

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.09.2016

C O R A M

The Honourable Mr. Justice S. MANIKUMAR
and
The Honourable Mr. Justice N. AUTHINATHAN

Writ Petition No.239 of 2016

1. Union of India
Divisional Railway Manager
Divisional Office
Personnel Branch
Southern Railway
Tiruchirapalli.
2. The Divisional Personnel Officer
Divisional Personnel Office
Personnel Branch
Southern Railway
Tiruchirapalli. Petitioners

Vs

1. Satish Kumar Ranjan
2. The Registrar
Central Administrative Tribunal
Madras Bench (Chennai). Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records on the file of the second respondent in O.A.No.749 of 2015, dated 07.08.2015 and quash the same.

For petitioner : Mr.V.Bhavani Subbaroyan

For 1st respondent : Mr.L.P.Maurya

O R D E R

(Order of the Court was made by S.Manikumar, J.)

Challenge in this petition is to an order of the Central Administrative Tribunal, Madras, in O.A.No.749 of 2015, dated 7th August 2015, by which the Tribunal has directed the writ petitioners to examine the first respondent, for fitness under Class 'C-2', within two months, from the date of receipt of a copy of the order made in O.A.No.749 of 2015, and if he found fit, grant him appointment, within one month thereafter.

2. Short facts leading to the filing of the writ petition are that the first respondent was successful in the written examination held, in pursuance of Employment Notice No.CEN.04/2010, issued by the Railway Recruitment Board, Personnel Branch, Southern Railway, for appointment to the post of Ticket Examiner. He has appeared for the medical examination for physical fitness. Vide letter, dated 05.11.2014, he was informed by the Divisional Personnel Office, Personnel Branch, Southern Railway, Tiruchirapalli/second petitioner that he was medically unfit, in B-2 category, for the post of Ticket Examiner.

3. Thereafter, he appeared before Dr.Umesh Prasad Sinha, Professor and Head of the Department, Eye Department, Patna Medical College Hospital, Patna, who had certified that the first respondent was medically fit, under category B-2. Thereafter, the first respondent has filed O.A.No.050/00345 of 2015 before the Central Administrative Tribunal, Patna Bench. Vide order, dated 11.05.2015, the Tribunal has directed the first respondent, to approach the appropriate forum, as it lacked territorial jurisdiction.

4. In the above said circumstances and placing reliance on the decision of the Hon'ble Supreme Court, in S.K.M. Haider Vs. Union of India and Others, reported in 2011 (4) SCC 700, the first respondent has filed O.A.No.749 of 2015, before the Chennai Bench, to call for the proceedings of the Divisional Personnel Officer, Divisional Office, Personnel Branch, Southern Railway, Tiruchirapalli, order No.T/PT/P563/III/COMM/ADMN dated 03.12.2014 and to quash the same and consequently, prayed for a further direction to the writ petitioners to consider him for the post of Ticket Examiner, as per the decision of the said Hon'ble Apex Court.

5. Before the Tribunal, the writ petitioners have filed a counter affidavit, contending inter alia that the Railway Recruitment Board, issued a Notification, in Central Employment Notice No.04/2010, for the post of Ticket Examiner (Category No.3). The first respondent submitted an application. He was advised to attend the written test and on passing the same, was called for document verification. He was allotted to Trichy Division for posting, as Ticket Collector. He was offered appointment, subject to the condition that only after passing the medical examination, he would be considered for appointment. He was sent for medical examination to the Chief Medical Superintendent/Railway Hospital/Golden Rock, for B-2 medical classification prescribed for Ticket Examiner and he was found medically unfit, by the duly constituted Medical Board, for B-2, as Ticket Examiner. Vide letter dated 03.12.2014, the first respondent was duly communicated.

6. Before the Tribunal, writ petitioners have contended that S.K.M. Haider's case (cited supra), pertains to Medical classification for Ticket Examiner, on promotion and therefore, the order of the Hon'ble Apex Court, is not applicable to the facts of the case.

