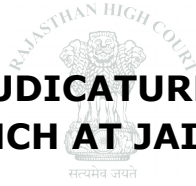




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Writ Petition No. 227/2021

1. Union Of India, Through Its Secretary, Government Of India, Ministry Of Railway, New Delhi 110001
2. Railway Recruitment Board Ajmer, Through Its Secretary, 2010, Nehru Marg, Near Ambedkar Circle, Ajmer (Raj)

----Petitioners

Versus

Atul Khare S/o Shri A.p. Khare, Aged About 27 Years, Resident Of Hig-33, Ganga Enclave, Indrapurum, Shmashad Road, Agra (Applicant Has Applied For The Post Of Assistant Loco Pilot In The Recruitment Held By Rrb, Ajmer)

----Respondent

For Petitioner(s) : Mr. Rajendra Kumar Sharma
Mr. Abhimanyu Singh
Ms. Sanju Singh

For Respondent(s) : Mr. Sunil Samdaria
Mr. Vinod Kumar Gupta

**HON'BLE THE CHIEF JUSTICE MR. PANKAJ MITHAL
HON'BLE MRS. JUSTICE SHUBHA MEHTA**

Order

30/01/2023

1. Heard learned counsel for the parties.
2. The petitioner was a candidate for the post of Assistant Loco Pilot pursuant to the Centralized Employment Notice dated 18.01.2014. He participated in the selection process and was declared successful vide result dated 27.05.2015. There was no objection against his selection and his document verification was also completed on 12.06.2015, but his name was not included in the final panel prepared on 15.07.2015, probably on the ground that he was not possessing the educational qualification in terms of the advertisement.
3. The advertisement provided for the minimum basic qualification as matriculation with certificate of apprenticeship or a





degree or diploma in Mechanical and Automation Engineering from an institute approved by the All India Council for Technical Education (AICTE).

4. The petitioner filed Original Application No.291/00633/2015 before the Central Administrative Tribunal (CAT) along with 54 other persons challenging the non-inclusion of his/their name(s) in the panel. The said OA was allowed vide order dated 01.06.2016 and it was held that the petitioner possesses the requisite eligible educational qualifications prescribed for recruitment to the post of Assistant Loco Pilot as per the Centralized Employment Notice No.01/2014 and the respondent-State authorities were directed to consider him for selection after due verification of his diploma/degree, if he is otherwise eligible.

5. On the basis of the aforesaid judgment and order, the case of the petitioner for selection/appointment was reconsidered, but the empanelment was denied to him on the ground that the diploma/degree of Mechanical and Automation Engineering possessed by him is not from an institute recognized by the AICTE.

6. The petitioner challenged the action of the State-respondents again by means of fresh OA No.466/2017 alleging that the State-respondents have not raised the issue of his ineligibility or that the Amity University's Degree possessed by him is from an unrecognized institute, and as such, once the Tribunal has held the petitioner to be eligible, the State-respondents are estopped from taking the said ground and rejecting the candidature of the petitioner.



7. The Tribunal has partly allowed the said OA by judgment and order dated 09.10.2020 and the State-respondents have been directed to empanel the petitioner as Assistant Loco Pilot in any of the vacancies, which may still exists, or that may arise in future.

8. The Union of India and the Railways aggrieved by the aforesaid judgment and order of the Tribunal dated 09.10.2020, have preferred this writ petition contending that the petitioner who is not qualified for the post of Assistant Loco Pilot, cannot be directed to be empanelled even if any vacancy exists.

9. The issue of eligibility of the petitioner as to whether he possesses the minimum educational qualification prescribed as per the Centralized Employment Notice No.01/2014, has been considered by the Tribunal vide judgment & order dated 01.06.2016 and it has been categorically held that the petitioner possesses the requisite qualifications, meaning thereby that the petitioner possesses the qualification of Matriculation with certificate of apprenticeship and a degree/diploma in Mechanical and Automation Engineering from a recognised institute.

10. The aforesaid judgment and order is final and conclusive and, therefore, at this juncture, it does not lie in the mouth of the State-respondents to allege that the petitioner is not eligible. The State-respondents were only required to verify the genuineness of the diploma/degree possessed by the petitioner. It is not the case of the State-respondents that the aforesaid diploma/degree possessed by the petitioner is fake or is not genuine.

11. In the above circumstances, the Tribunal is perfectly justified in holding that the State-respondents cannot raise such a plea at this juncture.



12. This apart, it has to be noted that the petitioner is having the degree in Mechanical and Automation Engineering from the Amity University. The said University is creation of a special enactment i.e. The Amity University Rajasthan, Jaipur Act, 2008. In the case of **Bharathidasan University & Anr. Vs. All India Council for Technical Education & Ors., reported in (2001) 8 SCC 676**, the Apex Court has clearly ruled that there is a distinction between universities and other technical institutions and the universities are beyond the scope of recognition by the AICTE. Since the petitioner has completed his graduation in the required subject from a university and that the said university is outside the ambit of recognition of the AICTE, the condition of having the degree from an approved institute of AICTE, would not be attracted.

13. It is only in the cases where the diplomas or degrees are from any technical institute that the recognition by the AICTE would have been mandatory.

14. Thus, in the overall facts and circumstances of the case, we are of the opinion that as the petitioner possesses the requisite qualifications for holding the post of Assistant Loco Pilot, he cannot be denied empanelment merely for the reason that the degree possessed by him is not from an institute approved by the AICTE when he is having a degree from a statutory university, which is outside the purview of recognition from the AICTE.

15. Accordingly, we find no merit in the writ petition and the same is dismissed with no order as to costs.

(SHUBHA MEHTA),J

(PANKAJ MITHAL),CJ

KAMLESH KUMAR/RAJAT/31