

RAJESH KUMAR DWIVEDI

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v.

STATE OF U.P. & ANR.

(Civil Appeal No. 9140 of 2019)

DECEMBER 06, 2019

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**[L. NAGESWARA RAO AND HEMANT GUPTA, JJ.]**

*Uttar Pradesh Industrial Training Institutes (Instructors) Service (Second Amendment) Rules, 2003: r.8 – Advertisement issued by the Directorate of Training and Employment inviting applications for the various posts of Instructors in the Government Industrial Training Institute of the State – Appellant applied for the post of Instructor in the subject of Fitter – Educational eligibility condition prescribed for the said post was a certificate in concerned trade from National Council of Vocational Training (NCVT) apart from two years’ experience – Appellant applied for such post on the basis of his three educational qualifications: National Trade Certificate of basic training of one year in Mechanical Group imparted by Model Industrial Training Institute (MITI), Haldwani; National Trade Certificate of further training of six months in Fitter General imparted by MITI, Haldwani; and National Trade Certificate of further training of six months in Metrology and Engineering Inspection imparted by MITI, Haldwani – He was found not eligible for the reason that he did not possess two years course from NCVT – High Court dismissed the writ petition filed by the appellant for the reason that three different courses undertaken by the appellant could not be treated as equivalent to the qualification prescribed under the Rules – Appellant relied upon Circular issued on 16<sup>th</sup> December, 1983 giving equivalency between various disciplines under Restructured Pattern and Conventional Pattern of Craftsmen Training Scheme – The said Circular clarified that a candidate having basic course of Mechanical Trade of one year, Fitting General Module of six months and Metrology and Engineering Inspection Module of six months was treated to be equivalent to Fitter of two years training – Subsequently, another Circular was issued on 9<sup>th</sup> April, 1992 that certificate in Fitter Trade of two years granted by MITI, Haldwani which included one year basic training and six months module be*

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- A *treated equivalent to the National Trade Certificate – Held: The eligibility condition was that a candidate must have obtained a certificate in respective trade from NCVT – It is not necessary that a qualification prescribed in the Rules was to be possessed in one certificate – The State itself has treated qualification of basic course in Mechanical Trade Fitter, General Module and Metrology*
- B *and Engineering Inspection Module equivalent to conventional pattern of Craftsmen Training Scheme – Thus, the stand of the State that the appellant was not possessing educational qualification cannot be sustained – Service law.*

**Allowing the appeal, the Court**

- C **HELD: The eligibility condition is that a candidate must have obtained a certificate in respective trade from NCVT. It is not necessary that a qualification prescribed in the Rules has to be possessed in one certificate. Once the educational qualification has been treated to be equivalent by the State**
- D **Government in the Circulars issued earlier, the stand of the State that appellant is not qualified has no legs to stand. The State itself has treated qualification of basic course in Mechanical Trade Fitter, General Module and Metrology and Engineering**
- E **Inspection Module equivalent to conventional pattern of Craftsmen Training Scheme. Thus, the stand of the State that the appellant was not possessing educational qualification cannot be sustained. The candidature of the appellant was not validly rejected. Since candidature of the appellant was rejected on the**
- F **ground that he was not possessing educational qualification, therefore, the State Government is directed to take proper steps for appointment of the appellant in accordance with law. [Paras 9, 10 and 11] [761-D-H; 762-A-C]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9140 of 2019.

- G From the Judgment and Order dated 14.12.2016 of the High Court of Judicature at Allahabad in Special Appeal No. 2008 of 2011

Vivek Jain, Ms. Suchitra Kumbhat, Advs. for the Appellant.

Samat Vijay Singh, Dhruv Arora, Arun Tewatia, Advs. for the Respondents.

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The Judgment of the Court was delivered by

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**HEMANT GUPTA, J.**

1. The challenge in the present appeal is to an order dated 14<sup>th</sup> December, 2016 passed by the High Court of Judicature at Allahabad whereby the appeal filed by the appellant challenging the order dated 26<sup>th</sup> April, 2011 passed by the learned Single Judge was dismissed.

