



No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
7.	05.08.2005	<p>Heard Mr. B. Sharma, learned Senior Counsel assisted by Mr. B. Pokhrel, learned counsel for the petitioner and Mr. A. K. Upadhyaya, learned Senior Counsel assisted by Miss Manita Pradhan, learned counsel for the respondents.</p> <p>2. In this writ petition, the petitioner sought for the following reliefs :-</p> <ul style="list-style-type: none">a) Issue writ of mandamus commanding the respondents and/or each of the respondent declaring the denial of the petitioner to sit in the examination are null and void;b) A writ/order/direction upon the respondents or each of the respondents to withdraw the impugned letter and further direct the respondents to allow the petitioner to sit in the examination;c) A writ/order/direction or each of respondents to hold re-examination and/or allow the petitioner to sit in the examination which may be held separately for the petitioner;d) Any other relief or reliefs for which the petitioner is entitled to; <p>by contending inter alia, that the petitioner is working as Junior Engineer (Civil) under the respondents National Hydroelectric Power Corporation Ltd. for short, N.H.P.C at Rangit Nagar, Legship, South Sikkim, and he has been denied to sit in the examination for promotion, though he is a holder of a degree in Engineering having qualified in Building and Quantity Surveying in the year April, 2004, as seen in the document marked Annexure-I to the writ petition. According to the petitioner, in response to the related circular dated 21.9.2004,</p>	



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		<p>bearing No.Rect/Int/2004, the petitioner applied for sitting in the Internal Induction Examination, but has been denied to sit in the examination, and in that respect, the respondents/authority issued a related office letter dated 01.02.2005, showing the fact that Shri Dharambir Sharma, the present petitioner, is not fulfilling the qualification required as seen in Annexure-III to the petition.</p> <p>3. At the hearing, Mr. B. Sharma, learned senior counsel contended that the present petitioner who is holding the certificate and who passed direct final examination conducted by the Institution of Surveyors in Building and Quantity Surveying is equal to the <u>degree</u> in Civil Engineering, inasmuch as, the said education qualification of Building and Quantity Surveying has been authenticated by a different authority even by the Union Public Service Commission. Supporting his contention, Mr. Sharma has drawn our attention to Annexure-V document and submitted that in the said related document which is an examination notice bearing No.05/2005 dated 22.1.2005 pertaining to Engineering Services Examination, 2005 have categorically included the qualification as that of the petitioner as Civil Engineer at category No. I.</p> <p>4. Upon hearing the learned counsel for both the parties, as well as on perusal of the available materials on record, we are of the view that this writ petition is devoid of merit for the following reasons :-</p>	

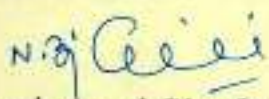


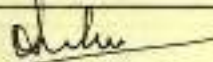
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		<p>1) Union Public Service Commission notified a related examination notice bearing No.05/2005, called the Engineering Services Examination, 2005 dated 22.1.2005, wherein the educational qualification, namely, Building and Quantity Surveying which the petitioner possesses does not find its place in Category No.I in Civil Engineering group. It appears to us that the petitioner made an attempt to make his said educational qualification equivalent to Military Engineer Service (IDSE-Building and Roads Cadre) which finds its place in column No.(iv) of Category No. I. Apart from that, the petitioner filed the so called office letter dated 31.01.1994 issued by one Ram Autar, Under Secretary, Union Public Service Commission addressed to one Karan Singh stating that the Building and Quantity Surveying has been recognized by the Government of India as equivalent to a degree in Civil Engineering for the purpose of superior services/posts under the Central Government. This document as in Annexure - II is not an authenticated document as it does not bear the signature or seal of the authority concerned, and according to us it is a private correspondence addressed to one individual, namely, Shri Karan Singh and the same is a typed one without the</p>	



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		<p>signature of any authority, and apart from that, the petitioner could not produce either the original copy of the letter or any authenticated copy in support of his case, and, as such, we are of the view that the authenticity of this document Annexure-II is not free from doubt.</p> <p>2) The related circular dated 21.9.2004 was issued by the respondent/authority for the purpose of internal induction and not for consideration of promotion as claimed by the writ petitioner in paragraph No.2 of the writ petition.</p> <p>3) In terms of the related circular, for the said internal induction, to the post of Trainee Engineers in the discipline (Civil/Electrical/Mechanical), the eligibility criteria has been highlighted and indicated in a clear tune that one must possess degree in Engineering or equivalent in Civil, Electrical, Mechanical discipline from any recognized University/Institution. According to the petitioner, he got the said educational qualification in Building and Quantity Surveying in the year, April 2004 as seen in Annexure-I and at the hearing, it is submitted by the petitioner himself that he got this educational qualification through correspondence course. At this juncture, this Court could not see any materials on record for showing as to whether the petitioner got this educational qualification/certificate and obtained the</p>	



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		<p>approval of the respondents/authority concerned or not for the same. Be that as it may, there is no material on record and apart from that, the petitioner failed to show that this educational qualification, namely, Building and Quantity Surveying under the Institution of Surveyor is equivalent to the degree in Civil Engineering.</p> <p>5. According to us, in terms of the related circular, a candidate should possess a degree in Civil Engineering or equivalent qualification for the post of Trainee Engineer (Civil) and such certificate, namely, Building and Quantity Surveying is not equal to degree in Civil Engineering, and, as such, the petitioner was not found to be qualified in the relevant field, and that being the position, the petitioner has not been allowed to sit in the examination by the respondent/authority rightly.</p> <p>6. This Court need not go more into depth as suffice is made with the above observation to dismiss this writ petition, and accordingly it is dismissed with cost of Rs.5,000/- (Rupees five thousand) only which shall form part of the fund of the Sikkim Bar Association, for which the petitioner is required to deposit the same within a period of two weeks' from today, and after such deposit of the cost by the petitioner, the authorized Secretary of the Bar Association is at liberty to withdraw the same.</p> <p style="text-align: right;"> (N. Surjamani Singh) Chief Justice (Acting)</p>	


(**A. P. Subba**)
Judge