

(2007) 05 OHC CK 0033

In the Orissa High Court

Santosh Kumar Mohananda and Saroj Kumar Behera

APPELLANT

Vs

Steel Authority of India Ltd. and Others

RESPONDENT

Date of Decision : 18-05-2007

Acts Referred:

Citation : (2007) 104 CLT 208 : (2007) 114 FLR 1033 : (2007) 2 OLR 29

Hon'ble Judges : I. Mahanty, J;B.P. Das, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Mahanty, J.—As the points involved in both the writ petitions are identical in nature they were, with the consent of the learned Counsel for the parties, heard together and are being disposed of by this common judgment.

2. The petitioners in the present writ applications seek to challenge the action of the opposite parties in not allowing them to join as Senior Technician-cum-Operative Trainee (STOT) in spite of the fact that they have been selected through a regular process of selection.

3. The essence of the dispute in the present case relates to non-recognition/non-acceptance of the educational qualification attained by the petitioners. The petitioners have obtained Diploma certificate from the Institution of Mechanical Engineer (India) vide Annexure-3 which certifies that the petitioners had obtained final pass in Part-I and Part-II of Technician Engineers Examination in 1993. This Diploma Certificate and recognition thereof is the subject matter of the dispute.

4. It is admitted by the parties that Rourkela Steel Plant (O.P. No. 2) had sent a requisition to the Employment Exchange for sponsoring candidates for selection of Technical Apprentices under the Apprentices (Amendment) Act, 1973 from the candidates holding "requisite educational standard of having passed Diploma (3-4 years) Course, in the trades mentioned therein from a duly recognized institution...." It is also a fact that the petitioners were the duly sponsored

candidates of the Employment Exchange and were issued with Admit Card-cum-Call Letters to appear in the written test. The petitioners were also required to bring a certificate showing that the institution, from which the petitioners had obtained their Diploma, was recognized by the State Council for Technical Education, Orissa. The petitioners having come out successful in the written test and interview were also provisionally selected as apprentice trainee as Sr. Technician-cum-Operative Trainee subject to production of necessary certificate that the institution from which they had passed out was recognized by the State Council for Technical Education.

5. The contention of Rourkela Steel Plant (O.P. No. 2) is that since the petitioners did not satisfy the requirement of clause-3 (a) of the Annexure-6 and did not produce the requisite certificate from the State Council for Technical Education, Orissa, the opposite parties in order to ascertain the actual position addressed a letter to the Director, Technical Education and Training, Government of Orissa, to clarify as to whether the institution from which the petitioners had obtained their Diploma was recognized by the State Council for Technical Education along with the names of similar institutions (Annexure-A/3). To the query made by the Rourkela Steel Plant-O.P. No. 2, the Secretary of the State Council for Technical Education, Orissa, responded by his letter dated 6.9.1996 (Annexure-B/3) from which it was understood that the institution from which the petitioners obtained their Diploma was not in the list of recognized institutes as maintained by All India Council for Technical Education (in short "AICTE") which list is followed by the State Council for Technical Education (for short, SCTE). Therefore, since the petitioners could not produce the documentary evidence from the appropriate authority that the institution from which they had obtained their Diploma was duly recognized by the SCTE., Rourkela Steel Plant-O.P.2, did not admit them to the Apprenticeship Training Course and hence, both the writ petitions do not merits any consideration and they deserve to be dismissed.

6. The petitioners in order to establish the fact that the Diploma obtained by them, was duly recognized by the Government of India, placed reliance upon Annexure-2 dated 11.7.1988 in which Government of India on the recommendation of "Board of Assessment for Educational Qualification" duly recognized Part-I and Part-II of Technician Engineer's Examination conducted by the Institution of Mechanical Engineers (India), i.e., I.M.E. at par with a Diploma in Mechanical Engineering. The recommendation was duly communicated to all the Ministries and Departments of Government of India including Ministry of Steel and Mines as well as all the State Governments and their Technical Education Departments. The I.M.E. Diploma has been duly recognized by SAIL at Durgapur Steel Plant and persons holding such Diploma have been engaged at Durgapur. The petitioners further relied upon Annexure-11 (to the rejoinder) in order to establish the fact that the I.M.E. Diploma and its examinations are recognized by various States as well as Central Government including Bhilai Steel Plant, Salem Steel Plant.

