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Union of India & Ors. vs Ashish Kumar & Anr.

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Court : Delhi

Decided On : Apr-08-2026

Judge : Hon'Ble Mr. Justice C.Hari Shankar,Hon'Ble Mr. Justice Om Prakash Shukla

Appeal No. : W.P.(C)/7572/2024

Appellant : Union of India & Ors.

Respondent : Ashish Kumar & Anr.

Advocate for Pet/Ap. : Mr. Jaswinder Singh, Ms. Pallavi Awasthi, Ms. Arunima Dwivedi, Ms. Himanshi Singh

Judgement :

$~105 & 106

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7572/2024 and CM APPL. 31504/2024 UNION OF INDIA & ORS. .....Petitioners Through: Mr. Jaswinder Singh, Advocate

versus

ASHISH KUMAR & ANR. .....Respondents Through: Ms. Pallavi Awasthi and Adv Vaibhavi Mittal for R1 Ms. Arunima Dwivedi, CGSC with Ms. Himanshi Singh Advocate for R2 + W.P.(C) 7573/2024 and CM APPL. 31506/2024 UNION OF INDIA & ORS. .....Petitioners Through: Mr. Jaswinder Singh, Advocate

versus

PRACHI SAKLANI & ORS. .....Respondents Through: Ms. Pallavi Awasthi and Adv Vaibhavi Mittal for R1 Ms Arunima Dwivedi, CGSC with Ms Himanshi Singh Advocate for R2

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 08.04.2026

C. HARI SHANKAR, J.

1. Consequent to receiving requisite approval from the Ministry of Digitally Signed By:AJIT Page 1 of 9

Defence1 vide Circular dated 14 September 2012 for direct recruitment to various civilian posts under the Directorate General of Quality Assurance2, the Controllerate of Quality Assurance3, Raipur, Dehradun issued Advertisement dated 20 to 26 April 2013 in the Employment News for direct recruitment to various civilian posts under the CQA. This included 5 vacancies of Junior Engineer (Quality Assurance)4 for the year 2010-2011 and one vacancy for the year 2009-2010. Of these 6 vacancies, 4 were Unreserved, 1 was reserved for Scheduled Castes and one for Other Backward Classes.

2. The respondents in these writ petitions applied against the said

advertisement, for direct recruitment as JE. Written examination was conducted on 20 October 2013. They qualified, and underwent interview on 27 November 2013 which, too, they cleared successfully. On 30 July 2014, the DGQA approved the recommendation of the Final Result of Direct Recruitment Vacancies for the 6 posts of JE. On 19 August 2014, the respondents were informed that they had been selected. They were medically examined on 5 September 2014, and found fit for appointment.

3. Thereafter, there was a hiatus. No further communication was

received by the respondents regarding their appointment, and no appointment orders were issued. Attempts to obtain information as to why they had not been appointed, under the Right to Information Act, 2005, also proved initially futile. 1 MOD hereinafter 2 "DGQA" hereinafter 3 "CQA" hereinafter 4 "JE" hereinafter Digitally Signed By:AJIT

4. It was only after a year and 3 months from the medical

examination that, vide communication dated 5 December 2015, the respondents were informed that the recruitment process against the 6 direct recruit vacancies of JE had been scrapped consequent to directions issued by the DGQA vide letter dated 15 October 2015. The letter dated 15 October 2015, in turn, stated that the recruitment process for filling the vacancies of JE had been initiated without obtaining No Objection Certificate5 from the Department of Personnel and Training6 , which was mandatory.

5. Aggrieved thereby, the respondents approached the Principal Bench of the Central Administrative Tribunal7 vide OA 1551/2016 (Ashish Kumar v. Union of India) and OA 1615/2016 (Prachi Saklani v. Union of India).

