

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 02.02.2017	Date of pronouncing Judgment 23.02.2017
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CORAM

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

Writ Petition No.28478 of 2011

P.RAMESH

... Petitioner

Versus

- 1 THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI-104.
- 2 THE UNION OF INDIA
REP. BY ITS SECRETARY
MINISTRY OF FINANCE
AND REVENUE DEPARTMENT
NEW DELHI.
- 3 THE COMMISSIONER OF CUSTOMS
CUSTOMS HOUSE
60, RAJAJI SALAI, CHENNAI-1.
- 4 THE DEPUTY COMMISSIONER OF CUSTOMS (P AND V)
CUSTOMS HOUSE
60, RAJAJI SALAI, CHENNAI-1.
- 5 THE DEPARTMENTAL SELECTION COMMITTEE
OFFICE OF THE COMMISSIONER OF CUSTOMS
CUSTOMS HOUSE
60, RAJAJI SALAI, CHENNAI-1.
- 6 K.ARULMANI
- 7 R.VENKATESWARAN
- 8 R.KARTHIKEYAN
- 9 V.LATHA
- 10 T.KARTHIKEYAN

WEB COPY

11 M.RAJENDRAN

12 S.U.PRAVEEN

13 J.NANDIGEESWARAN

.. Respondents

(Respondents 6 to 13 are impleaded as per order dated 09.01.2012 made in M.P.No.1 of 2012 in W.P.No.28478 of 2011)

Writ petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 1st respondent by its order dated 11.10.2011 made in O.A.No.738/2010 and to quash the same and consequently, direct the 2nd respondent to appoint the petitioner as Sepoy with reference to the Notification, published in Employment News dated 22-28 March 2008.

For Petitioner : Mr.M.Palanimuthu
For Respondents 2 to 5 : Mr.T.R.Senthilkumar, SSC
Respondents 6, 9, 11to13 : No appearance
Respondents 7, 8 and 10 : Not ready

ORDER

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

This Writ Petition is filed against the order passed by the Central Administrative Tribunal, Madras Bench in O.A.No.738 of 2010 dated 11.10.2011 dismissing the Application filed by the petitioner herein.

2. The petitioner approached the learned Tribunal seeking the following reliefs:-

" To call for the records relating to the impugned order vide F.No.S14/19/2008, Estt. dated 02.09.2009 passed by the third respondent, quash the same and direct the 2nd respondent to select the applicant as Sepoy with reference to their notification, published in Employment News dated 22-28 March 2008."

3. The second respondent issued notification, in the Employment News dated 22 - 28.03.2008, calling for applications from the eligible candidates for the appointment to the post of Sepoy (General Central Service Group-D, Non-Gazetted, Non-Ministerial) in the pay scale of 2610-60-2910-65-3300-70-4000. In response to the notification, the petitioner submitted his application on 03.04.2008. Pursuant to the notification, all

the candidates, who are eligible, including the petitioner were subjected to selection. The selection process consisted of three stages, viz. (i) physical standards and test, (ii) primary interview including verification of age, qualification etc., and (iii) final interview. The petitioner participated in all the stages of selection. In the final interview, the petitioner had secured only 130 marks out of 300. According to the official respondents, the petitioner got less marks compared to other 40 candidates, who had secured marks between 200 - 239 out of 300 and therefore, he was not selected for appointment to the post of Sepoy. In fact, on earlier when the applicant represented to the Competent Authority against his non-selection, he was informed that his marks secured in the final interview did not come within the purview of selected candidates and the selection process was already completed. The second respondent by communication dated 02.09.2009 had therefore rejected the claim of the petitioner. Not satisfied with the reply by the second respondent herein, the petitioner approached the Tribunal challenging the impugned order of rejection with the consequential directions to the second respondent to select the petitioner as Sepoy in pursuance of the notification in the Employment News dated 22 - 28.03.2008.

