
(2012) 07 AHC CK 0073
In the Allahabad High Court
Case No : Writ Petition No. 28 (M/S) of 2012

Hari Kishan Maurya

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 30-07-2012

Acts Referred:

Citation : (2012) 8 ADJ 292

Hon'ble Judges : Vinay Kumar Mathur, J

Bench : Single Bench

Advocate : V.K. Srivastava, for the Appellant;

Final Decision : Allowed

Judgement

Hon"ble Vinay Kumar Mathur, J.—The instant writ petition has been filed by the petitioner for quashing the order dated 16.12.2011 passed by Respondent No. 2 District Selection Committee D.I.E.T., District Raebareli and also seeking mandate against the respondents particularly against respondent No. 3 for permitting the petitioner to join B.T.C. Course 2011 under Ex-Army Man quota. The brief facts leading to the filing of the instant petition are that the petitioner is an Ex-Army Man, who was initially appointed as Craftsman (Grade I) in the Telecommunication (Radar) Wing and was promoted firstly in Grade II and thereafter to Grade III and after serving for more than 16 years was discharged from the Army. The petitioner belongs to back-ward class.

2. It has been contended by the petitioner that the Associate Member of Institution of Engineers (hereinafter referred to as "AMIE") is a professional certification given by the Institution of Engineers (India) Kolkata (hereinafter referred to as "IEI") which can be earned by passing Section "A" Project Work and Section "B" examination of the Institution. The Ministry of Human Resources Development, Govt. of India has recognized this qualification equivalent to a degree in Engineering. The IEI conducts an examination at par with B.E/B.Tech. as an eligibility qualification for competitive examinations like Civil Services,

Indian Engineering Services and GATE etc. It has also been stated that the course conducted by IEI consists of two Sections, namely, Section "A" and Section "B" while Section "A" is common to all, in Section "B" a particular discipline of Engineering has to be chosen by the students.

3. University Grants Commission (hereinafter referred to in short as "UGC") provides recognition to the Universities in India and has established 16 autonomous Institutions for accreditation for higher learning out of which one is all India Council for Technical Education (hereinafter referred to as "AICTE").

4. It is further contended that IEI Kolkata had written a letter to AICTE in the year 2000 for granting recognition to its course as equivalent to a degree in engineering. In response the AICTE through letter dated 8.1.2001 informed that the equivalence of AMIE will be approved either by the Board of Assessment MHRD or by the Association of Indian Universities for employment and other purposes. It was also informed that the approval of AICTE was not required.

5. The petitioner has contended that the matter for grant of recognition to the AMIE was considered by respondent No. 4 i.e. Ministry of HRD and vide its letter dated 16.1.2006, as many as 15 courses of Section "A" and Section "B" conducted by IEI, Kolkata were recognized as equivalent to a degree. One of the disciplines mention in the communication of Ministry of HRD is Electronics Communication Engineering. Copy of the communication is annexed as Annexure 6 to the petition. Thus, the AMIE certificate issued by IEI is equivalent to a degree course in the respective branch of engineering from a recognized university and the holder of a certificate has to be treated as a graduate in Engineering. It has also been mentioned that AMIE certificate course is a minimum four years course and in Section "A" there are two types of schemes, namely, non-diploma scheme and diploma scheme. The candidates who are 12th pass are given admission in non-diploma scheme. The craftsman (Grade III) in Indian Army is considered to be equivalent to diploma holder in telecommunication. The schemes of AMIE are similar to degree courses of engineering in which the diploma holders are given admission directly in second year of B.E./B.Tech that is why when the petitioner took admission in summer 1992 in IEI, Kolkata, for AMIE he was given admission in Diploma Scheme as a Senior Technician Member and was required to pass only 4 papers. The diploma in Section "A" denotes that the incumbent has passed under diploma scheme. The petitioner thereafter passed Section "B" in the year 1998 and was issued a certificate by IEI in Electronics and Communication Engineering.