6. Vide judgement dated 15 January 2024, the Tribunal noted the

fact that the Advertisement issued by the DGQA envisaged recruitment to 36 posts of JE in various establishments under the DGQA, for none of which NOC had been obtained from the DOPT prior to initiation of the recruitment process. Nonetheless, 22 JEs had been recruited, and the recruitment process had belatedly been scrapped for the remaining posts of JE. Even while observing that NOC from the DOPT was required before initiating the recruitment process, the Tribunal held that the omission, in that regard, was on the part of the DGQA and that, for the fault of the DGQA, the respondents

"NOC" hereinafter "DOPT" hereinafter Digitally Signed By:AJIT Page 3 of 9

could not be made to pay. The respondents had been selected transparently by an open selection on their own merit, and entertained a legitimate expectation as well as an enforceable right to appointment. For its own fault in failing to obtain NOC from the DOPT before initiating the recruitment process, the Tribunal held that the DGQA could not have scrapped the recruitment of the respondents when they were at the cusp of receiving appointment orders. Accordingly, the Tribunal set aside the communication dated 15 October 2015 from the DGQA to the CQA as well as the consequent communications dated 5 December 2015 from the CQA to the respondents. Subject to the respondents meeting other statutory requirements, the Tribunal has directed offers of appointment to be issued to them, also clarifying that they would be entitled to be treated as appointed with effect from the days when others, selected pursuant to the same Advertisement, were appointed.

7. The Union of India has, by these writ petitions, assailed the decision of the Tribunal.

8. During the course of proceedings in these writ petitions, the following order came to be passed by a coordinate Division Bench of this Court on 17 March 2026:

1. During the course of arguments, learned counsel representing the Petitioners, admit that out of the total 36 selected candidates, as many as 21 candidates have been granted appointment notwithstanding the absence of a No Objection Certificate (NOC) from the Department of Personnel and Training (Do PT). However, it has been submitted that prior to issuance of appointment letters in favour of the Respondents,

"the Tribunal" hereinafter Digitally Signed By:AJIT Page 4 of 9 certain instructions were received from Do PT, thereby mandating the procurement of such NOC, basis which the appointment to the Respondents came to be withheld.

2. Keeping in view the aforesaid facts, the Petitioners are

directed to place on record the complete list of all 36 selected candidates, duly indicating their respective marks, along with the merit list, if any, prepared in the selection process.

3. Learned counsel representing the Petitioners are also

directed to furnish a cogent explanation as to the circumstances in which the requirement of obtaining an NOC from Do PT stood dispensed with respect of the above stated 21 candidates who have already been permitted to join service, and as to why the said requirement is now being selectively invoked merely to deny appointment to the Respondents.

4. List on 25.03.2026 in the Supplementary List.

5. A photocopy of the order passed today be kept in the connected matter.

9. Thereafter, on 25 March 2026, the Division Bench noted that

the information sought in the order dated 17 March 2026 was still not forthcoming and, therefore, directed the Union of India to file an affidavit in that regard.

10. In compliance with the above direction, the CQA, Dehradun, filed affidavit dated 2 April 2026. Paras 3 to 8 thereof read as under:

> 3. I say that it is brought out that recruitment in respect of the 35+1* vacancies of erstwhile Chargeman Grade-II was done by various concerned establishments themselves, where the vacancies were released for recruitment. Hence, the ibid 35+1* vacancies were not part of same selection process as observed by the Hon'ble CAT(PB). The selection was done by various establishments through separate selection process.

4. I say that in response to Paragraph 3 of the Honorable High

> Court order dated 17 Mar 2026, it is submitted that 35 vacancies for the post of CM-II (now JE) for the year 2010-11 were released collectively via HQ DGQA L/N0. A/92163/Rect/2010 Digitally Signed By:AJIT Page 5 of 9 11/DGQA/Adm-7B dt 14 Sep 2012 for 21 different DGQA establishments and 01 vacancy for the year 2009-10 in respect of CQA (I), Dehradun was published separately.

5. I say that at the time these vacancies were released, they

> were categorized as GP 'C' Posts. Consequently, the grant of a No objection certificate (NOC) from the DoP&T was not mandatory/required. However, while the process was ongoing, the Recruitment Rules (SRO 50 dt 12 July 2012) came into force. Under these new rules, the Post of CM-II was redesignated as JE and reclassified as a Group 'B' Post. Following this reclassification, HQ DGQA sought an NOC from the DoP&T.

6. I say that in the absence of the required NOC for DR-

which, in some cases, was already nearing completion the department was compelled to scrap the recruitment process. Before the DoP&Ts clarification regarding the NOC requirement was received, recruitment for 22 vacancies was already being conducted by the respective establishment. The remaining 14 vacancies were scrapped solely due to lack of an NOC. In light of these circumstances, it is evident that the recruitment was not selectively invoked to deny appointments to the respondents, but was a necessary procedural compliance.