7. Writ petitioners have further submitted that the recruitment procedure followed is on a different footing, as compared to the selection conducted, for the serving employees. According to them, as per Annexure 4 of para 510 of the Indian Railway Medical Manual [IRMM] 2000 Vol.I, Medical Classification required for Ticket Examiner is B-2.

8. Referring to the decision of the Medical Board, before the Tribunal, contention has also been made that the first respondent was found medically unfit and therefore, the order passed by the Divisional Personnel Officer, Divisional Personnel Office, Personnel Branch, Southern Railway, Tiruchirapalli/Respondent No.2 herein, does not require interference.

9. Before the Tribunal, a further contention has been made by the writ petitioners that production of a medical certificate, by the respondent, from a private doctor, cannot be considered, and in so far as Railway is concerned, the safety of the general public is more important, and should be considered.

10. Adverting to the above rival contentions, taking note of Annexure 4, para 510 of the Indian Railway Medical Manual (IRMM) 2000 Volume - 1, which requires B-2 fitness for Ticket Examiner, opinion of the Medical Board and the judgment of the Hon'ble Supreme Court in S.K.M. Haider Vs. Union of India and Others, reported in 2011 (4) SCC 700, at paragraph No.7, the Tribunal, held as follows:-

"We have carefully considered the matter in the light of the arguments presented by the learned counsel for the parties and copies of the documents filed. That the petitioner has failed the physical fitness test in B-2 category is clearly established. However, in view of the judgment of the Hon'ble Apex Court in the case of S.K.M. Haider Vs. Union of India & Ors, referred to in the OA, it must be held that the requirement of B-2 medical fitness for the post of Ticket Collector has no rational basis in relation to the object set out in para 510 of IRMM. It should be sufficient for the applicant to clear the medical fitness for Class C-2 for which he has not been examined. We are unable to agree with the respondents that the standard of medical fitness for a direct recruit should be higher than that for promotees holding the same post. The respondents have not made out a case that the promotee officers performed functions and duties different from/or inferior to those of the direct recruits of the same level and carrying the same designation. Nor is it possible to make such a distinction, as it would fall foul with the doctrine of intelligible differentia, with a rational nexus with the object of requiring medical fitness for persons performing the same functions."

11. The Tribunal has further directed the writ petitioners to examine the fitness of the first respondent under Class C-2, within two months, from the date of receipt of the abovesaid order and if found fit, grant him appointment, within one month thereafter.

12. Being aggrieved by the above said order made in O.A.No.749 of 2015, dated 07.08.2015, Union of India, represented by the Divisional Railway Manger, Southern Railway, Tiruchirapalli and another, have filed the present writ petition.

13. Inviting the attention of this Court to the categories of posts in Railways, Ms.V.Bhavani Subbaroyan, learned counsel for the writ petitioners submitted that for the post of Ticket Examiner, one should satisfy the vision tests, prescribed in para No.510 of the Indian Railway Medical Manual (In short "IRMM"), 2000 - Vol.I, Category B-2. She further submitted that the offer of appointment to the first respondent as Ticket Examiner, was issued, subject to the condition of passing the prescribed medical examination and in the case on hand, when the Medical Board has found the first respondent was unfit, and taking note of the safety of the general public, the Tribunal ought not to have issued directions to consider the case of the first respondent to have him examined under Class C-2. On the aspect as to how the Medical Board has found the first respondent as unfit, she invited the attention of this Court to the Board's opinion.

