

(2001) 09 SC CK 0008

In the Supreme Court Of India

Case No : Civil Appeal No's. 6918 and 19 of 1997

Union of India (UOI) and Others

APPELLANT

Vs

Debajit Chatterjee and Others

RESPONDENT

Date of Decision : 06-09-2001

Acts Referred:

Citation : (2002) 2 JLJ 83 : (2002) 1 UPLBEC 922

Hon'ble Judges : S. Rajendra Babu, J;Doraiswamy Raju, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S. Rajendra Babu, J.—Challenging certain appointments made in the ordnance factories, original applications were filed before the Central Administrative Tribunal, Jabalpur Bench, seeking the following directions:

(1) That the Respondents 1 to 10 should be given preference over direct recruits. The Respondents 1 to 10 should not get their names sponsored by Respondent No. 11.

(2) The age bar should be relaxed for considering the Respondents 1 to 10 for appointment to the semi-skilled grade.

(3) A year-wise list of trained should be preferred and the senior persons should be given preference over the persons who were trained later.

(4) That the Respondents 1 to 10, having the basic knowledge of all trades, should be considered for appointment in every trade which is to be filled in.

(5) That the Respondents 12 to 17 should be recruited against the post in the trades as per the apprenticeship certificate.

(6) The general manager, ordnance factory Katni, (Petitioner No. 4) be directed not to select/recruit any person in response to the interviews call issued on 25.12.1995.

(7) The Hon'ble tribunal may kindly quash the entire selection process/ recruitment process done by the general manager, Ordnance Factory, Katni (Petitioner-4). The Petitioners herein contested the said original Application No. O.A. 800 of 1995 and O.A. 82 of 1996.

2. In the two applications i.e., O.A. No. 800/1995 and O.A. 82/1996 which were taken up together, a common order was passed to the following effect:

(i) The apprentices should be given all benefits for being considered for appointment. No doubt the persons who have already acquired training would be better qualified than those applying for the first time as a direct recruit, but the fact remains that there have been no appointments for last 16 years as such all those who have become eligible should also get opportunity to compete.

(ii) There can be no total denial of consideration in respect of direct recruitment if they are otherwise qualified and meritorious. The test held for them as per the guideline would determine the merit of the fresh candidate. A balance has to be struck between the apprentices who have already acquired training and new recruits who have become eligible for consideration in respect of the posts falling vacant. As such the department should hold a separate test for the new recruits and the procedure be avoided for selection in respect of apprentices who have already received the training and oral interview to judge their suitability may be sufficient to judge their merit. They would also be entitled to preference for which separate marks should be given. Thereafter the merit list should be prepared and the post available may be filled in by providing percentage for two different categories i.e. apprentice and the direct recruits.

(iii) The SRO 185/94 stipulates only national council for vocational training certificate holders as the eligible candidates irrespective of source of training the candidates have undergone be it under Trade Apprenticeship Act or I.T.I, or any other industrial training institute.

(iv) The recruitment is to be under the statute as per rules and all those who are entitled to be considered have to be given chance to compete and there cannot be wholesale exclusion of the new application obtaining their training from any other institutes.

(v) The respective merits of the candidates shall be decided by the authorities giving preference to the apprentices by adopting some procedure of giving additional marks without holding any examination. 60% posts should be given to the apprentices and 40% posts would go to the new applicants who have become eligible under the SRO without test and with test.

3. In reaching this conclusion the tribunal relied upon the decision of the Madras High Court in *P. Arul and 217 Ors. v. Tamil Nadu Electricity Board and 22 Ors.* [1996 (1) LLJ 376]. This decision was the subject matter of an appeal in this Court in *C. A. Nos. 5285-5328/1990 State of Rajasthan Vs. Aruna Devi and Others*, in which a detailed consideration of the relevant enactments had been

made and after copiously quoting from the same held as follows:

After indicating the four benefits to which the apprentice-trainees would be entitled during the process of selection, this Court in para 13, has in clear terms, stated that the trainees shall have to go through the process of selection provided under the service regulations/rules. In the present case the board regulations specifically provide that the post of technical assistant is to be filled by way of selection. All the applicants including the apprentices are therefore, required to go through the process of selection provided under the regulations. This has not been done in the present case and the division bench of the High Court has directed the board to appoint the Respondents on preferential basis and without going through the selection process.

4. In the light of the said decision, the order made by the tribunal cannot be sustained. The same shall stand set aside.

5. However, we must notice that though by the time original applications were filed before the tribunal but no interim relief having been granted the action for recruitment in semi-skilled posts had been initiated, the department proceeded with the selection process phase-wise following the prevalent rules and the relevant government instructions. By the time tribunal made the impugned order on 8.3.1996, the selection process having been completed, the Appellants had made the appointments. In these circumstances, we do not think it would be appropriate to upset the appointments that had already been made and dislodge them from the respective posts. The order made by us will not affect them in any manner. Subject to this adjustment of equities, this appeal shall stand allowed as set out above.

C.A. No. 6924/1997

6. In the light of the order made in civil appeals No. 6918-6919/1997, 6920-6921/1997 and 6922-6923/1997, this appeal shall stand dismissed.