

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM

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

Writ Petition No.20768 of 2015
and

M.P.No.1 of 2015

G.Sridhar

.. Petitioner

Versus

- 1 Union of India
Rep. by the General Manager
Southern Railway
Park Town, Chennai-3.
- 2 The Chief Workshop Manager
Loco Woks, Southern Railway
Ayanavaram, Chennai-23.
- 3 The Workshop Personnel Officer
Loco Woks, Southern Railway
Ayanavaram, Chennai-23.
- 4 The Registrar
Central Administrative Tribunal
Chennai Bench, Chennai-104.
- 5 A.Rajasekar

.. Respondents

Writ petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the O.A.No.455 of 2012 from the files of the 4th respondent Tribunal and quash the impugned order made therein dated 9.6.2015.

For Petitioner : Mr.K.M.Ramesh

For Respondents 1 to 3 : Mr.V.G.Suresh Kumar
Central Govt. Standing Counsel

For Respondent-5 : No appearance
Respondent : Tribunal

ORDER

(Order of the Court was delivered by V.PARTHIBAN,J.)

The present Writ Petition is filed against the order passed by the Central Administrative Tribunal, Madras Bench, in O.A.No.455 of 2012 dated 09.06.2015, filed by the petitioner herein.

2. The petitioner before this Court has approached the learned Tribunal seeking the following reliefs:-

" (a) To call for the records relating to the impugned Memorandum issued by the 2nd respondent bearing No.LW/P(S)563/APP/Mech/ Vol.IV dated 22.06.2011 and set aside the same.

(b) To call for the records relating to the impugned order issued by the 2nd Respondent bearing No.LS/P/633/App.MECH/Vol.IV dated 16.03.2012 and set aside the same.

(c) Consequently, direct the respondents to consider the claim of the applicant for appointment to the post of Apprentice Junior Engineer / LDCE (25%) in Loco Works, Southern Railway pursuant to the Notification No. LS/P/563/App.Mech/SKA/Vol.IV dated 18.11.2010 with all benefits of seniority and other benefits within a time frame;

(d) To pass such other order or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus, render justice; and

(e) To award costs of this Original Application. "

3. The Original Application was initially disposed of by the learned Tribunal vide order dated 22.11.2012 directing the administration to award one more mark to the petitioner to question No.4 Part -IV and redraw panel and consider the name of the petitioner for appointment to the post of Apprentice Junior Engineer against 25% Limited Departmental Competitive Examination (LDCE) quota and pass appropriate orders. The 5th respondent herein, who was one of the selected candidates in the subject selection was arrayed as 4th respondent in the said Original Application. The official respondents filed Review Application No.1 of 2013 pointing out that the 4th respondent therein would be eligible for award of one more mark and hence, the position regarding the selected panel would not change. However, the Review Application was dismissed vide order dated 12.02.2013.

4. The official respondents approached this Court as against the above orders, in W.P.No.21807 of 2013. This Court by order dated 17.12.2013 set aside the orders passed by the learned Tribunal and remitted the case back to the Tribunal to adjudicate the matter along with O.A.No.395 of 2013 which has been filed by the 4th respondent in O.A.No.455 of 2012, who is shown as 5th respondent herein. The present Writ Petitioner is shown as private respondent in O.A.No.395 of 2013. The parties were also given liberty to raise additional grounds against each other.

5. After the matters were remanded back to the Tribunal, the applications were taken up for hearing. On behalf of the counsel appearing for the petitioner herein, it was submitted before the Tribunal that there are several mistakes in the answer sheet of Sri.A.Rajasekar, who is the 5th respondent herein and applicant in O.A.No.395 of 2013 and only proper evaluation would bring justice to the matter. According to the petitioner herein, inspite of mistakes committed by Sri.A.Rajasekar, for which marks have been awarded, but as far as he was concerned, no marks were given to him inspite of giving correct answers. It is also pertinent to mention here that the petitioner herein was originally working in ICF since 1990, but was transferred to Loco Works, Southern Railway, in 2006.

6. Per contra, it was contended on behalf of the Railway Administration that there was no provision or rule for revaluation and therefore, the petitioner was not entitled to any relief. The respondent also relied on the decision of the Hon'ble Supreme Court of India reported in 2010 (6) SCC 759 in the case of 'Himachal Pradesh Public Service Commission ..vs.. Mukesh Thakur and Another' and also the order passed by the Tribunal in other O.A.No.1007 of 2012. After taking note of the submissions, the Tribunal dismissed the application on the ground that there existed no provision for revaluation. The Tribunal also relied on the ratio laid down by the Hon'ble Supreme Court of India in the decision cited supra. The Tribunal also extracted in extenso the decision of the Hon'ble Supreme Court in the impugned judgment. The Tribunal also further held that the subject examination was conducted way back in 2010 and in all 71 candidates attended the examination. In such a scenario, any selective revaluation of the answer papers of the applicants in the present O.A.Nos.455 of 2012 and 395 of 2013 would not only amount to violation of the principle propounded by the Hon'ble Supreme Court in respect of revaluation of the answer paper based on individual request, but would also impinge on the other candidates, who attended the examination. The Tribunal further concluded that as far as the

petitioner was concerned, he had no locus standi to participate in the selection process itself, as he was transferred back to ICF in the year 2013 itself and was working in ICF ever since. For the above reasons, the Tribunal dismissed the Original Application. As against the dismissal order, the present Writ Petition is filed.

7. Sri.K.M.Ramesh, learned counsel appearing for the petitioner strenuously contended that the Tribunal was not right in dismissing the application on the ground that there existed no provision or rule for revaluation of answer papers. In support of his contention, the learned counsel was unable to show any rule, which provides for revaluation of answer papers. The counsel merely submitted that justice requires revaluation notwithstanding the absence of any specific provision. On the other hand, the counsel for the Railways reiterated the submissions emphasizing the fact that in the absence of specific provision for revaluation, the petitioner is not entitled to the relief.

8. We gave our anxious consideration to all the materials and the pleadings on record.

9. We are not in a position to persuade ourselves into accepting the case put forth by the petitioner calling for interference of the order passed by the Tribunal. As stated supra, the learned counsel appearing for the petitioner was not in a position to take us through any provision providing for revaluation of answer sheets and that being the case, We do not see any infirmity in the order passed by the Tribunal dismissing the Original Application. Even otherwise, We are of the view that as far as the petitioner is concerned, he having been posted to ICF in 2013 itself, has no locus standi to challenge the selection process happened in Loco Works, Southern Railway, during his posting in the Southern Railway. Therefore, the Tribunal was right in dismissing the application on this ground also. Even assuming for a moment that, from preventing miscarriage of justice, revaluation is possible in extraordinary situation to set right any belated anomaly, the present case on hand does not fall within such exceptional one calling for any extraordinary intervention. The facts and circumstances, which found the basis of the petitioner's claim, do not warrant any

interference from our hands and in such view of the matter, We do not find any merit in the Writ Petition and therefore, the same stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Union of India
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Central Administrative Tribunal
Chennai Bench, Chennai-104.

+1cc to Mr.V.G.Suresh Kumar, Advocate, S.R.No.12396
+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.12037

SAI (CO)
RS (09/03/2017)

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Pre-delivery order in
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and
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