7. Learned Counsel for the opposite parties vehemently submitted that the Rourkela Steel Plant-O.P. 2 placed reliance upon the letter dated 6.9.1996 vide Annexure-B/3 to the counter affidavit purportedly sent in response to its query made to the State Council for Technical Education. It has been contended in the rejoinder affidavit filed by the petitioners that the Directorate of Technical Education vide its letter No. 1316 dated 25.5.1994 addressed to the Secretary to Government of Orissa, Industries Department-opposite party No. 4 suggested to recognize the Technician Engineers Examination conducted by the I.M.E. as equivalent to Diploma Course offered by the State Council and both the Government of India and Union Public Service Commission and also All India Council for Technical Education has accepted that such other States should recognize such courses recognized by the Ministry of Human Recourses Development, Government of India. In the rejoinder affidavit, the petitioner has also relied upon the letter No. 4157/SCTE dated 3.10.96 of the Vice-Chairman of State Council for Technical Education and Vocational Training, Orissa written to the Senior Manager (Training), Training and Development Center, Rourkela Steel Plant, Rourkela-opposite party No. 3 which in effect reads as follows :.

xx xx xx. This has reference to your letter No. TR/IV/RBCOG/7044 dated 19.8.96. The Institute of Mechanical Engineer, Bombay has been approved by Human Resources Development Department vide their Notification No. 6 dated 11.7.88. The Director of Technical Education and Training, Orissa has moved government in Industries Department to give formal reorganization of the course vide their letter No. 1316 dated 25.5.94 and letter No. 3039 dated 25.9.95 of Vice-Chairman, S.C.T.E. and V.T. Orissa. It is under their active consideration, Few other States like Andhrapradesh, Rajasthan, Moharastra, Punjab, Kamatak, Goa, Madhyapradesh and Kerala have already recognized the above course.

In view of the above the case of the candidate may be disposed of sympathetically at your end. xx xx xx.

8. The learned Counsel for the petitioner further placed reliance upon Rule 2(2) of the Apprenticeship Rules, 1992 which defines a "Diploma Holder" to be a person holding Diploma in Engineering or Technology granted by the State Council or Board of Technical Education or recognized by the State or the Central Government. Therefore Rule 2(2) mandates recognition either by the "State or the Central Government" and since the petitioners' "Diploma" is recognized by the Central Government, it satisfies the requirements of the said Rule. The petitioners further submitted that the recognition by the Central Government for treating the I.M.E. Diploma equivalent to Diploma in Engineering or Technology granted by the State Council was received from the Central Government and the same is binding on the opposite parties. In this respect learned Counsel for the petitioners further submitted that condition of eligibility should not be viewed too technically and in this respect, the petitioners relied on a decision of the Supreme Court in the case of Uma Shankar Sharma Vs. Union of India (UOI) and Others, .

9. Having considered the rival contentions advanced by the parties, we are of the view that the Apprenticeship Rules, 1992 make it clear that a Diploma holder under the Rules must be a holder of Diploma either granted by the State Board or recognized by State Council for Technical Education or Central Government, i.e., recognition either by the State Government or Central Government and not necessarily both. In the present case, Annexure-2 is a gazette notification dated 11th July 1985 issued by the Government of India, Ministry of Human Resources Development Department of Education. The said notification reads as follows:

No.F.1-5/87/T.7/T/13. On the recommendations of the Board of Assessment for Educational Qualifications, the Government of India has been pleased to recognize the Part-I and Part-II Technical Engineers' Examination (T) conducted by the Institution of Mechanical Engineers (India) at par with a Diploma in Mechanical Engineering from State Polytechnic for the purpose of employment to subordinate posts and services under the Central Government.

