

CASE NO.:

Appeal (civil) 7310 2000

Appeal (civil) 7311 2000

PETITIONER:

INDIAN AIRLINES LTD. & ORS.

Vs.

RESPONDENT:

S. GOPALAKRISHNAN

DATE OF JUDGMENT: 12/12/2000

BENCH:

S R Baabu, S V Paatil

JUDGMENT:

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J U D G M E N T

RAJENDRA BABU, J. :

Leave granted.

Appellant No.1 called for applications by notice dated 8.8.1997 for the post of Junior Operator for its Southern Region. In the said notice, the requisite qualification for appointment as a Junior Operator is that the candidate should have two years experience in equipment operating or driving and possess current heavy vehicles driving licence. It is also stated therein that the experience would be computed after the date of acquiring the necessary qualification. The respondent, who made an application for the said post, possesses an ITI certificate since 1994 and a diploma in Mechanical Engineering, which was obtained in April, 1996 and on 9.1.1987 he was granted a licence to drive light motor vehicle and subsequently the same was endorsed on 29.6.1994 to drive the heavy motor vehicles as well. On the ground that the respondent did not possess two years experience in heavy vehicle driving after his acquiring diploma in Mechanical/Electrical/Automobile Engineering, the respondent was not selected for the said post. Thereafter he filed a writ petition before the High Court. The learned Single Judge held that the respondent possesses the necessary qualification for being appointed as a Junior Operator and held the action of appellant No.1 in not appointing him and giving him a posting, arbitrary and, therefore, granted the relief. The writ appeal filed against the same also being unsuccessful, these appeals are preferred by special leave.

The short point for consideration is as to what is the job requirement of the Junior Operator and they are set out in the employment notice which reads as under :

To drive, position, connect and operate Ground

Support Equipments, including driving of Transport Vehicles. To carry out refueling, oiling, air-charging, battery replacement and daily checks of Group Support Equipment/Vehicles. To perform incidental paper work for recording, reporting incidents/accidents, operations, maintenance, etc. To assist Operators/Technicians in performance of their jobs. To tow aircraft and other Ground Support Equipment/dolleys, trolleys, etc. as per laid down procedures. To keep current licences/permits required for operation/driving of vehicles/equipments as laid down from time to time.

Under the relevant rules, the qualification prescribed is as follows: 2.1 S.S.C. or its equivalent with three years Government recognised diploma in Mechanical/Electrical/Automobile Engineering and having two years experience in equipment operations or driving and possessing current heavy vehicle driving licence.

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2.2 S.S.C. with I.T.I. certificate or equivalent in Associated Trades of Mechanical/Electrical/Automobile courses and having five years experience in equipment operating or driving and possessing current heavy vehicle driving licence.

The respondent has obtained the ITI certificate in June 1994 and he had about five years of experience after obtaining the certificate and diploma in Mechanical Engineering was obtained in April 1996. In any event, it is clear that the experience obtained by him falls short of the requisite qualification. This Court N. Suresh Nathan & Anr. vs. Union of India & Ors., 1992 Supp.(1) SCC 584; Gurdial Singh & Anr. vs. State of Punjab, 1995 (3) 332 and Anil Kumar Gupta & Ors. vs. Municipal Corporation of Delhi & Ors., 2000(1) SCC128, has explained the necessity to obtain experience after obtaining the requisite qualification.

When in addition to qualification, experience is prescribed, it would only mean acquiring experience after obtaining the necessary qualification and not before obtaining such qualification. In the case of the respondent, he obtained the ITI certificate in the year 1994 and, therefore, did not possess five years of experience as required under the relevant rule. If his qualification as a diploma holder in Mechanical Engineering is taken note of, he has not completed three years of experience as he got the same in April, 1996 and on relevant date he did not possess such qualification. Indeed in prescribing qualification and experience, it is also made clear in the general information instruction at Item No.6 that experience will be computed after the date of acquiring the necessary qualifications. Therefore, when this requirement was made very clear that he should have experience only after acquiring the qualification, the view taken by the High Court to the contrary either by the learned Single Judge or the Division Bench does not stand to reason.

Therefore, we allow these appeals, set aside the order made by the High Court and dismiss the writ petition filed by the respondent in the High Court. No costs.

JUDIS