

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 22.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. No.4375 OF 2017
and
WMP.No.4566 of 2017

G.Sendivel ... petitioner

versus

- 1 Special Secretary to
Government Department of Personnel and
Administrative Reforms (Personnel Wing)
Government of Puducherry Puducherry
representing Union of Puducherry.
- 2 Under Secretary to Government
(Personnel) Department of Personnel and
Administrative Reforms (Personnel Wing)
Government of Puducherry Puducherry.
- 3 The Registrar
Central Administrative Tribunal Chennai-
600 104. ... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari Mandamus calling for the records relating to OA.No.310/00650/2014 dated 19.08.2016 passed by the 3rd Respondent Tribunal and quash the same and direct the 1st and 2nd respondent to appoint the petitioner to the post of Lower Division Clerk or store Keeper Grade III or Junior Clerk against any of the available vacancies with arrears of pay and all other consequential benefits.

For petitioner: Ms.Y.Kavitha

O R D E R
(made by K.K.SASIDHARAN, J.)

The background:-

The petitioner, pursuant to the notification dated 2 December 2011 issued by the Government of Puducherry, submitted application for appointment to the post of Lower Division Clerk, Store Keeper Grade II, Junior Clerk/Typist and failed in the written test. The petitioner, long after the completion of selection process, filed original application before the Central Administrative Tribunal to consider him for appointment to the

post of LDC, as according to him, application was not made for the said post as he was not in possession of the qualification in typewriting and subsequently, it was made known that technical qualification of typing is not necessary for physically handicapped candidates. The Tribunal having found that even in the written examination for Store Keeper, Junior Clerk/ Typist, the petitioner miserably failed, held that it would not be possible to consider him for the post of LDC, afresh. The order dismissing the original application is under challenge in this Writ Petition.

Submissions:-

2. The learned counsel for the petitioner contended that the petitioner was not aware that typing qualification is not necessary for physically handicapped candidates. The petitioner therefore failed to apply for appointment to the post of Lower Division Clerk. Subsequently, the petitioner came to know that the Government have issued an order exempting physically handicapped persons from possessing typewriting qualification for appointment to the post of LDC. Since the petitioner qualifies for appointment to the post of LDC, the Department ought to have considered his case sympathetically.

Discussion:-

3. The Government of Puducherry issued a notification dated 2 December 2011, calling for applications for appointment to the post of LDC/ Store Keeper Grade II, Junior Clerk and Typist. The Government proposed to conduct a common written examination for all these posts. The notification contained the necessary qualification. In order to apply for the post of Lower Division Clerk, candidate must possess technical qualification of typing. Since the petitioner was not in possession of the technical qualification, he applied for appointment to the post of Store Keeper Grade II and Junior Clerk. The petitioner appeared for the comprehensive written test and failed. The Government completed the selection process and appointed selected candidates. Only thereafter, the petitioner approached the Tribunal, and that too in 2014, to consider his case for appointment to the post of Lower Division clerk. According to the petitioner, being a physically handicapped person, he is exempted from possessing the qualification of typing for appointment to the post of LDC and as such, he is eligible for appointment.

4. The Government conducted a common recruitment test for appointment to the post of LDC, Store Keeper Grade II and Junior Clerk. It is the admitted case of the parties that the petitioner failed in the common examination. It is also a matter of record that the petitioner has not made any application for appointment to the post of LDC. Even if the petitioner made application for appointment to the post of LDC, still, it would not be possible to appoint him, in view of his failure in the combined written examination. The petitioner would be justified in his contention in case he succeeded in the combined written

examination. The petitioner having failed in the common examination, cannot be heard to say that he should be appointed as LDC in view of his possession of the required qualification. The Tribunal considered the issue in the light of the selection notification and rightly dismissed the original application. We do not find any error or illegality in the said order, warranting interference, by exercising the power of judicial review.

5. In the upshot, we dismiss the Writ Petition. No costs. Consequently, W.M.P.No.4566 of 2017 is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Special Secretary to Government
Department of Personnel and
Administrative Reforms (Personnel Wing)
Government of Puducherry
Puducherry.
- 2 The Under Secretary to Government
(Personnel) Department of Personnel and
Administrative Reforms (Personnel Wing)
Government of Puducherry Puducherry.
- 3 The Registrar
Central Administrative Tribunal
Chennai- 600 104.

+1cc to M/s. Giridhar & Sai Associates, Advocate, S.R.No.11986
+1cc to the Government Pleader, S.R.No.11883

GR(CO)
EU 21.3.17

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