14. Referring to the judgment of the Hon'ble Apex Court in S.K.M. Haider Vs. Union of India and Others, reported in 2011 (4) SCC 700, learned counsel for the writ petitioners submitted that in the above said case, the Hon'ble Apex Court, considered that the case of service candidates only, to the post of Ticket Examiner and the said judgment cannot be said to be a "judgment in Rem", applicable to direct recruitment. It is also her contention that the job profile of a ticket collector, involves line duties, functioning on moving trains, attending untoward incidents on platforms and accident relief measures and also handling handheld terminals and having regard to the safety of the public, vision tests, under B-2 category, has been prescribed and on the facts and circumstances of the case, when the first respondent has failed to qualify in the medical examination, the Tribunal ought not to have issued directions, contrary to the Medical Manual and have the first respondent examined, under Class C-2. For the above said reasons, she prayed to set aside the order passed in O.A.No.749 of 2015, dated 07.08.2015, impugned in this regard and consequently, allow the writ petition.

15. Per contra, placing reliance on S.K.M.Haider v. Union of India reported in 2011 (4) SCC 700, Mr.L.P.Maurya, learned counsel for the respondent submitted that considering the very same medical tests, set out in Paragraph 512 of the Indian Medical Railways Manual, the Hon'ble Apex Court has made it clear that the said test is not required for the post

of ticket collectors. Inviting the attention of this Court to Paragraph No.8 of the abovesaid judgment, it is the further contention of the learned counsel for the respondent that the Hon'ble Apex Court has considered the vision tests, for the candidates, to be appointed, and serving railway employees, which includes direct recruitment also, and therefore, the said judgment squarely applies to the case on hand also.

16. Refuting the contention of the learned counsel for the writ petitioners that in S.K.M.Haider's case (cited supra), does not lay down the principles of law, to be followed in similar cases, learned counsel for the respondent submitted that in Union of India and others v. Central Administrative Tribunal, Chandigarh Bench, Chandigarh reported in 2014 SCC Online P&H 6059, a Hon'ble Division Bench of the Punjab and Haryana High Court has repelled the said arguments. For the abovesaid reasons, he submitted that there is no illegality in the impugned order of the Tribunal made in O.A.No.749 of 2015, dated 07.08.2015, warranting intervention.

Heard the learned counsel appearing for the parties and perused the materials available on record.

17. Fact that the respondent was successful in the written examination, held in pursuance of Employment Notice No.CEN04/2010, issued by the Railways Recruitment Board (RRB), Personnel Branch, Southern Railway, for appointment to the post of Ticket Collector, has not been disputed. Order of appointment, dated 22.09.2014, reads that besides production of necessary certificates, the respondent should pass the prescribed medical examination for physical fitness, by the authorised medical authority of the Railways, which would be arranged. Annexure 4 para 510 of Indian Railway Medical Manual (IRMM) 2000 Vol.I, requires B-2 fitness for the post of Ticket Collectors. In the case of the respondent, the Medical Board has recorded the following report,

"In view of Ptosis in both eyes, Extra Ocular movements restricted in both eyes, Right more than Left eye, position of both eyes for distance and near shows alternative Exotropia and failed in 4 dots test." Medical Board is of the opinion that the applicant is unfit as a candidate in Bee two category as Pro Ticket Examiner as per IRMM 2000 Vol.I para 512."

18. Standard of visual acuity requirements, considered by the Hon'ble Apex Court in S.K.M.Haider's case (cited supra), set out in Para 512 of the Indian Railway Medical Manual (IRMM), is extracted hereunder:

(1) Acuity of vision:- The following are the tables of standards of visual acuity requirements:-

(A) Standards at examination on appointment:

Class	Distant Vision	Near Vision
A-1	6/6, 6/6 without glasses with fogging test (must not accept +2 D)	Sn.0.6, 0.6 without glasses
A-2	6/9, 6/9 without glasses (no fogging test)	..Do...
A-3	6/9, 6/9 with or without glasses. Power of lenses not to exceed 2D.	Sn.0.6, 0.6 with or without glasses
B-1	6/9, 6/12 with or without glasses. Power of lenses not to exceed 4D.	Sn. 0.6, 0.6 with or without glasses when reading or close work is required
B-2	same as above	...Do...
C-1	6/12, 6/18 with or without glasses.	Do...
C-2	6/12, nil with or without glasses	Sn. 0.6 combined with or without glasses where glasses reading or close work is required

