

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 19.04.2017
Delivered on : 28.04.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.19956 of 2016 and
W.M.P.No.17210 of 2016

- 1.The Union of India,
Represented by the Secretary,
Ministry of Railways,
Railway Board,
Rail Bhavan,
New Delhi - 110 001.
 - 2.The Chairman
Railway Recruitment Board,
No.5, Dr.P.V.Chcrian Crescent Road,
Egmore, Chennai - 600 008.
 - 3.The General Manager,
Southern Railway,
Park Town, Chennai - 600 003.
 - 4.The General Manager,
Integral Coach Factory,
Chennai - 600 038.
- ...Petitioners
- vs.

- 1.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai - 600 104.

- 2.Satyachinnanaidu
- 3.Gireesh Kumar Botsa
- 4.Sudhakar Bommeda
- 5.Easwararao Mardana
- 6.Bhanu Prasad Mardana

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, call for the entire records of the 1st respondent in O.A.No.310/00898/2015 including the order dated 9.2.2016 and quash the same.

For Petitioner : Mr.A.Thiyagarajan
Senior Counsel for
Mr.V.G.Sureshkumar

For Respondents : Mr.C.K.Chandrasekar for R2,3,5 and 6

R4 : No Appearance (Served)
R1 : Tribunal

O R D E R

K.K. SASIDHARAN, J.
Introductory:

The Railway Recruitment Board invited applications for appointment to the post of Chemical & Metallurgical Assistant specifying the educational qualification M.Sc (Chemistry). The respondents 2 to 6 (hereinafter referred to as "Applicants") submitted applications along with certificates indicating their qualification as M.Sc Organic Chemistry (Respondents 2,3,4 and 6) and M.Sc Inorganic Chemistry (5th Respondent). The applicants were selected and their names were included in the merit list of 39 candidates eligible for appointment. Thereafter, their selection was cancelled on the ground that the University certificate does not contain a clear indication that the degree was in Chemistry. Subsequently, the applicants obtained certificates from the concerned Universities, indicating that the course was M.Sc (Chemistry) only and the subject of specialisation was indicated in the certificates and the same caused the confusion in the matter. The Universities, even issued revised certificates to the respondents 2, 5 and 6. The Madras Bench of the Central Administrative Tribunal (for short "Tribunal") ultimately allowed the original application filed by the applicants and directed their appointment. The Railway Recruitment Board filed this writ petition challenging the order passed by the Tribunal. The 4th respondent was appointed in Eastern Railway, pending disposal of the writ petition. Even though there are 7 vacancies in the Southern Railway and 6 vacancies in the Integral Coach Factory consequent to the non-joining of selected candidates, the Railways is not prepared to accommodate the respondents 2,3,5 and 6, who were on their own merit got placement in the select list. As per the interim order passed by the Tribunal, selection was made subject to the result of the original application. Even then, the Railway Recruitment Board operated the waiting list and made appointments, but is resisting the appointment of meritorious candidates, who were on their own merit secured higher place in

the select list and notwithstanding sufficient number of posts available for appointment even today.

The Background to this litigation:

2. The Railway Recruitment Board issued Centralised Employment Notice, dated 20 September, 2014 calling for applications for various posts. We are concerned only with the post of Chemical & Metallurgical Assistant. The applicants submitted applications, pursuant to the Notification. It was an All India Selection. The applicants were called for the written test. There were 24 posts in Southern Railway. Similarly, there were 15 posts in Integral Coach Factory, Perambur, Chennai. The applicants were permitted to take part in the written examination. The applicants secured very high marks and as such, their names were included in the top of the merit list. The names of other selected candidates were put in the waiting list.

3. The names of the applicants were not found in the final list of selected candidates. The applicants, therefore, filed Original Application before the Tribunal in O.A.No.310/00898/2015.

4. Before the Tribunal, the petitioners contended that appointments were denied to the applicants as they failed to fulfill the eligibility criteria regarding educational qualification. According to the Railways, candidate must possess M.Sc in Chemistry. The applicants either obtained degree in Organic or Inorganic Chemistry. Since such qualification would not meet the required qualification, as indicated in the Notification, the Railways pleaded inability to accommodate the applicants.

5. When the Original Application was pending before the Tribunal, the applicants obtained revised certificates from the concerned Universities indicating that the specialisation in the subject was shown in the degree certificates and that was the reason M.Sc (Chemistry) was not specifically mentioned. The applicants also produced Equivalence Certificate from the concerned Universities, indicating that the degree in question is nothing but M.Sc (Chemistry) and Organic and Inorganic were mentioned only to show the field of specialisation.

6. The Tribunal allowed the Original Application and directed to give appointments to the applicants based on their position in the merit list. Feeling aggrieved, the Railway Recruitment Board is before us.

Rival Submissions:

7. The learned Senior Counsel for the petitioners contended that for appointment to the post of Chemical & Metallurgical Assistant, the required qualification is M.Sc (Chemistry). There was no mention that M.Sc (Chemistry) or equivalent is sufficient. The applicants failed to satisfy the eligibility criteria. Their applications were therefore, rightly rejected, of course, after permitting them to appear for the written examination. The learned Senior Counsel contended that the equivalence certificates and revised certificates were all produced subsequent to the cut-off date and as such, no reliance could be placed on those certificates to prove the eligibility.

