



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2026

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**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR**

**W.A.NO.337 OF 2024
AND
CMP NO.2471 OF 2024**

1. Government of India
Ministry of Science and Technology
Rep. By the Secretary
6th - 8th Floor, Block 2, CGO Complex,
Lodhi Road, New Delhi – 110 003.

2. Institute for Stem Cell and
Regenerative Medicine (DBT - inStem)
Rep. By the Director
Bellary Road,
Bangalore – 560 065.

... Appellants / Respondents

Vs.

Shunmugavel, G.
S/o. Ganapathi, S.
No.1/176, Ground Floor,
KBG Nagar, Periya,
Kovilambakkam, Chennai – 600 117.

... Respondent / writ petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 01.11.2023 passed in W.P.No.26163 of 2021.

For Appellants : Mr.AR.L. Sundaresan
Additional Solicitor General of India
Assisted by Mr.P.G.Santhosh Kumar

For Respondent : Ms.Rita Chandrasekar
for Ms.R.Meenakshi



J U D G M E N T

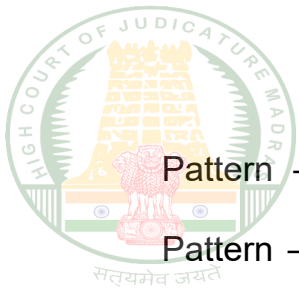
(Judgment of the Court was made by S.M.Subramaniam, J.)

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Under assail is the writ order dated 01.11.2023 passed in W.P.No.26163 of 2021. The Government of India, Ministry of Science and Technology, Department of Biotechnology, New Delhi, and the Institute for Stem Cell and Regenerative Medicine (DBT - inStem) are the appellants before this Court.

2.The respondent instituted a writ petition challenging the Proceedings of the second appellant dated 08.10.2021 declaring that “none found suitable in the selection process” and the consequential advertisement No. inStem/11/2021 dated 20.11.2021 inviting applications from eligible candidates for selection and appointment to the post of Management Assistant.

3.The facts in brief necessary for consideration are recruitment notification was issued on 30.01.2021 inviting applications from the eligible candidates for selection and appointment to the post of Management Assistant in the second appellant’s institute. On 17.06.2021, a new pattern of examination was released and accordingly, the candidates were permitted to participate in the process of selection. On completion of the selection process, the respondent / writ petitioner secured 44.25 marks out of 70 marks in



Pattern – I i.e., written examination and 8.45 marks out of 30 marks in

Pattern – II i.e., interview. Thus, the total marks secured by the respondent

was calculated as 52.70 out of 100.

4.Mr.AR.L. Sundaresan, learned Additional Solicitor General of India, appearing on behalf of the appellants would mainly contend that the minimum eligible marks prescribed for selection is 60% for Unreserved candidates and 55% for OBC candidates. Since the respondent secured 52.70 marks out of 100, he was found ineligible for selection to the post of Management Assistant. Since none of the candidates qualified in the selection process, the second appellant declared the result vide Proceedings dated 08.10.2021, as under:-

“Position: Management Assistant (02-UR, 01-OBC)

Advertisement No. inStem/08/2020 (Post Code – 17/2020)

Based on the CBT held on 28th August 2021 and online skill test on 03rd October 2021 for the two (2) unreserved and one (1) OBC post of Management Assistant, 07 candidates had qualified for interview. An interview of the 06 qualified candidates was conducted on 05th October 2021, and the final results are as follows:



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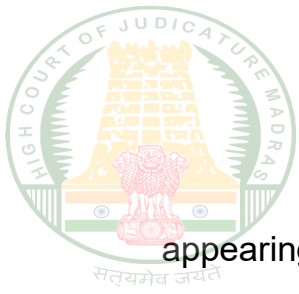
MANAGEMENT ASSISTANT (02-UR, 01-OBC)

NONE FOUND SUITABLE

Thus, no candidate was selected or appointed to the post of Management Assistant pursuant to the notification dated 30.01.2021. The subsequent notification was also challenged, and a further direction has been sought for to select and appoint the respondent to the post of Management Assistant.

5.Smt.Rita Chandrasekar, learned counsel appearing on behalf of the respondent would oppose by stating that the respondent is fully qualified for selection and appointment to the post of Management Assistant. He secured 44.25 marks out of 70 marks in the written examination and the writ Court has considered the said marks and made a finding that it is to be converted as 63.29% out of 100 % and thus, the respondent secured the eligible marks and consequently, the writ petition was allowed. That apart, the appellants have changed the pattern of examination which is impermissible.

5.1.In support of the above contentions, the learned counsel for the respondent relied on the judgments of the Hon'ble Supreme Court in ***Salam Samarjeet Singh Vs. The High Court of Manipur at Imphal***, reported in **2024 INSC 647** and ***Tej Prakash Pathak and Others Vs. Rajasthan High Court***, reported in **2024 INSC 847**.



6.Per contra, the learned Additional Solicitor General of India, appearing on behalf of the appellants relied on the judgments of the Hon'ble Supreme Court in ***Yogesh Yadav Vs. Union of India***, reported in **(2013) 14 SCC 623** and ***Mohd. Rashid Vs. Director, Local Bodies, New Secretariat and Others***, reported in **(2020) 2 SCC 582**.

7.This Court has considered the rival submissions made between the parties to the *lis*.

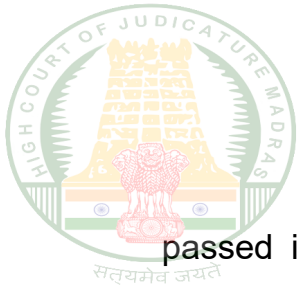
8.The governing principles are that mere selection would not confer any right on the candidate. Only in the event of issuance of appointment order, the right accrues. In the present case, in pursuance of the advertisement dated 30.01.2021 for selection and appointment to the post of Management Assistant, the respondent participated. He appeared in the written examination and secured 44.25 marks out of 70 in the written examination and 8.45 out of 30 marks in interview. Having participated in the written examination under the new pattern, the respondent cannot turn around and say that the new pattern introduced in the written examination is to be declared as illegal. A candidate who has participated in the selection process and, after the declaration of the results of the written examination and viva voce, cannot be permitted to challenge the pattern of examination. The said principle is well settled in law.



9.The fixation of age limit, educational qualification, eligibility criteria for selection and appointment are the prerogative of the employer. In the present case, the eligibility marks prescribed for the post of Management Assistant is 60% and above for Unreserved candidates and 55% and above for OBC candidates. Admittedly, the respondent secured 52.70 marks out of 100 and therefore, he is not falling under the eligibility criteria as fixed for selection.

10.The writ Court has converted the marks secured in the written examination, which is not in consonance with examination pattern. Both written and viva voce marks together are calculated for the purpose of ascertaining the eligibility of the candidate. Thus, the procedure adopted by the writ Court for granting the relief is contrary to evaluation pattern.

11.Regarding the judgments relied on by the learned Additional Solicitor General of India, the facts are distinguishable and even in those judgments, the Hon'ble Supreme Court reiterated participation in the selection would not confer any right and more so, in the present case, no one was selected to the post of Management Assistant. The second appellant declared the result stating that "none found suitable". Therefore, the respondent has not established any legal right for the purpose of considering the relief of selection and appointment to the post of Management Assistant.



12.In view of the above factum, the writ order dated 01.11.2023 passed in W.P.No.26163 of 2021 is set aside and the writ appeal stands allowed. However, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S., J.]

[N.S., J.]

02.07.2026

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
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N.SENTHILKUMAR, J.

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