Note: a) No glasses are to be permitted at the time of initial recruitment of Railway Protection Force staff where their medical category is B-one.

b) Candidates in C-1 and C-2 medical categories having power of glasses of more than 4D should be examined by an eye specialist and may be declared fit if there is no evidence of any progressive eye disease.

c) One eyed person: There is no bar to the admission into non-gazetted clerical service of a candidate who is blind in one eye. The guiding consideration in such cases should be whether the candidate's vision is adequate for the performance of the duties attached to the service or the post to which he/ she is proposed to be appointed, and whether undue risk attaches in his being accepted. The medical officer while examining such cases should take into account the cause of blindness in relation to its possible effects on the sound eye in course of time.

(Bd.'s No 83/H/5/16 dt. 17/04/1984)

(B) Standards at re-examination during service:- The standards at re-examination would apply only for employees with not less than six years service. This could be permanent or temporary, including continuous service as casual labour, if in the same medical category.

Class	Distant Vision	Near Vision
A-1	6/9, 6/9 or 6/6, 6/12 with or without glasses Naked eye vision not below 6/60, 6/60. Power of lenses not to exceed 4D.	The combined vision with or without glasses should be the ability to read ordinary print. Where reading or close work is required, the combined near vision should be Sn 0.6
A-2	BELOW 40 YEARS: 6/9, 6/12 or 6/6, 6/18 with or without glasses Power of lenses not to exceed 4 D. Naked eye vision not below 6/60.	As above
	40 YEARS AND ABOVE 6/12, 6/12 or 6/9, 6/18 with or without glasses. Power of lenses not to exceed 6 D. Naked eye vision not below 6/60.	As above
A-3	6/12, 6/18 with or without glasses. Power of As above lenses not to exceed 8 D.	As above
B-1	6/12, 6/24 with or without glasses. Power of As above lenses not to exceed 8 D.	As above
B-2	As above	As above
C-1	6/18, nil or combined 6/18 with or without glasses	Sn. 06 with or without glasses where reading or close work is required.
C-2	6/24, nil or 6/24 combined with or without As above glasses.	As above

19. The Divisional Personnel Officer, Divisional Personnel Office, Personal Branch, Southern Railway, Tiruchirappalli, 2nd petitioner herein, in his letter, dated 05.11.2014, addressed to the 1st respondent, has stated as hereunder:

"After document verification, you were sent for medical examination to HU/TPJ. As per ACMS/RH/GOC Certificate No.015942/00485, dated 10.10.2014/29.10.2014, you are found unfit in BEE TWO.

It is advised that appeal may be preferred against the decision of unfitness within one month if desired. It is also advised that while making appear you should submit a medical certificate from a Doctor in support of your claim of fitness and a

declaration by the doctor to the effect that he is aware of the fact that you have been medically examined for appointment in Government services and rejected as medically unfit."

20. Thereafter, the Assistant Personnel Officer/Traffic, in his letter, dated 03.12.2014, addressed to the 1st respondent, has stated as follows:

"Further to the office letter cited above (05.11.2014), it is advised that you have been certified unfit in the medical classification for Bee two vide ACMS/GOC Certificate No.015942/CC468, dated 10.10.2014/29.10.2014. The unfitness has been decided by a Three Member Committee and accepted by CMS/GOC. In such cases once a decision is taken at the level of charge of Divisional Railway Hospital and the candidate has been declared unfit by a Three Member Committee, no further appeal lie with any higher authority. Hence, you are not eligible for appointment to the post of Ticket Examiner."