6. On 1.9.2011 an advertisement inviting applications for selection to B.T.C. Training Course, 2011 was issued by the respondent wherein the eligibility fixed was B.A./B.Com./B.Sc. with 50% marks from any university established by law and recognized by UGC. Later on the academic qualifications for eligibility were relaxed on 7.10.2011 and all graduates with 50% marks from a University established by law and recognized by UGC were declared eligible. In pursuance of the modified advertisement the petitioner applied for BTC training course 2011

in District, Raibareli and was called for counselling on 16.11.2011. Ten seats in Raibareli District were reserved for Ex-service Man. After counselling the result was declared and the name of the petitioner was shown at serial No. 7 in the category of Ex-Service Man. However, there was a remark against his name that the graduation institute was not recognized by UGC and consequently his application form was being rejected. Thereafter, the petitioner preferred a representation on 25.11.2011 annexing documents to show that his qualifications were equivalent to a graduate. The petitioner also moved a representation before District Magistrate, Raebareli on 28.11.2011. The respondents considered the representations of the petitioner and found that the qualifications are equivalent to graduation. However, the respondents in an illegal and arbitrary manner vide the impugned order dated 16.12.2011 again rejected the application of the petitioner on the ground that his degree is valid for superior services and even for Central Services like IAS etc. but it is not valid for BTC Training Course. The interpretation treating the AMIE mark-sheet as diploma mark-sheet because in the mark-sheet of Section "A" word diploma is written, is also incorrect.

7. Counter-affidavit on behalf of the respondent Nos. 1 and 3 has been filed by the Principal, AICTE District, Raebareli wherein it has been stated that the State Government duly issued G.O. in pursuance thereof the advertisement for selection of BTC course 2011 was published in daily newspapers wherein the eligibility qualifications were B.A/B.Sc./B.Com. from any university/college established by law and recognized by UGC with minimum 50% marks. Subsequently, in the light of the G.O. dated 1.9.2011 special reservation of seats for Ex-Army Men was also provided and vide the said G.O. the eligibility was also modified to graduation only.

8. It has been contended that the petitioner applied for the course but it was found that the petitioner instead of submitting graduation degree/mark-sheet as per requirement of the G.O. dated 7.10.2011 submitted mark-sheet and provisional certificate of two years diploma course of 1998 issued by IEI, Kolkata and since the petitioner was not eligible for want of graduation degree his candidature was rejected by the District Selection Committee, thereafter he submitted representation on 25.11.2011 before Principal, DIET, Raebareli Respondent No. 3 annexing various letters showing that on the basis of certificate granted by IEI, Kolkata he was eligible for admission in post graduate courses as well as for appointment in higher services in Central Government.

In pursuance of the representation submitted by the petitioner to the District Magistrate, Raebareli a report was called for Principal, DIET, who submitted a detailed report to the District Magistrate on 16.12.11 Annexure 1 to the counter-affidavit and since the petitioner does not hold a graduate degree as per requirements of G.O. dated 7.10.2011. He was not found eligible for selection to BTC Training Course, 2011.

9. It has also been contended that the two years diploma granted by IEI, Kolkata

is not equivalent to graduation degree granted by University/College duly established by law and recognized by UGC. Therefore, the petitioner was ineligible.

10. In the rejoinder-affidavit in reply to the counter-affidavit the petitioner has reiterated the averments of the petition and has stated that the minimum course duration of passing the AMIE examination Section "A" and Section "B" is four years. It is clear from Annexure 7 to the writ petition. Therefore, the contention of the respondent that the petitioner submitted a mark-sheet of two years diploma course of 1998 is unfounded and baseless.

11. It has also been contended that earlier the stand of the respondents was that the petitioner had submitted mark-sheet of AMIE, which is a diploma course but now they have said that the course is a degree course but is of two years as such is not equivalent to graduation while in fact it is a degree course the duration of which is minimum four years.

12. It has also been stated that the respondents have not replied to the averments in paragraph Nos. 24 and 25 and as such the same may be taken as correct.

Heard learned counsel for the petitioner and learned standing counsel for the respondent Nos. 1 and 3 and perused the record.

13. Learned counsel for the petitioner has submitted that the petitioner was eligible for selection in the BTC Course but his candidature was illegally and arbitrarily rejected by the respondents. It has been submitted that in Annexure 4 which is a printout of information available on official website of the UGC, it is clear that it has granted accreditation to various autonomous institutions established by Acts. At the top of the list is All India Council for Technical Education (AICTE). Further submission is that through a letter dated 8.1.2001 of AICTE to the IEI it has been informed that the equivalence of AMIE will be approved either by the Board of Assessment, Ministry of Human Resources Development (MHRD) or by the Association of Indian Universities for employment and other purposes for academic equivalence and the approval of AICTE is not required in this regard, vide a notification dated 16.1.2006 issued by Ministry of Human Resource Development Department of Secondary and Higher Education 15 courses of Section "A" and "B" examination conducted by IEI have been recognized as equivalent to Degree in the appropriate branch of engineering of a recognized university.

