equivalent qualification. With reference to the Educational Qualification of 3 years diploma, the Director General, Ordnance Factories, Ministry of Defence, issued clarification on eligibility vide proceedings dated 12.09.2013. The said



" The contents of the EFA letter quoted under reference, which sought clarification regarding acceptability of Diploma acquired from the Institute of Mechanical Engineering(India), Mumbai(IME) for appearing in the subject LDCE has been duly examined.

Since the Institute IME, Mumbai, has not been approved by AICTE, the candidate(s) obtained Diploma from the said institute cannot be allowed to appear in the subject LDCE.

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IME, Mumbai, has not been approved by AICTE, and the candidates obtained diploma from the said institute cannot be allowed to appear in LDCE.

13. In the context of the Recruitment Rules prescription of Educational Qualification being the provocative of the employer, the same will prevail over and more so the issue raised is not about the validity of the diploma certificate obtained, but the nature of diploma course undergone by the candidates , which was considered as relevant for the post of Chargeman in the Engine Factory.

14, The learned Additional Solicitor General of India would submit that practical training being necessary to perform the duties of Chargeman in Engine Factory, the Ministry of Defence clarified that the candidates, who have studied regular course of Diploma in Mechanical alone are eligible to participate in the Limited Departmental Competitive Examinations. The petitioners though completed the Diploma Course prior to 31.05.2013, admittedly, they have studied through Distant Mode Education and not by attending the regular classes for 3 years course. The clarification issued by the Ministry of Defence would indicate that the candidates, who studied through Distant Mode cannot be considered eligible for appearing in LDCE for the post of Chargeman (T).

15. In view of the above legal position, we are of the considered opinion



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that the Tribunal has rightly formed an opinion that the petitioners are not eligible to participate in the Limited Departmental Competitive Examinations as they have completed the Diploma in Technical through Distant Mode and as per the Recruitment Rules and the clarification issued by the Ministry, the said qualification is ineligible to participate in the Limited Departmental Competitive examinations.

16. Accordingly, the order impugned passed by the Central Administrative Tribunal stands confirmed and consequently, Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.] [M.J.R., J.]
18.11.2024

Index: Yes/No
Speaking/Non-speaking order
mrp

To

- 1 The Registrar,
Central Administrative Tribunal,
Chennai Bench, High Court Buildings,
Chennai 600 104.
2. The Chairman, Union of India,
Ordnance Factory Board,
10-A, S.K.Bose Road, Kolkatta.



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3. The General Manager, Engine Factory,
Avadi, Chennai 600 054

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4. Institution of Mechanical Engineers'(India)
Hasmukhbhawan, Plot No.24,
Behind CIDCO Office,
Near Hiranandani Park,
Sector 4, Khargar,
Navi Mumbai, Maharashtra 410 210

5. The Public Prosecutor, Madras High Court.



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S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

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