

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

W.P.No.23409 of 2013

M. Saravanan

.. Petitioner

Vs.

1. The Registrar
CAT, Chennai Bench
Chennai
 2. Union of India
Rep. by the General Manager
Engine Factory Avadi
Chennai - 600 054
 3. G. Mahesh Kumar
Fitter, Token No.24218
Permanent No.7350HL Section
Engine Factory, Avadi
Chennai - 600 054
 4. AICTE Southern Regional Office
Sastri Bhavan
No.26, Haddows Road
Chennai
 5. Institute of Mechanical Engineer (India)
"Hansmukh Bhavan"
IME Behind CIDCO Office
Near Hiraandani Park Plot No.24
Sec-4, Kharghar
Navi Mumbai - 410 210
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records pertaining to the order passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1416 of 2010 dated 27-11-2012 and quash the same.

For petitioner : Mr.E. Rajesh Kumar

For respondents: R1 - Tribunal
Mr. J. Madhana Gopal Rao, SCASC for R2
Mr. Karthick Mukundan for R3
Mr. A.L. Gandhimathi for R4
Mr. S. Rajendra Kumar for R5

O R D E R

This writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the order passed in O.A.No.1416 of 2010 dated 27-11-2012 by the Central Administrative Tribunal and quash the same.

2. The petitioner herein, as applicant has filed O.A.No.1416 of 2010 on the file of the Central Administrative Tribunal wherein the present contesting respondents have been shown as respondents.

3. The material averments made in the petition are that the petitioner is seeking selection to the post of Charge man (T & M), on the basis of Limited Departmental Competitive Examination held on 28th/ 29th August, 2010 by way of challenging the selection of the third respondent on the ground that the third respondent has not satisfied prescribed educational qualification, since he obtained a Diploma from an Institution not approved by All India Council for Technical Education ('AICTE' in short). The first respondent has published a Notification on 07-04-2010 for filling up the vacancies in the post of Charge man (T & M) through Limited Departmental Competitive Examination. Seven posts of Charge man (UR-5 and ST-2) have been notified. In the Notification it is stated as follows:

"a. The candidates must possess the educational qualification laid down in SRO 13E as amended by SRO 191 of 28-11-1994 and SRO 66 dated 27-05-2003 (Annexure-B)

b. For the post of Chargeman (T/Mech) a candidate must possess three years diploma or equivalent qualification certificate in respective field duly affiliated by AICTU and two years experience in the grade.

c. A candidate possessing the required qualification in terms of these SROs from an institute recognised by Govt. of India are also eligible. A candidate must possess the required educational qualification on the last date of

receipt of application may also apply. But he must produce the pass certificate / document on or before the date of written examination for selection."

The petitioner has passed Limited Departmental Competitive Examination and placed at Serial No.6. Since five vacancies are available, up to Serial No.5 have been selected. The fifth candidate is none other than the third respondent herein. The third respondent has studied Diploma Course through Distance Education Course of Institution of Mechanical Engineering (India) Mumbai ('IME' in short), which is not under the approved list of AICTE. Under the said circumstances, the petitioner has filed O.A. No.1416 of 2010 on the file of the Central Administrative Tribunal. The Central Administrative Tribunal without considering the contentions put forth on the side of the petitioner has erroneously dismissed O.A.No.1416 of 2010 by way of passing the impugned order, dated 27-11-2012 and in order to quash the same, the present writ petition has been filed.

3. In the counter filed on the side of second respondent, it is averred that the petitioner has filed O.A.No.1416 of 2010 and thereby, challenged the appointment of third respondent. The first respondent has dismissed O.A.No.1416 of 2010. Against the order passed by the first respondent, the present writ petition has been filed. The second respondent has conducted departmental competitive examination wherein the third respondent has been selected on merits. Before conducting the said examination, proper publication has been issued. The Diploma obtained by the third respondent has also been recognized by AICTE and there is no merit in the petition and the same deserves to be dismissed.

5. In the counter filed on the side of third respondent, it is averred that the petitioner has studied Part-time Diploma Course in Taramani. The fifth respondent by its communication, dated 18-11-2010 has informed that it has not approved any part-time course. By way of further information provided under the RTI Act on 21-11-2013, it has informed that only from the year 2012-13, DME Part Time Course offered by the Central Polytechnic College, Taramani has been approved. Therefore, it is evident that the DME qualification acquired by the petitioner which is much prior to 2012-13 has not been approved by AICTE. Therefore, the Diploma obtained by the petitioner has not been approved by AICTE, whereas the Diploma obtained by the third respondent from IME, has been duly recognized by AICTE and hence, there is no merit in the petition and the same deserves to be dismissed.

6. The material averments made in the counter filed on the side of fourth respondent are that the fourth respondent is totally incompetent authority to go into the qualification of

either the petitioner or third respondent. The courses run by IME have been recognized by AICTE and there is no merit in the petition and the same deserves to be dismissed.