7. I say that Central Civil Service (Redeployment of Surplus Staff) Rules, 1990, notified on 28 Feb 1990 by DoP&T, Ministry of Personnel, Public Grievance & Pensions provides as under:-

Rule 3(1)(iv):- All vacancies in Central Services and posts in Group 'A' and 'B' , which are to be filled by direct recruitment or by transfer but otherwise than through the Commission, shall first be reported to the Cell and shall be filled from amongst the surplus staff, unless the controlling authority of the service or post in question has ascertained from the Cell that they have no suitable person from amongst the surplus staff available with them for being nominated against the particular post.

Rule 3(4)(b):- Vacancies existing in particular post, grades, service or region at any point of time should be reported to it and should not be filled up through any other modes including those prescribed in the Recruitment Rules, except after obtaining a specific clearance from the cell aforesaid.

8. I say that DoP&T vide their Note dated 03 Aug 2015 had

clarified that since both the name and category of the post has been changed, NOC from DoP&T must be taken before filling up the post of JE(QA) (Group 'B' post). The matter was re-examined and Digitally Signed By:AJIT Page 6 of 9

in the absence of NOC from DoP&T for recruitment process of a Group 'B' post which had already been otherwise completed, the department

decided to scrap the recruitment process. Before the clarification from DoP&T in respect of requirement of NOC had been received, the recruitment against 22 vacancies was being carried out by the concerned establishments. The process of recruitment against 14 vacancies was scrapped due to nonavailability of NOC from DoP&T. Dehradun is one such establishment where the recruitment against 06 vacancies of their establishment were scrapped due to non-availability of NOC from DoP&T. Similarly, recruitment was scrapped for 08 other vacancies in other establishments.

11. We have heard Mr. Jaswinder Singh, learned SPC, for the

Union of India, at length. Mr Singh submits that the DGQA had only acted as per the advice received from the DOPT and that, therefore, the Tribunal erred in interfering with its decision.

12. We cannot agree.

13. The Tribunal has held that, though NOC from the DOPT was

required prior to initiating the recruitment process, the default, in that regard, if any, was on the part of the DGQA and, for its default, the respondents could not be subjected to the ignominy of cancellation of their candidature after the entire selection process was complete and they were on the verge of being appointed.

14. While even this line of reasoning is unexceptionable, and would

have commended itself to acceptance by us, we further find, from the affidavit dated 2 April 2026 that, in fact, at the time when the vacancies were released by the MOD, the post of JE (QA) was a Group C post, and was converted to a Group B post only thereafter vide the new Recruitment Rules which came into effect on 12 July

2012, albeit prior to issuance of the Advertisement for filling up the said posts. As the vacancies of JE had in fact been released for recruitment prior to the amendment of the Recruitment Rules and the reclassification of the post of JE as a Group B post, it may even be arguable as to whether the requirement of obtaining NOC from the DOPT would apply to these posts.

15. Assuming, arguendo, that it would, the exercise of obtaining

NOC from the DOPT had to be undertaken by the DGQA, and not by the respondents. Having participated in the recruitment process against notified vacancies by an open selection and having cleared all rounds of the selection including medical examination, the respondents had a legitimate expectation that they would be appointed, and, even on this ground, their selection could not have been undone without so much as a notice to them.

16. We, however, are not inclined to dispose of this matter on the

ground of non-fulfilment of the principles of natural justice or want of notice to the respondents. We agree with the Tribunal that, for failure, on the part of the DGQA, to obtain NOC from the DOPT prior to issuing the Advertisement, the respondents could not be prejudiced. It is not as though the respondents were not qualified for the post. It is not even as though the vacancies were not in existence. The requirement of obtaining NOC was only so that the possibility of filling up of the vacancies from the surplus cell could first be explored. Inasmuch as the vacancies had been released by the MOD before this requirement became applicable to them, we are of the opinion that, strictly speaking, the requirement of obtaining NOC

 from the DOPT would itself not be applicable.

17. For this reason, as also for the reason that the fault, if at all, lay

at the end of the DGQA and not at the end of the respondents, as correctly held by the Tribunal, we concur with the decision of the Tribunal that the scrapping of the selection process against the 6 vacancies of JE (QA) was not sustainable in law.

18. We, therefore, are not inclined to interfere with the impugned

judgment of the Tribunal.

19. The writ petitions are accordingly dismissed.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

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