14. It has further been submitted that Section "A" examination of the AMIE has two streams, one of which is diploma stream and other is called non-diploma stream and Section "A" examination is common for all. Senior Technician Members are eligible in the diploma course stream and the petitioner being a Senior Technician (Craftsman) (Grade III) was eligible for the diploma stream directly. Section "B" examination was to be cleared thereafter and the minimum time for completing Section "B" has been prescribed for one and half years.

Thus, total duration of course which includes Section "A" and Section "B" is of four years.

15. The respondents have wrongly interpreted, the mention of word diploma in Annexure 8 to mean that the qualifications of the petitioner are not equivalent to degree course. They have further misinterpreted that the entire course which includes Section "A" and "B" is only of two years duration. There is no impediment in pursuing Section "A" and Section "B" after a gap of several years. The provisional certificate issued by the IEI does not anywhere mention word diploma therefore, the petitioner was eligible as he possessed a degree in Electronics and Communication discipline. The representation given by the petitioner to the Principal and also to the District Magistrate, Raebareli were dealt in an arbitrary manner and the District Magistrate was misinformed.

16. It has also been, argued that UGC vide its letter dated 22nd September, 1978 copy of which is annexed as Annexure 16, has informed IEI that the AMIE graduates with a minimum of 60% marks, admitted to approved post graduate course in Engineering/Technology at University/Institution will be eligible for the award of Junior fellowship of Rs. 400/- per month which is indicative of the fact that the UGC recognizes IEI courses and further the Ministry of Education and Social Welfare vide its letter dated 16.8.1978 to the IEI in the matter of recognition of technical/professional qualifications has categorically written that pass in Section "A" and Section "B" of the IEI is recognized by the Government of India at par with a Bachelor's degree in the appropriate field of engineering from a recognized Indian University for purpose of recruitment to superior post and service under the Central Government.

17. In this view of the matter, it is clear that the Government of India has recognized the courses of Section "A" and Section "B" at par with Bachelor's Degree of a recognized University. Further submission is that Union Public Services Commission has also sent a communication informing its decision that professional and technical qualifications such as pass in Section "A" and Section "B" of the AMIE is recognized by the Government as equivalent to degree in engineering for purpose of recruitment to superior services and posts under Central Government. Thus, in view of this candidature of the petitioner has been illegally rejected and the petitioner is entitled to admission in BTC course 2011 and as such the petition deserves to be allowed.

18. Learned Standing Counsel has submitted that the marks-sheet submitted by the petitioner and the provisional certificate submitted by the petitioner indicated that the petitioner had passed two years Diploma Course. The eligibility as prescribed by the Government order was graduation in any discipline with minimum 50% marks from a university or institution established by law and recognized by the U.G.C. and since the petitioner had not filed any proof that the diploma was equivalent to a degree, his candidature was rejected. The AMIE course is a diploma course and was not recognized by the UGC on the date on which the petitioner is said to have passed AMIE. The representation filed by the

petitioner was duly considered and disposed of. The qualifications possessed by the petitioner may be valid for appointment to higher services in Central Government but the respondents had no authority to relax the eligibility prescribed by the Government through its G.O.

19. The notification Annexure 6 filed by the petitioner granting recognition of educational qualifications by the Government of India is dated 16.1.2006 while admittedly the petitioner passed out from IEI, Kolkata in 1998. Therefore, at the relevant time it was not recognition by Ministry of Human Resource Development.

20. In this view of the matter, learned standing counsel has submitted that the writ petition is devoid of merits and there is no illegality or irregularity in rejection of the candidature by the respondents and as such the petition deserves to be dismissed.

21. From perusal of the record, it appears that as per Annexure 13 of the writ petition the candidature of the petitioner was not approved despite his being placed at Sl. No. 7 in the list of male category-9 of Ex-Army Man, in view of the remark that the graduation institute is not recognized by the UGC, the candidature of the petitioner was not approved. The representation given by the petitioner after consideration was disallowed vide Annexure 1 rejecting again his candidature on the ground that marks-sheet issued by I.E.I., Kolkata submitted with the application form was not of graduation or equivalent while as per G.O. dated 10.7.2011, the educational requirement was graduation examination. It has been further noted that the applicant had enclosed instead of graduation degree, a diploma marks-sheet. The certificate is valid for superior services and service under Central Government such as IAS etc. but not valid in place of degree and therefore applicant cannot be selected for BTC 2011. Thus it appears that the candidature of the petitioner was finally rejected on the ground that he had submitted a diploma marks-sheet issued by I.E.I. in place of graduation degree. While the earlier rejection/non-approval was on the ground that the graduation institute was not recognized by the UGC.