7. In the counter filed on the side of fifth respondent, various averments are found place and most of the averments are identical with the averments made in the counter filed by the other respondents and ultimately, prayed to dismiss the writ petition.

8. On the basis of the divergent contentions put forth on either side, the following points have to be decided:

(a) Whether the Diploma Course passed by the third respondent has been recognized by AICTE ?

(b) Whether the petitioner is competent to challenge the selection of third respondent as a Charge man (T & M)?

9. The learned counsel appearing for the writ petitioner has raised the following points:

(a) The third respondent by name Mahesh Kumar has studied Diploma Course in IME and the same has not been recognized by AICTE. Under the said circumstances, he has no locus-standi to participate in the examination conducted for the post of Charge man (T & M).

(b) The petitioner has studied Diploma Course in Taramani, Chennai and the same has been recognized by AICTE and since the petitioner has been placed in Serial No.6 he has to be appointed.

10. As a repartee to the points raised on the side of the petitioner, the learned counsel appearing for the contesting respondents have laconically contended that even though the third respondent has studied his Diploma Course in IME, the same has been recognized by AICTE and since he has taken part in the concerned examination and placed over and above the petitioner, he has been rightly selected to the post of Charge man. Under the said circumstances, his selection cannot be challenged and the Central Administrative Tribunal has rightly dismissed the Original Application No.1416 of 2010 and therefore, the present writ petition deserves to be dismissed.

11. It is an admitted fact that on 07-04-2010, the first respondent has published a Notification wherein it is stated as follows:

"a. The candidates must possess the educational qualification laid down in SRO 13E as amended by SRO 191 of 28-11-1994 and SRO 66 dated 27-05-2003 (Annexure-B)

b. For the post of Chargeman (T/Mech) a candidate must possess three years diploma or

equivalent qualification certificate in respective field duly affiliated by AICTE and two years experience in the grade.

c. A candidate possessing the required qualification in terms of these SROs from an institute recognised by Govt. of India are also eligible. A candidate must possess the required educational qualification on the last date of receipt of application may also apply. But he must produce the pass certificate / document on or before the date of written examination for selection."

12. The main gravamen expressed on the side of the petitioner is that the third respondent has no locus-standi to participate in the examination and therefore, his selection as Charge man (T & M) is erroneous. It is an admitted fact that the third respondent has studied his Diploma course in the Institution mentioned in the petition. At this juncture, it would be apropos to look into the letter given by AICTE on 14-09-2010 and the same reads as follows:

"With reference to your RTI letter dated 13-9-2010 the information as per your requirement in serial order as follows:

1) As per the Gazettes Notification of 24th Nov 2006. GOI, Ministry of HRD, the Institution of Mechanical engineering (IME) offering Technician Engg course (T.Engg) is equivalent to Diploma Engg offered by State Board.

2) The approval was given by MHRD in consultation with AICTE. Hence approval of MHRD holds good.

3) The above Gazettes notification clearly says that the candidate having the above qualifications is eligible for central Govt jobs"

13. A bare perusal of the letter given by AICTE would go to show that the course conducted by IME has also been recognized by AICTE.

14. As pointed out earlier, the main grievance expressed on the side of the petitioner is that the Diploma obtained by the third respondent has not been recognized by AICTE and therefore, he is not eligible for participating in the examination, in question. But, as per letter dated 14-09-2010 given by AICTE, the contentions put forth on the side of the petitioner cannot be accepted.

15. It is also an admitted fact that the petitioner, third respondent and others have participated in the examination and the third respondent has been placed in the fifth place, whereas

the present petitioner has been placed in the sixth place. Even on the basis of merits, the second respondent is bound to select the third respondent to the concerned post. Therefore, viewing from any angle, the contentions put forth on the side of the petitioner are totally baseless.

16. The Central Administrative Tribunal after considering all the contentions put forth on either side has rightly dismissed O.A.No.1416 of 2010.

17. In view of the discussions made earlier, this Court does not find any error or illegality in the order passed by the Central Administrative Tribunal and therefore, the present writ petition deserves to be dismissed.

In fine, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Registrar
Central Administrative Tribunal
Chennai Bench, Chennai.

2. The General Manager,
Engine Factory, Avadi,
Chennai 54.

3. AICTE Southern Regional Officer,
Sastri Bhavan, No.26,
Haddows Road, Chennai.

1 cc to Mrs.A.C.Gandhimathi, Advocate, sr.35399
2 ccs to Mr.S.Rajendrakumar, Advocate, sr.34881, 34892
1 cc to Mr.J.Madanagopal Rao, Advocate, sr.34809
1 cc to Mr.P.Rajeshkumar, Advocate, sr.35460
1 cc to Mr.Karthik, Mukundan & Neelakandan, Advocate, sr.23409

W.P.No.23409 of 2013

rsy co
kra 12.07.2016