

**CENTRAL ADMINISTRATIVE TRIBUNAL
61/35, COPERNICUS MARG, NEW DELHI-110001**

Order Sheet

Item no.: 20
O.A./1741/2022 (DELHI)
[APPOINTMENT]
With
M.A./1842/2022
MA Joining Together
Court No.: 2

No of Adjournment: 1

Order Dated: 13/07/2022

**SHUBHAM CHANDRA TRIPATHI
Vs
DELHI DEVELOPMENT AUTHORITY (DDA)**

For Applicant(s) Advocate : Ms. Kaveeta Nadia with Ms. Fareha Ahmad Khan and Ms. Shagun Chopra

For Respondent(s) Advocate : Shri Sanjoy Ghose, Sr. Advocate assisted by Ms. Sriparna Chatterjee

Order of The Tribunal

On 08.07.2022, the learned counsel for the applicants sought for grant of interim relief by way of a direction to the respondents to allow the applicants to participate in the selection process for the post of Junior Engineer provisionally, subject to the outcome of the present Original Application. Since the last date for submission of the application forms pursuant to the Recruitment Rules is 10.07.2022, which is over, a short time was allowed to the learned counsel for the respondents to file reply or short reply on the limited issue of allowing the applicants to participate in the selection process. For the sake of clarity, the order passed on 08.07.2022 is being reproduced below :-

The applicants have filed the present OA seeking direction to the respondents to allow those candidates, to appear in the examination for selection to the post of Junior Engineer, who possess the qualification of

Degree in Engineering. Learned counsel for applicants draws our attention to

the recruitment notice which contains a specific provision which those candidates, who possess Degree in engineering are barred from appearing in the selection process for the post of Junior Engineer. However, the provision contained in the impugned notice allows only those Degree holders to appear in the examination, who also hold the Degree/Diploma in Engineering. Drawing attention to the recruitment rules to the post of Junior Engineer, learned counsel for the applicants points out that the said Rules provide for qualification for the post of Junior Engineer and nowhere stipulate that holders of degree in engineering would not be eligible. She further draws our attention to the next higher post in the hierarchy i.e. Assistant Engineer, wherein the Recruitment Rules contain a clear provision that 50% of the promotion posts shall be filled from the Junior Engineers, who possess the Degree in Engineering. She argues that in this case, Degree holders are not allowed to appear in the selection process to the post of Junior Engineer and thus it would further jeopardize availability of eligible Junior Engineers for promotion to the post of Assistant Engineer, unless the Recruitment Rules of Assistant Engineer are also accordingly amended.

Learned counsel for the respondents, on the other hand, points out that there has been a slight amendment in said Recruitment Rules. He briefly points out that the word 'equivalent' used for determining the qualification refers to the institution from which the requisite diploma/degree has been obtained not equivalence of degree. He wishes to place on record a compilation which he has made for assistance in proper adjudication of the case. However, today the limited issue raised on behalf of the applicants is that since the last date of submission of the application is 10.07.2022, which is very close, the applicants be allowed to submit their applications for consideration of their candidature for the said examination.

In view of the aforesaid facts and circumstances, a short time of ~~three~~ days' is allowed to the learned counsel for the respondents to reply/short reply; and if he/she so wishes, let it be only on the limited issue provisionally allowing the applicants to submit their applications for the said examination and subsequently appear in the same.

List on 13.07.2022."

Pursuant to this order, the learned counsel for the respondents has filed a detailed counter reply, dealing with the averments made in the Original Application. However, it would be premature to go

into the details either in the context of the OA or the counter reply, as the issue before us is limited. Learned counsel for the respondents draws our attention to the Recruitment Rules governing the recruitment to the post of Junior Engineer, particularly to Column 7 of the same, which stipulates that the educational qualification for the said post is Diploma in Civil Engineering from a recognised Institution or equivalent. He takes us to both the Hindi and English versions of the Notification to clarify and reiterate the submissions made here and on the last date of hearing that equivalence here refers to the educational institutions and not the degree. He further submits that what is referred to as the qualification is the essential qualification and the Recruitment Rules do not mention it either to be the minimum qualification or the maximum qualification. Therefore, according to them, if diploma in engineering has been prescribed as the qualification, the applicants have to necessarily hold this qualification by way of diploma and any other qualification, they acquire, cannot be treated as equivalent to the diploma in Engineering. He further points out that in case the applicants are allowed to participate in the said selection process, it is likely to open a flood gate of such claims. He further draws our attention to the cost of the entire exercise involved and submits that the financial burden is likely to be onerous, if the applicants who possess Degrees other than the diplomas, as prescribed in the Recruitment Rules, are allowed to participate. He submits that several administrative complexities would arise, as the selection process is being undertaken through an outsourcing Agency and at this stage the system may not allow acceptance of such applications. He further argues that since the position in the Recruitment Rules is unambiguous and the applicants have not

challenged the Rules, relief as sought for by them, cannot be awarded.

Learned counsel for the applicant reiterates the arguments she has put forth on the last date of hearing, which has already been mentioned in the order reproduced above. Therefore, we are not reiterating the same.

We are of the considered view that once notice has been issued and accepted and counter reply filed, the matter needs consideration in the light of the Rules and pronouncement on this issue by the various Courts. Moreover, applicants are claiming the relief on the basis of a higher qualification for a post which is essentially a technical post. In case the limited prayer of the applicants is not allowed at this stage, the entire OA is likely to be rendered infructuous. Therefore, in our considered view, at this stage, a direction is required to be given to the respondents to allow the applicants to participate in the selection process, strictly on a provisional basis. Accordingly, the respondents are directed to make provision to accept the applications of the applicants in response to their advertisement dated 11.06.2022. At this stage, learned counsel for the respondents submits that on account of administrative complexities, it is appropriate that the applicants submit a physical copy of the application form to the appropriate authority. The applicants are afforded liberty of only 10 days from today to submit their applications. If their applications are found to be complete in all respects, the respondents shall accept the same for the said examination and take further consequential action accordingly. However, such participation shall not bestow any right upon the applicants for selection. Their participation in the examination shall strictly be subject to the outcome of the present

OA. Therefore, the result of the applicants in the said examination shall not be declared without the leave of this Tribunal.

Since the learned counsel for respondents has already filed a detailed counter reply, he requests for an early hearing of the matter so that it can be finally disposed of. He submits that since the scrutiny of the applications is likely to take some time, it would be appropriate to finally hear and decide it.

Applicants may file rejoinder, if any, within two weeks.

The matter be listed for final hearing on 25.08.2022.

In case the circumstances so arise or there is an urgency, the learned counsels for the parties will be at liberty to mention the matter for early hearing.

Tarun Shridhar
Member (A)

R. N. Singh
Member (J)

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