22. The information brochure of AMIE Annexure 7 to the petition field, clearly provides that the course consists of two Sections, namely, Section A and Section B. Section A is project work and it consists of two streams which are diploma stream and non-diploma stream. The Senior Technical Members can appear in diploma stream. Since the petitioner was a Senior Technician Member because at the relevant time he was working as Craftsman, Gr. III, in the Indian Army which is considered to be equivalent to diploma-holder in Telecommunication for academic qualification purposes, therefore, he was given diploma stream. It appears that the respondents were misled by the words "diploma" written on the marks-sheet while in fact it denoted "diploma stream" which is different from a diploma course. Section A as per Annexure-7, includes four papers which were cleared by the petitioner in 1992 in diploma stream while Section B in Electronics and Communication Engineering branch was cleared in 1998 by the petitioner. The provisional certificate for passing out Section A and Section B which is dated

18.9.1998 issued by the IEI has been filed as Annexure 8 does not anywhere show that the petitioner passed some diploma course. This misinterpretation appears to have led to the rejection of the candidature of the petitioner.

Further Annexure 7 clearly provides that the duration of the entire course A and B is of four years. There is no material on record in support the argument of Ld. Standing Counsel that the petitioner has only passed a Diploma course and its duration is not 4 years.

23. As far as the recognition part is concerned Annexure 17 is a letter dated 16.8.1978 by Ministry of Education and Social Welfare (Department of Education Government of India) whereby it has been categorically stated that a pass in Section A and B of IEI is recognized by the Government of India at par with a Bachelor's degree in the appropriate field of engineering from a recognized Indian University for purpose of recruitment of superior posts and services under the central Government. This letter shows that the central Government had recognized a pass in Section "A" and "B" at par with the Bachelor Degree in the appropriate field of engineering from a recognized Indian University. Further the notification by the Ministry of HRD dated 16.1.2006, Annexure 6 of the writ petition has recognized at Serial No. 8 in its notification Electronics and Communication Engineering course conducted by IEI, Kolkata equivalent to degree in the appropriate branch of Engineering of the recognized universities of India. To my mind a liberal interpretation of the letter dated 16.8.1978, Annexure 17 and notification dated 16.1.2006 Annexure 6 has to be taken. It is evident that the central Government in 1978 itself recognized the courses "A" and "B" examination of IEI as equivalent to a degree and for recruitment of employment in Central Government Department therefore, it was wrong to ignore this communication on the pretext that the qualifications of the petitioner were valid and equivalent to graduation for Central Government services only. In 2006, MHRD has also recognized Section "A" and "B" conducted by IEI equivalent to a degree. In view of the recognition accorded by the Ministry of Education and Social Welfare, Government of India and MHRD, the four years examination passed by the petitioner consisting of Section "A" and "B" in the discipline of Electronics and Communication Engineering in degree of AMIE from IEI, Kolkata, the petitioner was eligible for consideration by the respondents as having requisite qualifications however, the final rejection of his candidature is not based on this ground. The final rejection of the candidature as has been communicated through Annexure 1, dated 16.11.2011 only say that the applicant has filed diploma marks-sheet of IEI, Kolkata instead of graduation degree and since the diploma marks-sheet is not valid, therefore he cannot be selected in BTC 2011. In view of the finding that the word "diploma" in the marks-sheet has been wrongly mistaken to be indicative of diploma course by the respondents, while it in fact denotes diploma stream of section "A" therefore the provisional certificate of clearing section "A" and "B" of IEI has wrongly been not considered while rejecting the candidature of the petitioner. It has already been observed earlier that the petitioner has passed 4 years course and the

course has been recognized by ministry of H.R.D. Govt. of India and UGC therefore the rejection of the candidature of the petitioner for B.T.C. 2011, by respondents is wrong, illegal and arbitrary and as such the petition deserves to be allowed. The petition is allowed and the order dated 16.12.2011 passed by respondent No. 2 is quashed. The respondents are directed to consider and pass appropriate orders in respect of the candidature of the petitioner for admission in B.T.C. Course, 2011 in ex army men quota within 15 days in the light of findings and observations made in the body of this judgment.