

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.21477 of 2015

Aathipazham @ Aathi

... Petitioner

Vs.

1.The Deputy General Manager (GR)

Chennai Metro Rail Limited,
CMRL Depot,
Poonamallee High Road,
Koyambedu,
Chennai - 600 107.

2.The Manager (Human Resources)

Chennai Metro Rail Limited,
CMRL Depot,
Poonamallee High Road,
Koyambedu,
Chennai - 600 107.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to consider the name of the petitioner for selection and appointment to the post of Junior Engineer (Electrical) comprised in Post Code-02 as per the notification by allowing the petitioner to undergo the remaining medical examination and consequently select and appoint the petitioner in the post of Junior Engineer (Post Code-02) under MBC/DC (male) category as he has obtained the cut off mark 69 for the said category.

For Petitioner : Mr.U.Karunakaran

For Respondents : Mr.Abdul Saleem

O R D E R

With the consent of both sides, the main writ petition is taken up for final disposal.

2. The present writ petition has been filed praying for

issuance of a Writ of Mandamus directing the second respondent to consider the name of the petitioner for selection and for appointment to the post of Junior Engineer Electrical (EEE) comprised in Post Code-02 as per the notification, and also to allow the petitioner to undergo the remaining medical examination.

3. It is the case of the petitioner that he belongs to Maruthavur Community (MBC category) and possess a diploma in Electrical and Electronic Engineering from Government Polytechnic College, Tuticorin. It is seen that the first respondent has invited online applications for various posts from Indian Nationals through three post codes viz., [Code-1, Code-2 & Code-3] vide advertisement dated 16.01.2013. The petitioner, who is stated to possess the requisite qualifications, had applied through online for the post of Junior Engineer Electrical (EEE), which is included under Post Code-2,. For the post of Junior Engineer Electrical (EEE), the notified vacancies are 120, and out of which 24 posts were earmarked for MBC/DC Category and the upper age limit fixed is 28 years.

4. The mode of selection for the post of Junior Engineer Electrical (EEE) in Post Code-2 comprises of three stages namely online test, proficiency in Tamil followed by medical examination in AI category. The cut-off mark for the said post with respect to MBC/DC category is 69 marks. The petitioner who appeared for the post of Junior Engineer Electrical (EEE) had secured 69 marks, and also had undergone test in Tamil Proficiency.

5. The provisional list of selected candidates was published. In the notification, they have stated that 24 vacancies for the post of Junior Engineer Electrical (EEE) have been earmarked for MBC/DC category, but they have selected only 15 candidates. Though the petitioner was eligible for the said post, he was not selected, aggrieved which, he has come forward with the present writ petition seeking for a direction to the respondents as stated supra.

6. The learned counsel appearing for the petitioner submitted that the first respondent had earmarked 24 vacancies for the post of Junior Engineer Electrical (EEE) for MBC/DC category, but only 15 candidates have been selected and the cut off fixed for MBC/DC category was 69 marks. It is the contention of the learned counsel that the fifteenth candidate who was selected for the said post also had secured 69 marks only and if the respondent fills up the remaining 9 vacancies, the petitioner would have been considered for selection, since

he has also secured the cut-off marks of 69. Hence, the petitioner is before this Court by way of this Writ Petition seeking direction to the respondent to complete the selection process as notified in the advertisement.

7. The learned counsel appearing for the respondent filed a detailed counter wherein the respondent had admitted the fact that as per the notification the total number of vacancies notified for the post of Junior Engineer Electrical (EEE) under Post Code-2 was 120; out of which 24 vacancies have been earmarked for MBC/DC category. But it is pertinent to state that in Clause 13(c) of the said notification, it has been stated that "All vacancies are provisional and subject to increase/decrease". Thereafter, the respondent have revised the total vacancies of said post to 76 from 120; and accordingly only 15 candidates were shortlisted in MBC/DC category for the said post. It is further stated in the counter that in the selection list that was published, it has been mentioned that the offer of appointment to the selected candidates will be issued based on the operational requirement and only six posts have been filled up so far in the MBC/DC category.

8. Keeping the submissions made by the learned counsels appearing on either side, I have carefully gone through the materials available on record. On a careful perusal of the matter, this Court is of the view that there is no merit in the Writ Petition filed by the petitioner. It is seen that as per the notification, originally 120 vacancies were announced for the post of Junior Engineer Electrical (EEE) under Post Code-2 and 24 posts were earmarked for MBC/DC category. Subsequently, by virtue of Clause 13(c) of the said notification, the total number of posts was revised to 76 from 120, and only 15 candidates were shortlisted for the said post in MBC/DC category. Thereafter, only 6 posts were filled up in MBC/DC category. Therefore, it is clear that the selection of candidates for the said post in the respondent-organisation is only provisional and the respondent has the right to increase or decrease the vacancies of any of the posts called for in the notification. Hence, I do not find any merit in the claim of the petitioner and therefore, this Court cannot entertain the prayer made by the petitioner in the Writ Petition and accordingly no direction can be issued to the respondent-organisation.

9. With the above observation, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

To: Sub Assistant Registrar

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+1cc to Mr.V.Karunakaran, Advocate, S.R.No.62240
+1cc to Mr.Abdul Saleem, Advocate, S.R.No.62233

ksj (CO)
md(25/10/2016)

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