21. The contention of the writ petitioners is that vision tests for the post of Ticket Examiner, have been prescribed, keeping in mind, the objectives, viz., interest of the public safety, in the interest of the employee himself or his fellow workers or both and in the interest of the administration. Addressing the above contentions, as to whether, Railways was right in prescribing vision tests for the division of Groups A, B and C, the Hon'ble Supreme Court in S.K.M.Haider's case (cited supra), held as follows:

"7. It would be seen from Para 510 of IRMM that non-Gazetted Railway services have been divided into three broad groups, namely, groups 'A', 'B' and 'C' for the purpose of vision tests. These three groups have been divided into different classes. Group A has been divided in Classes A-1, A-2 and A-3 while groups B and C have been divided in two Classes each, viz; B-1, B-2 and C-1, C-2 respectively. The division of groups, A, B and C for vision tests appears to have been made keeping in mind the objective, viz; 'in the interest of public safety'; 'in the interest of the employee himself or his fellow workers or both' and 'in the interest of administration only'. The classification of different staff in various 'classes' is apparently founded to achieve the above objective. The detailed categories of Railway posts under each of the classes/groups are given in Annexure IV appended to Chapter V. Insofar as post of Ticket Collector is concerned, it is categorized in Class B-2 under the head 'station supervisory and artisan staff'.

8. Though post of Ticket Collector is categorised in Annexure IV in Class B-2 but while doing so the underlying object of division of staff into three broad groups A, B and C for

vision tests of candidates and of serving Railway employees in non-Gazetted Railway services seems to have been overlooked. Broadly, Class B-2 covers a certain staff in workshops and engine rooms engaged on duties. It has been so done because failing eyesight may endanger themselves or other employees from moving parts of the machinery and crane drivers on open line. This is in consonance with the objective of group B viz; 'in the interest of the employee himself or his fellow workers or both'. Insofar as Ticket Collectors are concerned, vision tests for them are not required 'in the interest of employee himself or his fellow workers or both' as contemplated in group B but it is required in the interest of administration only - the objective contemplated in group C.

9. In this view of the matter, there seems to be no rational basis, in relation to the object set out in Para 510 of IRMM, of categorizing the post of Ticket Collectors under Class B-2 in Annexure IV. However, it is for the respondents to have a fresh look insofar as categorisation of posts pertaining to non-Gazetted Railway services in Annexure IV is concerned. Suffice it to say that categorization of posts for the purpose of vision tests must have nexus with the object set out in Para 510. Having regard to the objective of division of groups/ classes for the purpose of vision tests under Para 510 of IRMM, the post of Ticket Collectors can not be held to be covered by Class B-2 but rather will be covered by Class C-2. Any inconsistency in categorization of Railway posts in Annexure IV, in our view, must not operate against the appellant in getting promotion to the post of Ticket Collector."

22. As rightly pointed out by Mr.L.P.Maurya, learned counsel for the 1st respondent, at Paragraph 8, the Hon'ble Apex Court in the above reported case, has observed that vision tests for the candidates and of serving Railway employees in non-Gazetted Railway services, have been overlooked, having regard to the parameters, taken into consideration for prescribing vision tests for the three broad groups, A, B and C and going through the said judgment, we are of the considered view that there is no ambiguity in S.K.M.Haider's case (cited supra) that the Hon'ble Supreme Court has categorically held that posts of ticket collectors, subject matter in the reported judgment, cannot be held to be covered by Class B-2, but rather would be covered by Class C-2. The Hon'ble Apex Court has also observed that categorization of the posts for the purpose of vision tests, must have nexus with the object, set out in Para 510.

23. Though Mr.V.Bhavani Subbaroyan, learned counsel for the writ petitioners submitted that the Tribunal has failed to consider the job profile of the post of ticket collector, involving line duties, functioning on moving trains, attending

untoward incidents on platforms and accident relief measures and also, handling handheld terminals and in such circumstances, vision acuity standards in both eyes (for distance as well as near vision), is required for B-2 medical category, and therefore, the order of the Tribunal, is contrary to the Indian Medical Railways Manual, requires intervention, this Court is not inclined to accept the said contentions, in the light of what the Hon'ble Supreme Court in S.K.M.Haider's case (cited supra), has said, which we are bound to follow under the Article 141 of the Constitution of India.