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2. An advertisement was issued on 17<sup>th</sup> March, 2008 by the Directorate of Training and Employment, Lucknow, U.P. inviting applications for the various posts of Instructors in the Government Industrial Training Institute of the State. The appellant applied for the post of Instructor in the subject of Fitter. The educational eligibility condition prescribed for the said post was a certificate in concerned trade from National Council of Vocational Training<sup>1</sup> apart from two years' experience in any industry or training/educational institute, either before or after getting instructor training. The appellant applied for such post on the basis of the following educational qualifications:

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- (a) National Trade Certificate of basic training of one year from September, 1990 to August, 1991 in Mechanical Group imparted by Model Industrial Training Institute<sup>2</sup>, Haldwani;
- (b) National Trade Certificate of further training of six months from September, 1991 to February, 1992 in Fitter General imparted by MITI, Haldwani; and
- (c) National Trade Certificate of further training of six months from March, 1992 to August, 1992 in Metrology and Engineering Inspection imparted by MITI, Haldwani.

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3. The appellant was found not eligible for the reason that he does not possess two years course from NCVT. The High Court dismissed the writ petition filed by the appellant for the reason that three different courses undertaken by the appellant cannot be treated as equivalent to the qualification prescribed under the Rules.

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4. The appellant relies upon Circular issued by Ministry of Labour & Rehabilitation, Government of India on 16<sup>th</sup> December, 1983 giving equivalency between various disciplines under Restructured Pattern and Conventional Pattern of Craftsmen Training Scheme. The said Circular

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<sup>1</sup> for short, NCVT

<sup>2</sup> for short, MITI

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- A clarifies that a candidate having basic course of Mechanical Trade of one year, Fitting General Module of six months and Metrology and Engineering Inspection Module of six months was treated to be equivalent to Fitter of two years training. Subsequently, the State Government vide communication dated 18<sup>th</sup> August, 1988 issued directions for considering the eligibility of training obtained from MITI, Haldwani for services and posts under State Government. The same is reproduced hereunder:

- “From  
The Director  
Training and Employment  
Uttar Pradesh, Lucknow  
To  
The Secretary  
Government of Uttar Pradesh  
Labour Department  
Secretariat, Lucknow.

Letter No. /E-2/0102/Policy(General)/84-85

Dated: August 18, 1988

- E Sub : Regarding issuance of directions for considering the trainees obtained training from Model Industrial Training Institute, Haldwani.

Sir

- F Shri Q.L. Juneja, Principal/Deputy Director, Model Industrial Training Institute, Haldwani (Nainital) has requested that orders for considering the trainees who have obtained training from this institute for the services/appointments under State Government. In this reference, he informed that directions for issuance of necessary orders in this regard have already been given to all the Ministries of Government of India and different departments  
G vide Letter No. D.G.E.T.-5/7/83-T.C. dated 31<sup>st</sup> October, 1983 and that request has been made for issuance of above orders at the earliest to all the State Governments and Union Territories of the Country.

- H 2. In this reference, it is noteworthy that on recommendation of National Council of Vocational Training (NCVT), the Government

of India has established the above Institute in year 1981 under re-structured training pattern of the Craftsmen training scheme, for which, the Government has already been provided 11 acres of land. A

3. Following two certificates are being issued by the Model Industrial Training Institute, Haldwani (Nainital): B

(1) National Training Certificate Basic Training.

(2) Certificate of Proficiency awarding to the successful trainees under the restructured training pattern of Craftsmen Training Scheme. C

4. It is well-considered opinion of this directorate, that the above both certificates granted by above institute kindly be declared eligible for services and posts under State Government like Government of India, whereby, the candidates trained by above institute may be retired in the services under State Government.” D

5. Subsequently, another Circular was issued by the Training and Employment Directorate on 9<sup>th</sup> April, 1992 that certificate in Fitter Trade of two years granted by MITI, Haldwani which includes one year basic training and six months module be treated equivalent to the National Trade Certificate. The Circular reads as under: E

“From

The Director  
Training and Employment Directorate  
Uttar Pradesh, Lucknow

To F

1. All Regional/District/City Employment Officer

All Regional/District/City Employment Office, U.P.

2. All Deputy-Head of University, Employment, Information and Consultation Center, U.P. G

Letter No. 1083/E-2/0102/Policy Regn./90

Lucknow, dated 09 April, 92.

