

(2001) 07 DEL CK 0080

In the Delhi High Court

Case No : CW 870 of 2001 and CM 1493 of 2001

Union of India and Others

APPELLANT

Vs

Sambhu Saran Singh and Another

RESPONDENT

Date of Decision : 20-07-2001

Acts Referred:

Citation : (2001) 93 DLT 236

Hon'ble Judges : Sharda Aggarwal, J;B.A. Khan, J

Bench : Division Bench

Advocate : Mr. V.K. Rao, for the Appellant; Mr. B.A. Mahanti Mr. Mamta Tripathy and Mr. S. Patra, for the Respondent

Judgement

Khan, J.—Petitioners are resisting to issue a letter of appointment to Respondent for the post of Jr. Telecom Officer (JTO) because he allegedly did not possess requisite prescribed qualification. But Respondent insists that he possessed the requisite qualification and was eligible for being appointed to the post.

2. Respondent was a candidate for the post of JTO pursuant to petitioners advertisement notice dated 19th November, 1995 which prescribed the following qualification for the post.

"A candidate must have obtained degree in Engineering in Mechanical, Electrical, Telecommunication, Electronics or Radio Engineering, Computer Sciences from recognised University or equivalent.

OR

B.Sc./B.Sc (Hons) with physics and Mathematics as main/elective/subsidiary/ additional/optional Subjects with 60% marks in the aggregate obtained in each examination of a recognised University."

3. Respondent applied for the post Along with his certificates/testimonial. He took the written examination and qualified. He was selected and placed at S.No.75 in the merit list. He was also subjected to medical test and asked to be

ready for training for which he deposited Rs.500/-. He did not hear from petitioners thereafter. He made representations but in vain. He then filed CWP No.174/99 for direction to petitioners to issue him a letter of appointment. Petitioners opposed this on the plea that he was not possessing the requisite prescribed qualification being a degree holder in Engineering (Civil) which was not required for the post of which he was informed by letter dated 19th November, 1998. His writ petition was disposed of with liberty granted to him to approach the CAT. Pursuant thereto he filed OA No.1383/2000 and claimed that he possessed the requisite alternative qualification of B.Sc/B.Sc (Hons) with physics and mathematics as optional subjects in which he had scored 60% aggregate marks in each examination. According to him he possessed B.Sc degree, though in Civil Engineering with physics and mathematics subjects in which he had obtained 60% marks in each examination. His plea prevailed with Tribunal which has directed petitioners to appoint him to the post by impugned order dated 19th December 2000. While doing so Tribunal dwelt with the connotation of B.Sc (Bachelor of Science) and concluded that it was a broad field of learning encompassing the study of Engineering also. It accordingly equated Respondents B.Sc degree in Civil Engineering with B.Sc course with physics and mathematics as optional and held him eligible for the post.

4. Petitioners are assailing this order on the ground that Tribunal had out stepped its jurisdiction and had taken upon itself to grant equivalence to Respondent's degree and to treat him eligible for the post.

5. L/C for respondent Sr. Advocate Mr. Mahanti justified the impugned CAT order by placing reliance on a Supreme Court judgment in Swaran Lata Vs. Union of India and others, 1979 (1) SLR 710 where a prescribed 3 year Diploma in technology was held to include a Diploma in Home Science. He has also invoked petitioners communication dated 28th August, 1998 to suggest that they were also convinced of Respondents eligibility for which they had sought a clarification. According to him prescribed qualification required Respondent to possess a B.Sc in any discipline including Engineering with physics and mathematics as optional subjects provided he had scored 60% aggregate marks in these in each examination.

6. Whether B.Sc course included or was equivalent to Respondents Bachelor of Science in Engineering also is the question, which in our view, could be best answered by the concerned university which had awarded the Engineering degree to Respondent. It was neither for the Tribunal nor for this court to enter the academic thickets and to grant equivalence to university degrees on broader interpretation and that too in the absence of any assistance or material from the concerned degree awarding university. Such matters fell within the domain of concerned academic/expert bodies and were better left to them as repeatedly made clear by the Supreme Court in its various judgments. Tribunal indeed had out stepped to that extent by taking upon itself to grant equivalence to Respondent's degree to Engineering and to bring it within the prescribed B.Sc

course.

7. It is true that petitioners had their own doubts in the matter for which they should have referred the matter to Patna university for any last word. but instead they had denied appointment to Respondent after subject him to full-fledged selection exercise in which he had qualified on the plea that his Civil Engineering degree did not fit the bill.

8. In the circumstances, the petition is disposed off to the mutual satisfaction of parties by providing as under:-

Petitioners may make a representation to the competent authority on the subject matter within two months claiming that B.Sc included his Engineering degree or was equivalent to it in accordance with Patna university curriculum. Petitioners in that event shall examine the matter and may seek assistance from the concerned university and pass appropriate orders whether Respondent was eligible for the post of JTO in terms of prescribed qualification. They shall do so within three months from receipt of Respondent's representation and they shall issue appropriate letter of appointment to him if he was found so eligible.