24. On the contention of the learned counsel for the petitioner that the judgment of the Hon'ble Supreme Court in the above reported case, can be considered only as "judgment in personam" and does not lay down the general principles of law, this Court deems it fit consider the judgment of the Hon'ble Division Bench of Punjab and Haryana High Court in Union of India and others v. Central Administrative Tribunal, Chandigarh Bench, Chandigarh reported in 2014 SCC Online P&H 6059, wherein, the Hon'ble Division Bench of Punjab and Haryana High Court, has opined that S.K.M.Haider's case (cited supra), is a "judgment in rem". Reading of the judgment of the Hon'ble Division Bench of Punjab and Haryana High Court, indicates that one of the arguments advanced, before the High Court was that the judgment of the Hon'ble Supreme Court in S.K.M.Haider's case (cited supra), does not lay down any principle of law. Repelling with the same, the Hon'ble Division Bench, held as follows:

"We find that the argument that the judgment in S.K.M.Haider's case (supra), does not lay down any principle of law is not correct. Though the case in question is of one employee, but the denial of promotion to the post of Ticket Collector on the basis of medical fitness in Class C-II was found to be not permissible. The very basis of categorization was found to be not tenable. The same are the reasons for declining promotion to the applicant. There is no reason not to extend the benefit of the judgment of the Supreme Court in S.K.M.Haider's case (supra), when not only he was junior to the applicant, but identically placed in all respects. We find that denial of promotion to the applicant, in these circumstances, is wholly unjustified.

The ratio of S.K.Saigal's case (supra), relied upon by the learned counsel for the petitioners is not in dispute. It is well settled that no mandamus can be issued, which would be contrary to the Acts and the Rules, but where the classification has been found to be unjustified in respect of 'A' official of the same selection process, the benefit of the same cannot be denied to the applicant.

Consequently, we do not find any merit in the present petition. The same is, thus, dismissed. Since the issue, which has attained finality has been resisted before the learned Tribunal and before this

Court by way of present petition, the present writ petition is dismissed with costs quantified at Rs.10,000/-."

25. Reasons assigned by the Hon'ble Division Bench of Punjab and Haryana High Court in Union of India and others v. Central Administrative Tribunal, Chandigarh Bench, Chandigarh reported in 2014 SCC Online P&H 6059, applies in all force, to the case on hand.

26. Appointment to a post can be made, by any of the modes, direct recruitment or promotion or by transfer from one service to another. Appointment can also be made on deputation. In all cases, the appointee has to satisfy the relevant rules.

27. Merely because, S.K.M.Haider's case (cited supra), was decided, dealing with a case of promotion, it cannot be contended that the said judgment is not applicable to direct recruitment. Needless to state that the qualifications and medical tests, prescribed for the post of Ticket Collector, no matter, as to the source of appointment, whether promotion or direct recruitment, are the same. Therefore, the contention of the learned counsel for the petitioners, in our considered view, is untenable.

28. In the light of the above, judgment of the Hon'ble Supreme Court in S.K.M.Haider's case (cited supra), as regards, classification for the purpose of satisfying vision tests, under Category B-2, applicable to the the post of Ticket Collector, is aplicable to all similarly placed persons. As observed by the Hon'ble Supreme Court in S.K.M.Haider's case (cited supra), there is no rational basis, in relation to the objects, set out in Para 510 of IRMM, in categorizing the post of Ticket Collectors, under Class B-2, in Annexure IV. When the Hon'ble Supreme Court in S.K.M.Haider's case (cited supra), has categorically held that it is for the Government to have a fresh look, insofar as the categorisation of posts, pertaining to non-Gazetted Railway services, in Annexure IV and further held that the post of Ticket Collectors, cannot be held to be covered by Class B-2, but rather, would be covered by Class C-2, it cannot be said that the abovesaid judgment of the Hon'ble Apex Court is "judgment in personam", and it does not lay down the principles of law, to be followed. At this juncture, this Court deems it fit to consider, what is a "judgment in personam" and "judgment in rem". In C.L.Pasupathy v. Engineer in Chief (WRO) reported in 2009 (2) MLJ 491, this Court has considered the expressions, judgment "in rem" and judgment "in personam", as follows:

