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W.P.No.14012 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.14012 of 2020

S.Rajesh

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Petitioner

Vs

- 1.Union of India,
Rep. by the Director,
Combat Vehicles (Research & Development) Establishment,
Ministry of Defence, Avadi,
Chennai – 600 054.
- 2.The Union of India,
Rep. by the Director,
Directorate of Human Resources Development,
Defence Research & Development Organization,
Ministry of Defence,
DRDO Bhawan,
New Delhi – 110 105.
- 3.The Secretary,
Ministry of Human Resource Development,
Department of Higher Education,
Government of India, Shastri Bhawan,
New Delhi – 110 115.
- 4.All India Council for Technology Education,
(A Statutory body of the Government of India),



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7th Floor, Chanderlok Building, Janpath,
New Delhi – 110 001.

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5.Institution of Mechanical Engineers (India),
Hasmukh Bhawan, Plot No.24,
Behind CIDCO Office, Near Hiranandani Park,
Section 4, Khargar, Navi Mumbai,
Maharashtra – 410 210.

6.The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai -600 104.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 6th Respondent Tribunal dated 19.03.2020 made on O.A. 1408 of 2012 and quash the same and consequently direct the Respondents to declare the result of the petitioner in the LDCE for the post of Senior Technical Assistant pursuant to Notification dated 27.08.2012 and appoint the Petitioner to the said post with effect from date the other selectees have been appointed with all consequential benefits including monetary benefit flowing.

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

For Respondents : Mr. A.R.L.Sundaresan,
ASGOI,
asst by Mr.V.Chandrasekaran, (R1 -3)
Senior Panel Counsel
: Tribunal (R6)

ORDER



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

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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 petitioner filed original application challenging the order of rejection issued by the General Manager, Engine Factory, Avadi in proceedings dated 19.09.2013 rejecting his 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 present writ proceedings before this Court under Article 226 of the Constitution of India.

3. Mr.Karthikrajan, the learned counsel for the petitioner would mainly contend that the petitioner possess the diploma in Mechanical, qualification as prescribed under the notification. The validity of the diploma certificate possessed by the petitioner was confirmed by the Ministry and treated as equal to the regular diploma course in mechanical. Having treated the diploma



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certificate as equal, the right to participate in the departmental examination cannot be denied to the petitioner. The rejection order was challenged further on the ground that, the All India Council for Technical Education passed a resolution considering the Official Memorandum dated 06.12.2012 issued by MHRD, regarding conducting a recognition of technical educational courses conducted by various professional societies. In this context, the petitioner 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***, dated 13.08.2019. The learned counsel for the petitioner relied on paragraph 44 and 45 of the judgment, which reads as under:

" 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



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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 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



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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 petitioner would reiterate that the petitioner has completed his diploma in mechanical engineering prior to 31st May 2013 and therefore, his diploma certificate is 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 petitioner has studied diploma course in the Institution of Mechanical Engineering at Mumbai. It is not in dispute that he has undergone the course through Distance Education mode. 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 petitioner is 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



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by the Director General, Ordnance Factory, the petitioner is 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 petitioner 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 petitioner is valid for the purpose of participating in the Limited Departmental Competitive Examinations 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 petitioner is about the validity of the Diploma Certificate obtained by the petitioner through Distance Education Mode from the Indian Institution of Mechanical Engineers (India), Mumbai.

8. Even taking into consideration that the Diploma in Mechanical Certificate obtained by the petitioner is valid, since he acquired the same prior to 31.05.2013, this Court has to consider, whether such Diploma Certificate is



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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 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-existent cadre (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 clarification reads as under:

" 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.

In this connection, it is stated that an expert Committee had been duly constituted by the Competent Authority for scrutinizing the suitability/ equivalence of the educational qualification to determine eligibility for appearing in the LDCE for the post of Chargeman (T &NT). The said Committee in its report had recommended that the Diploma Certificate acquired from an Institute through



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distant mode cannot be considered eligible for appearing in the LDCE for the post of Chargeman(T).

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.

12. The above clarification was issued to clarify the qualification of diploma in mechanical as eligibility criteria. Accordingly, the Diploma Certificate acquired from an Institute through Distant Mode are not considered as eligible to participate in the Limited Departmental Competitive Examinations for the post of Chargeman(T). Further it proceeds by stating that the Institute 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



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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 petitioner, though completed the Diploma Course prior to 31.05.2013, admittedly, he has 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 that the Tribunal has rightly formed an opinion that the petitioner is not eligible to participate in the Limited Departmental Competitive Examinations as he has 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 dated 19.03.2020 made in O.A. 1408 of 2012 stands confirmed and consequently, Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions, if any, are closed.



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

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

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Chennai – 600 054.
2. The Union of India,
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Defence Research & Development Organization,
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3. The Secretary,
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Department of Higher Education,
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