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INDIAN AIRLINES LTD. AND ORS.

v.

S. GOPALAKRISHNAN

DECEMBER 12, 2000

B

[S. RAJENDRA BABU AND SHIVARAJ V. PATIL, JJ.]

*Service Law*

C

*Appointment—To the post of Junior Operator in Indian Airlines Ltd.—Qualification for—Experience required for the date of acquiring necessary qualification—Respondent not having required experience after the date of qualification—Whether qualified to be appointed to the post—Held, no, since experience obtained by the respondent falls short of 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.*

D

**The respondent made application for appointment to the post of Junior Operator with the appellant in 1997. Qualification for the post was that the candidate should have diploma in Mechanical/Electrical/Automobile Engineering, having two years experience in equipment operating or driving and possessing current heavy vehicles driving licence or should have ITI certificate, having five years experience in equipment operating or driving and possessing current heavy vehicles driving licence. It was made clear in general information instruction that the experience was to be computed from the date of acquiring the necessary qualification. The respondent possessed an ITI certificate since 1994 and a diploma in Mechanical Engineering since 1996. He possessed licence to drive heavy motor vehicles since 29.6.1994. He was not appointed on the ground that he did not possess two years experience in heavy vehicle driving after his acquiring diploma in Mechanical/Electrical/Automobile Engineering.**

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**Respondent filed a writ petition which was allowed by Single Judge holding that the respondent possessed the necessary qualification for being appointed to the post. Writ appeal against the same was dismissed. Hence this appeal**

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**Allowing the appeals, the Court**

**HELD :** The experience obtained by the respondent falls short of 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 two years of experience as he got the same in April 1996 and on relevant date he did not possess such qualification. When the 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 Single Judge or the Division Bench does not stand to reason. [551-B, D, E]

*N. Suresh Nathan & Anr. v. Union of India & Ors.*, [1992] Suppl. 1 SCC 128; *Gurdial Singh & Anr. v. State of Punjab*, [1995] 3 SCC 332 and *Anil Kumar Gupta & Ors. v. Municipal Corporation of Delhi & Ors.*, [2000] 1 SCC 128, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 7310-7311 of 2000 etc.

From the Judgment and Order dated 22.9.99 of the Madras High Court in W. A. No. 1722 and C.M.P. No. 14937 of 1999.

WITH

Civil Appeal Nos. 7312 and 7313 of 2000.

Mukul Rohtagi, Additional Solicitor General, K. Sukumaran, Vineet Kumar, Ms. Nina Gupta, Ms. Arpita Sharma, Uday Gupta, V. Prakash, S. Vallinayagam, S. Muralidhar, Ms. Baby Krishnan, Jayanth Muthraj, N.R. Shonker and Rahul Ravindran for the appearing parties.

The Judgment of the Court was delivered by

**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

A 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

B 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.

C

D 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 :

E “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.”

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Under the relevant rules, the qualification prescribed is as follows:

G “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.

OR

H 2.2 S.S.C. with I.T.I. certificate or equivalent in Associated Trades of

Mechanical/Electrical/Automobile courses and having five years A  
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 B  
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. v. Union of India & Ors.*, [1992] Supp.  
1 SCC 584; *Gurdial Singh & Anr. v. State of Punjab*, [1995] 3 SCC 332 and  
*Anil Kumar Gupta & Ors. v. Municipal Corporation of Delhi & Ors.*, [2000]  
1 SCC 128, has explained the necessity to obtain experience after obtaining C  
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 D  
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 E  
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 F  
Court and dismiss the writ petition filed by the respondent in the High Court.  
No costs.

K.K.T.

Appeals allowed.