"27.Historically the term judgement "in rem" was used in Roman law in connection with actio but not in connection with "jus actio in personam". The effect of "actio in rem" was to conclude against all mankind, but the effect of "actio in personam" was to conclude with regard to the individual only. After the Roman forms of procedure had passed away,

the term "in rem" survived to express the effect of an action "in rem" and gradually, it came to import "generally".

28. The judgements "in rem" signified as judgements which are good against all mankind and "judgements in personam" signified the judgements which are good only against the individuals who are parties to them and their privies. The point adjudicated upon in a "judgement in rem" is always as to the status of the "res" and is conclusive against the world as to that status, whereas in a judgement "in personam", the point whatever it may be, which is adjudicated upon, not being as to the status of the "res" is conclusive only between the parties or privies. Reference can be made to Firm of Radhakrishnan Vs. Gangabai, 1928 S 121, Ballantyne vs. Mackinson 1896 2 QB 455.

29. Courts have held that, "Judgement in rem", operates on a thing or status rather than against the person and binds all persons to the extent of their interest in the thing, whether or not they were parties to the proceedings. The judgement "in rem", as distinguished from judgement "in personam" is an adjudication of some particular thing or subject matter, which is the subject of controversy, by a competent Tribunal, and having the binding effect of all persons having interests, whether or not joined as parties to the proceedings, in so far as their interests in the "res" are concerned. In determining whether a judgement is "in rem", the effect of the judgement is to be considered and it is tested by matters of substance, rather than by measure of any particular draft or form.

A final judgement on the merits in a particular proceeding, "in rem" is an absolute bar to subsequent proceedings founded on the same facts and a judgement "in rem" may be pleaded as a bar to another action of the same subject matter, if its effect is to merge a distinct cause of action, but not otherwise. The judgement "in rem" operates as a bar or estoppel only to the "res" or matter within the jurisdiction of the court and does not prevent a subsequent action for personal relief, which could not be obtained in the first action. Thus with respect to the "res or status", a "judgement in rem" has to be conclusive and binding upon "all the world" that is, on all the persons, who may have or claim any right or interest in the subject matter of litigation, whether or not, they were parties to or participants in the action, atleast to the extent, that it adjudicates or establishes a status, title or res, constituting the subject matter of the action, a "judgement in rem" will operate as a estoppel, in a subsequent action in respect of the points or questions adjudicated."

29. Case of the appellant, S.K.M.Haider, has been directed to be considered for medical examination in Class C-II. We have already extracted the reasons, as to why, the Hon'ble Apex Court has decided that for the post of Ticket Examiner, one need not undergo vision tests, in B-2 category, which the Tribunal, in the instant case, has followed. S.K.M.Haider's case (cited supra), cannot be argued that it is not a precedent, to be followed by Courts/Tribunals.

30. In the light of the above discussion and decisions, this Court is of the view that the contentions of the writ petitioners, are untenable and cannot be countenanced, warranting interference.

31. In the result, the Writ Petition is dismissed. The writ petitioners are directed to examine the medical fitness of the 1st respondent, under Class C-2, within a period of one month, from the date of receipt of a copy of this order and if found fit, issue order of appointment, within a period of one month, thereafter. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

The Registrar
Central Administrative Tribunal
Madras Bench (Chennai).

1 cc to M/s.V. Bhavani Subbarayan, Advocate, Sr. 53958
1 cc to M/s.L.P. Maurya, Advocate, Sr. 53615

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