Sub : For getting recognized certificate in two years fitter trade granted by MITI, Haldwani equivalent to N.T.C. H

A Sir

B It is informed vide letter No. D.G.E.T.-7(1)/91-C.D. dated 18.02.1992 of Training and Employment Directorate General, New Delhi that the certificate in fitter trade of two years granted by MITI, Haldwani wherein, one year basic training and six months modules are included, shall be treated equivalent to the National Trade Certificate. Therefore, you are hereby directed that those candidates, who have received above training and may appear for registration in your office, then, please be registered them in profession equivalent to N.T.C. for Employment/Trainee Training.”

C 6. The argument of learned counsel for the appellant is that the qualification obtained by the candidate in three different modules is treated to be equivalent to the Fitter Trade of two years duration as per the Circulars issued by the Government of Uttar Pradesh on 18<sup>th</sup> August, 1988 and 9<sup>th</sup> April, 1992, therefore, the appellant is eligible candidate for appointment to the post of Fitter.

E 7. Learned counsel for the State has filed an additional affidavit to explain the said three Circulars relied upon by the appellant. It is mentioned that the appellant is not possessed of the qualification as mentioned in the Uttar Pradesh Industrial Training Institutes (Instructors) Service Rules, 1991<sup>3</sup>, as amended in the year 2003 called the Uttar Pradesh Industrial Training Institutes (Instructors) Service (Second Amendment) Rules, 2003<sup>4</sup>. It is pointed out that Circulars dated 16<sup>th</sup> December, 1983, 18<sup>th</sup> August, 1988 and 9<sup>th</sup> April, 1992, relied upon by the appellant, will have no effect unless necessary amendment is being made in the Rules for the appointment of Instructors in the State.

8. Rule 8 of the amended Rules has prescribed the following academic qualifications:

G “8. Academic Qualification – (1) A candidate for recruitment to the post of instructor other than the post of language instructor (Hindi/English) in the Service must possess the following qualifications:

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<sup>3</sup> for short, ‘the Rules’

H <sup>4</sup> for short, ‘the amended Rules’

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(1) Educational -

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(i) Must have passed Intermediate examination of the Board of High School and Intermediate Education, Uttar Pradesh or an Examination recognised by the Government as equivalent, thereto.

(ii) Must have obtained a certificate in the respective trade from the National Council for Training in Vocational Trades.

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OR

Must have obtained National Apprenticeship Certificate in the respective trade.

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OR

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9. We find that the stand of the State that appellant is not possessed of educational qualifications is not tenable. The eligibility condition is that a candidate must have obtained a certificate in respective trade from NCVT. It is not necessary that a qualification prescribed in the Rules has to be possessed in one certificate. The Circular of the Government of India dated 16<sup>th</sup> December, 1983 prescribes the following conditions:

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Restructured Pattern of Craftsmen Training Scheme					Conventional Pattern of Craftsmen Training Scheme	
Sl. No.	Identified trades group & Module(s) for equivalency	NCO No.	Duration of Trg.	Total Duration of trg.	Trade	Duration of Trg.
1	2	3	4	5	6	7
1	i. Basic Course in Mechanical trades group.		One year	2 Yrs.	Fitter	2 Yrs.
	ii. Fitting General Module.	842.10	6 months			
	iii. Metrology & Engineering Inspection Module.	840.10	6 months			

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10. It is on the basis of such Circular, the Director of Training and Employment of the State has issued Circulars on 18<sup>th</sup> August, 1988 and on 9<sup>th</sup> April, 1992 that such qualification will be deemed to be equivalent to the National Trade Certificate. Once the educational

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- A qualification has been treated to be equivalent by the State Government in the Circulars issued earlier, the stand of the State that appellant is not qualified has no legs to stand. The State itself has treated qualification of basic course in Mechanical Trade Fitter, General Module and Metrology and Engineering Inspection Module equivalent to conventional pattern of Craftsmen Training Scheme. Thus, we find that
- B the stand of the State that the appellant was not possessing educational qualification cannot be sustained. The candidature of the appellant was not validly rejected.

11. Since we have found that candidature of the appellant was rejected on the ground that he was not possessing educational
- C qualification, therefore, the State Government is directed to take proper steps for appointment of the appellant in accordance with law within two months from the date of receipt of copy of this Judgment. In view of the above, the appeal is allowed.

Devika Gujral

Appeal allowed.