

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

55.

OA 4063/2023 with MA 5360/2023

Ex PO AF Neeraj Kumar Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Devendra Kumar, Advocate
For Respondents : Mr. Harish V Shankar, Advocate
Cdr Rajat Gupta, Deputt. Rep.

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R
18.01.2024

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and reliefs claimed in Para 8 read as under:-

“(a) Direct the respondent No. 3 to issue a letter of needed by the employer that “the applicant is eligible for the post of Fitter” as same was issued by DGR letter dated 30.01.2023 and IHQ MoD (N), Dte of Ex-servicemen Affairs, Talkatora Satdium New Delhi letter dated 20.03.2023.

(b) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.”

2. On notice being issued respondents have appeared today and even though they have not filed any detailed

counter affidavit, the counsel for the respondents assisted by Cdr Rajat Gupta, OIC Legal Cell, demonstrated to us the procedure for issuance of the certificate as claimed for by the applicant which is based on Office Memorandum issued on 26th September, 2012 by the Government of India, Ministry of Labour and Employment Directorate General of Employment and Training and appendices and general enclosed therein based on which the certificates have to be issued. Having considered the manner in which the certificates have to be issued and the correspondence available on record, we find that the applicant requires the certificate for the purpose of seeking civil employment in a civil trade under the Skill Development & Industrial Training Department, when the said department communicated to the respondents' office with regard to the issue in question. The office of the Integrated Headquarter, MoD(Navy), Directorate of Ex-servicemen Affairs vide communication dated 29th March, 2023 available at page 21 informed the authorities in the following manner:-

“2. The equivalent of Naval trade Certificate is issued by Indian Navy to retiring sailors based on Directory of Equation of Service Trade with Civil Trades published by Director General Resettlement (DGR), Ministry of Defence. This publication equates the Naval Trades with the Civilian

Occupations classified in the National Classification of Occupation (NCO) scheme published by Directorate General Employment and Training (DG E&T) under Ministry of Labour and Employment vide letter DGE&T-5/1/07-VG/OI dated 26 Sept 2012.

3. It is certified that personnel of POAF rank have graduated from its junior ranks of Naval Air Mechanic-I/ II (NAM-I & NAM-II) and Leading Air Mechanic (LAM). Therefore NCO Codes mapped to junior ranks are also applicable to senior rank vide Dte General of Resettlement, Ministry of Defence, Government of India letter 0014/DGR/TRG/EQUI/VC/Res-8 dated 30 Jan 23 (copy enclosed). Therefore, the individual is eligible for the post of ITI Fitter.”

3. From the aforesaid, it is clear that the issue has to be settled and a decision is to be taken by the Skill Development and Industrial Training Department not only based on the communication dated 29th March, 2023 but also the certificate of equivalency issued by the Government of India, Ministry of Defence, Dte General Resettlement, West Block-IV on 30th March, 2023 vide annexure A-1. That being so, now based on these documents and facts, a direction has to be issued to the Director Skill Development and Industrial Training to treat the course of the applicant as equivalent based on the communication made by the competent authorities of the respondents and therefore, as direction is required to be issued to the Department of Skill Development and Industrial Training for treating the trade/qualification of

the applicant to be equivalent, this Tribunal does not have jurisdiction to issue a writ of mandamus or directions to the Director Skill Development and Industrial Training Department.

4. Faced with the aforesaid situation, learned counsel for the applicant very fairly sought permission to withdraw the petition and invoke the jurisdiction of the Hon'ble Delhi High Court wherein a writ of mandamus can be issued to the Skill Development and Industrial Training Department for treating the trade of the applicant equivalent for seeking appointment in the Skill Development and Industrial Training Department.

5. In fact the relief now to be granted to the applicant is a directions to the Skill Development and Industrial Training Department to consider the trade of the applicant as equivalent for which he is applying in the Skill Development and Industrial Training Department and the direction in this regard cannot be issued by us to the Department of Skill Development and Industrial Training in exercise of our jurisdiction under Section 14 of the Armed Forces Tribunal, this can only be done by a declaratory decree or a writ of mandamus by the High Court.

6. Accordingly, granting the aforesaid liberty to the applicant, we dispose of the matter.

7. Let a copy of this order be provided ***DASTI*** to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

Priya