

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH :: AT HYDERABAD**

OA/021/0113/2020

Date of CAV: 18.02.2022

Date of Pronouncement: 03.03.2022



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr.B.V.Sudhakar, Admn. Member**

Between:

Komirineni Venkateswarlu,
S/o. Sri K. Murali, Aged 37 years,
Occ: Deputy Manager Singareni Collieries Company Ltd,
Godavarikhani, Peddapalli District,
R/o. NC-170, 8 Incline Colony,
Kamanpur Mandal – 505 211, Peddapalli District.

...Applicant

(By Advocate: Mr. G. Pavan Kumar)

And

1. Union of India, Rep. by
The Chairman,
Union Public Service Commission,
Dholpur House, Shahjahan road,
New Delhi – 110 069.
2. Directorate General of Mine Safety,
Ministry of Labour and Employment,
Dhanbad, Jharkhand – 826001.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC
Mr. M. Nagaraju, SC for UPSC)

ORDER
(As per Hon'ble Mr. B.V.Sudhakar, Admin. Member)

Through Video Conferencing:



2. The OA is filed for not inviting the applicant for interview to the post of Dy. Director Mines Safety (Mining), Directorate General of Mines Safety, Ministry of Labour & Employment.

3. Brief facts are that the applicant is a Bachelor in the Mining Branch of Engineering and has joined Singareni Collieries Company Ltd. as a Post Graduate Trainee / Supervisor Trainee on 22.7.2004 and worked so up to 22.7.2005. Thereafter, he was appointed on a regular basis as Junior Mining Engineer Trainee on 1.6.2006 and when he applied for the post of Dy. Director of Mines Safety (Mining) against the notification No.19/2018 issued by the respondents, his name was not included in the list of candidates, which was released on 11.11.2019, calling for interview. The reason given was that applicant did not have 10 years of required experience. Aggrieved, the OA is filed.

4. The contentions of the applicant are that he has the requisite qualifications and experience. Respondents failed to include the training experience of 1 year without salary, though DGMS Circular CMR 16/MMR 16 has issued the second class Mine Manager Certificate by considering the training period as well. Thereafter, first class mining certificate was also issued on 3.8.2012 as per the Circular cited. In the previous notification 11/2012, the experience required was specified as 7

years whereas it was changed to 10 years in the present notification. The applicant fell short by 6 days to complete the 10 years of experience. The advertisement does not state that the experience to be reckoned on a regular basis. The respondents have discretion to relax the experience condition.



5. Respondents *per contra* state that the experience of the applicant for 2 years, 5 months & 6 days in open cast mines has to be excluded and that there is a break between the post graduate training period and appointment as Junior Management Trainee. If the above periods are excluded from the total experience of 13 years 5 months and 3 days, the period left out is 9 years 11 months and 24 days and hence, his name was not considered. Selection has to be based on notification and any relaxation would be granted only in exceptional circumstances for SC/ST candidates and not for others.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is in regard to not inviting the applicant for interview to the post of Dy. Director Mines (Safety) against notification No.19/2018. The notification stipulates the experience condition as under:

iii) Ten years of experience in Mining in large and mechanized underground mines.

Applicant fell short of the 10 years of experience required by 6 days. As seen from the facts, the applicant had 2 years, 5 months and 6 days experience in open cast mines. In addition, the regular appointment as Junior Engineer was not immediately after the training period of 1 year 1 day. These averments of the respondents were not refuted by the applicant

by way of a rejoinder. After deducting the periods referred to from the total experience of the applicant of 13 years 5 months and 3 days, the left over period is less than 10 years. Consequently, respondents could not consider the case of the applicant.



II. The question of relaxation is the discretion of the respondents and that too, for those well qualified as per Note-I of the notification. The Tribunal cannot force the respondents to exercise discretion because it is they, who know better in regard to selecting suitable candidates by relaxing the qualifications. The word 'well-qualified' would mean not only educational qualifications, but also awards received, exceptional contribution to the domain under consideration, acknowledgment by the superiors about his exceptional talent in the field etc. Applicant has not furnished any such details, which necessitated relaxation.

III. True, the experience was short by just 6 days, but the rules have to be applied uniformly. The rule of law has to prevail. Besides, it is up to the respondents to change the qualification as per the requirements of the respondents' organization, competition, market dynamics etc. over a period of time and hence, the contention of the applicant that the experience proviso has been modified from 7 years in notification No.11/2012 to 10 years in Notification No.19/2018 does not hold ground. The qualification prescribed cannot be as per the requirements of the applicant. The issue of Mining certificate by DGMS vide circular cited by the applicant has no relevance to the issue. It is well settled in law that the selection has to be as per notification. Applicant argued that the experience stated in the notification does not state that it has to be regular experience. Assuming

though not admitted, even to consider the training experience of the applicant, it cannot be, since it was not followed by absorption. There was a break of nearly a year. Respondents have followed the conditions stated in the notification in rejecting applicant's candidature. We find that the decision of the respondents was not erroneous.



IV. Hence, from the aforesaid, we do not find any merit in the OA and hence, the same is dismissed, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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