It is in consonance with the notification issued by the Government of India that the Diploma obtained by the petitioners under Annexure-3 contains the following declaration, which reads as follows:

xx xx xx is recognized by the department of Education in the Ministry of Human Resources development of the Government of India at par with a Diploma in Mechanical Engineering as awarded by State Polytechnics vide Government Notification No. F 1.5/87/T.7/T13 dated 11th July, 1988 and entitles him the use of abbreviated designation of T. Eng. after his name.

10. The Rourkela Steel Plant-O.P. No. 2 does not rebut the averments made by the petitioners to the effect that other unit of the SAIL namely, Durgapur Steel Plant has recognized the self-same Diploma. It has also admitted a fact that the "Rourkela Steel Plant" is a Central Government Public Undertaking and is therefore bound by the directions issued by various departments of the Government of India including the Ministry of Human Resources Development. It is also a fact that the State Council for Technical Education, acting through its Vice Chairman had written to opposite party No. 3 i.e., Senior Manager (Training) Training and Development Center, Rourkela by his letter dated 3.10.1996 requesting him to take a sympathetic view in the matter.

11. Keeping the aforesaid and the relevant rules in view, we are of the considered opinion that a hyper technical attitude has been shown by the officers of the Rourkela Steel Plant, which is wholly unjustified by the intent behind the conditions of eligibility. It is not denied by opposite party No. 3 that the Government of India has recognized the petitioners' Diploma. In view of the definition attached to the expression "Diploma Holder" under the Apprenticeship Rules, 1992, the Rourkela Steel Plant cannot deny the fact that it is a subsidiary of the Steel Authority of India Limited, which in turn is administered by the Ministry of Steel and Mines and the recognition given by the Union Government under Annexure-2 that the Part-I and II Technical Engineers Examination(T)

conducted by the Institution of Mechanical Engineers (India) is at par with Diploma in Mechanical Engineering from a State Polytechnic, is binding upon them. Even then the R.S.P. takes a plea that the said Diploma not having been recognized by the State Council for Technical Education, the same is not acceptable. This stand of the R.S.P. is wholly unlawful, unjust and based upon a clear misinterpretation of the Act and Rules. The opposite party No. 2 has to read Rule 2(2) of the Apprenticeship Rules, 1992 consistent with the intent behind the conditions of eligibility it is well settled by the apex Court in the case of *lima Shankar Sharma (supra)* that the terms and conditions of service are intended to be construed reasonably, and too technical a view can defeat the essential spirit and intent embodied in them. The intention of the eligibility criteria was obviously to appoint competent persons having necessary academic qualification as Apprentices and the Diplomas are to be duly recognized. In the present case, I.M.E. Diploma having been recognized by the Central Government, Rourkela Steel Plant is legally bound to recognize the same and therefore, their further insistence for production of a eligibility/equivalence certificate from the State Council for Technical Education, is wholly unnecessary. This clearly exhibits a hyper technical view being adopted by the Rourkela Steel Plant in the matter of employment which is required in law to construe the same reasonably as has been mandated by the Supreme Court in the judgment referred to above.

12. Although the writ application is pending since 1996, the learned Counsel for the petitioners submitted that the petitioners remain unemployed till date and as the petitioners had been duly selected in the course of regular selection process, we are of the view that the writ applications merit due consideration and are allowed with the following directions.

Issue a writ of mandamus directing the Rourkela Steel Plant to accept I.M.E. Diploma Certificates produced by the petitioners as adequate qualification for the purpose of being appointed as Senior Technician-cum-Operative Trainee and declare redundant/unnecessary the further requirement of a certificate of recognition from the State Council for Technical Education, Orissa and also direct opposite parteis 1, 2 and 3 to appoint the petitioners as Senior Technician-cum-Operative Trainees in terms of their letters of appointment vide Annexure-6 to the writ petition.

The writ application is allowed, but in the circumstances without any costs.

B.P. Das, J.

13. I agree.