4. The claim of the petitioner was sought to be resisted by the official respondents and a detailed reply was filed before the Tribunal setting out the marks obtained by other candidates and how the vacancies came to be filled up belonging to different communal categories. According to the reply statement, the selection procedure was adopted in terms of the Board's instruction. When larger number of applications were received, the Selection Committee was given the discretion of reserving its own method for selection of candidates. In the instant case, according to the reply statement, for 44 vacancies, there were 3690 applications and therefore, the selection process had adopted in three stages in order to shortlist the candidates for effective identification of the candidates suitable for appointment to the post of Sepoy. In the reply, it is also stated that the marks obtained by the petitioner were far below compared to other candidates, who were eventually selected for appointment and therefore, the claim of the petitioner cannot be countenanced, both on law and on facts.

5. After taking note of the submissions of the parties, the learned Tribunal dismissed the Original Application by order dated 11.10.2011. The main contention, which was emphasized, by the petitioner before the Tribunal was that the procedure adopted by the Selection Committee was not proper and his mark obtained in the preliminary interview was not taken into consideration while making the appointments. He has also contended that some of the selected candidates were not qualified and therefore, their appointments were invalid. The

learned Tribunal disbelieved the contention of the petitioner stating that the Selection Committee has followed the procedure laid down in the instruction of the Board dated 08.04.2008 and the relevant portion of the instruction was also extracted in paragraph - 7 of the impugned order. The learned Tribunal also rendered a finding that there is no allegation of arbitrariness or violation of statutory provision and the petitioner, having participated in three stages of selection, cannot thereafter complain about the selection method, having failed to secure the required marks for selection for appointment to the post of Sepoy. It also appears from the impugned order that the original files were furnished and perused by the Tribunal and the same did not reveal any irregularity in the matter of subject selection. As regards the contention that some candidates, who were ineligible, were selected, the Tribunal found that the selected candidates, against whom allegations were made, were not made parties to the application. In such view of the matter, the Tribunal dismissed the Original Application. As against the order, the present Writ Petition has been filed.

6. The learned counsel appearing for the petitioner strenuously contended that in the notification issued calling for applications in March 2008, the procedure of conducting final interview was not mentioned or indicated and therefore, the selection of candidates on the basis of their performance in the final interview was contrary to the notification. The said submission is unacceptable and invalid for the fact that the employment notification need not contain the details of the procedure to be adopted for appointment to various posts in the Government. It is always open to the Competent Authority to prescribe different methods of selection depending on each posts, for which the recruitment is conducted. In the instant case, the Selection Committee had adopted the procedure in terms of the instructions issued by the Board and the petitioner, having participated in the selection, cannot subsequently complain against the method of selection, particularly having failed to secure the required marks for ultimate selection.

7. Moreover, the learned Tribunal has also seen the original files relating to the subject selection and found no irregularity in the selection. The learned counsel appearing for the petitioner also attempted to raise an issue regarding additional vacancies filled up, other than what was notified. But the said issue was never raised before the Tribunal and therefore, it is not open to the learned counsel for the petitioner to canvass the said issue before this Court. Although the private respondents were impleaded as parties before this Court, against whom certain averments were made by the petitioner that they being ineligible for selection, We cannot go into those aspects since they were not made parties

originally before the Tribunal. It is also to be seen from the finding of the Tribunal that the marks secured by the petitioner is far below than the marks secured by the selected candidates and hence, no grievance could be made out by the petitioner against the selected candidates.

8. In view of the above, We do not see any merit in the contention of the petitioner and We do not see any infirmity in the order passed by the Tribunal. The present Writ Petition is devoid of merits and therefore, stands dismissed. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

mra

To

- 1 THE REGISTRAR
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+1cc to M/s.M.PalaniMuthu,Advocate sr.11469

+1cc to M/s.T.R.Senthil Kumar,Advocate,Senior Standing Counsel
for I.T.Dept.sr.11711

order in
Writ Petition No.28478 of 2011

ppa(co)
ss(15/3/2017)