

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 18-10-2016

Pronounced on: 16-11-2016

CORAM:

THE HON'BLE MR.JUSTICE **A.SELVAM**

AND

THE HON'BLE MR.JUSTICE **P.KALAIYARASAN**

Review Application (W) No.108 of 2016
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.R. Rajesh Kumar

For respondents : R1 – Tribunal
 Mr. J. Madhana Gopal Rao, SCSSC 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 review application has been directed against the order dated 23-06-2016 passed in W.P.No.23409 of 2013 by this Court.

2. The review applicant, as petitioner has filed W.P.No.23409 of 2016 on the file of this Court 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, wherein the present respondents have been arrayed as

respondent.

3. The material averments made in the writ petition are that the petitioner has sought selection to the post of Chargeman (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 the 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 and 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 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.

4. 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 raised on either side, this Court has decided that the Diploma Course passed by the third respondent has been recognized by AICTE and therefore, the third respondent is eligible for the post in question and ultimately, dismissed the writ petition and in order to review the same, the present review application has been filed by the petitioner.

9. The learned counsel appearing for the review applicant has contended to the effect that the Diploma Course obtained by the third respondent has not been duly recognized by the fourth respondent. But, this Court has erroneously given a finding to the effect that the third respondent is eligible for the post, in question and since this Court has committed an error apparent on the face of the record, the order passed in W.P.No.23409 of 2013 is liable to be reviewed.

10. Per contra, the learned counsel appearing for the third respondent has befittingly contended that in Paragraph No.12 of the order passed in W.P.No.23409 of 2013, this Court has clearly observed that the Diploma Course obtained by the third respondent has been recognized by the fourth respondent and therefore, the third respondent is eligible for getting the post, in question and since this Court has not committed any error on the face of the record, this review application is not legally maintainable and the same is liable to be dismissed.

11. The only issue involved in W.P.No.23409 of 2013 is as to whether the Diploma issued by the IME to the third respondent has been duly recognized by the fourth respondent/AICTE or not ?

12. In the counter filed on the side of the fourth respondent, it has been specifically stated that the Courses run by IME have been recognized by AICTE.

13. On the basis of the averments made in the counter filed by the fourth respondent in Paragraph No.12 of the order in W.P.No.23409 of 2013, this Court has observed as follows:

"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”

14. On the basis of the observation made by this Court, the writ petition, in question has been dismissed. Therefore, it is quite clear that the third respondent has obtained Diploma Course from a recognized Institution. Under the said circumstances, he is eligible for getting the post, in question. Since this Court has dismissed the writ petition only on the basis of the counter filed by the fourth respondent and also the letter, dated 14-09-2010 given by the fourth respondent, this Court is of the view that no apparent mistake or error has occurred in the order passed in W.P.No.23409 of 2013. Since there is no apparent mistake or error has occurred in the order passed in W.P.No.23409 of 2013, this review application is not legally maintainable and the same is liable to be dismissed.

In fine, this review application is dismissed with costs.

(A.S.,J.) (P.K.,J)
16-11-2016

Index:Yes/No
glp

**A.SELVAM,J.
AND
P.KALAIYARASAN,J.**

glp

Pre-delivery Order in
Review Application (W) No.108 of 2016
W.P.No.23409 of 2013

16-11-2016