8. The learned counsel for the applicants before the Tribunal contended that the confusion arose on account of indicating the subject specialisation instead of the comprehensive term "Chemistry" in the degree certificate. According to the learned counsel, it was an All India Selection and as such, the Railway Recruitment Board has to take into account the degree awarded by different Universities across the country. According to the learned counsel, Universities in Andhra Pradesh has been issuing certificates indicating only the specialisation. The learned counsel further contended that even though the applicants studied only M.Sc (Chemistry), in the Certificates issued to them, subject specialisation was mentioned. The Railway Recruitment Board, therefore, erred in rejecting the case of the applicants only on the ground that M.Sc (Chemistry) was not specifically mentioned in the certificates produced by them.

Discussion:

9. It is not in dispute that in the Notification issued by the Railway Recruitment Board for the post of Chemical & Metallurgical Assistant, M.Sc (Chemistry) was mentioned as the minimum qualification. The Railways wanted applicants with M.Sc (Chemistry) to apply for the post of Chemical & Metallurgical Assistant. The applicants have undergone studies in various Universities in the State of Andhra Pradesh. The clarification issued by the Universities and the revised certificates would indicate that instead of mentioning M.Sc (Chemistry), the Universities have been indicating the subject specialisation in the certificates.

10. The applicants claimed that they studied M.Sc (Chemistry) and received the degree certificate. Their claim is supported by the Equivalence Certificate issued by the concerned Universities. The Railway Recruitment Board wanted a clear certificate of "M.Sc (Chemistry)" and not a certificate with

specialisation. This is the substantial contention advanced by the learned Senior Counsel for the Railways.

11. There is no dispute that the Railways wanted M.Sc (Chemistry) as the qualification for appointment to the post of Chemical & Metallurgical Assistant. The Railways contended that Equivalence Certificate was obtained after the cut-off date. Similarly, it was contended that revised degree certificates indicating the qualification were produced only after publishing the select list.

12. The Tribunal found that the revised certificates were produced before the Railways to prove that the applicants studied only M.Sc in Chemistry. The issue before the Tribunal therefore was as to whether the applicants have produced the Certificates before the cut-off date.

13. It is not the case of the petitioners that the applicants have not undergone M.Sc Degree course in Chemistry. The Certificates issued by the respective Universities clearly proved that the applicants have qualification in Master of Science either in Organic Chemistry or Inorganic Chemistry, which is equivalent to Master of Science in Chemistry. The applicants, 3 out of 4 surrendered their respective certificates and obtained new certificates indicating M.Sc (Chemistry) as their qualification.

14. The question of equivalence would arise only in case the candidate has not undergone the Course in M.Sc (Chemistry). In the subject case, Universities demonstrated that M.Sc in Organic or Inorganic Chemistry are the same as that of M.Sc (Chemistry).

15. The Universities in their clarification made it very clear that they did not conduct any course in M.Sc (Chemistry) without specialisation in one of the branches. The applicants were able to produce certificates in M.Sc (Chemistry) subsequent to the preparation of select list. The petitioners would be correct in their contention in case after the cut-off date, the applicants have obtained a new degree. The revised certificates issued by the Universities would not amount to production of fresh certificates. Those certificates have to be treated as part of the certificates produced by the applicants earlier before completing the selection process.

16. The Universities have been previously conducting the composite course in M.Sc (Chemistry). They are now conducting specialised courses like Organic and Inorganic Chemistry. It is for the concerned University to clarify the position as to whether the degree M.Sc in Organic or Inorganic Chemistry, are equivalent to the degree in M.Sc (Chemistry). The Universities

in the subject case produced string of materials to prove that the applicants have undergone studies in M.Sc (Chemistry) and the confusion has arisen only on account of indicating the specialisation in the degree certificates.

17. The 4th respondent secured employment during the currency of the writ petition. We are now concerned only with respondents 2,3,5 and 6. These applicants secured higher marks and the same resulted in placing them far above the wait listed candidates. The Railway Recruitment Board appointed even the wait listed candidates. The meritorious candidates are still in Court.

18. It is not the case of the Railways that there are no vacancies to accommodate the respondents 2,3,5 and 6. The affidavit and the particulars produced by the Member Secretary, Railway Recruitment Board, Chennai, clearly indicates that there are 7 vacancies in Southern Railways and 6 vacancies in Integral Coach Factory. There is also one short fall vacancy. In short, there are 14 vacancies now. There are only 4 candidates before us aspiring for appointment. The respondents 2,3,5 and 6 should not be denied appointment only on the ground that they have produced revised certificates indicating their qualification as M.Sc (Chemistry) after publishing the select list. We are therefore of the view that the Tribunal was correct in allowing the Original Application. We do not find any error or illegality in the said order warranting interference by exercising the judicial review under Article 226 of the Constitution.

19. The petitioners are directed to comply with the order dated 9 February, 2016 in O.A.No.310/00898/2015, within a period of four weeks from the date of receipt or production of a copy of this order.

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20. In view of the reasons aforesaid, we dismiss the writ petition. No costs. Consequently, connected miscellaneous petition is closed.

svki

Sd/-
Assistant Registrar
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Sub-Assistant Registrar

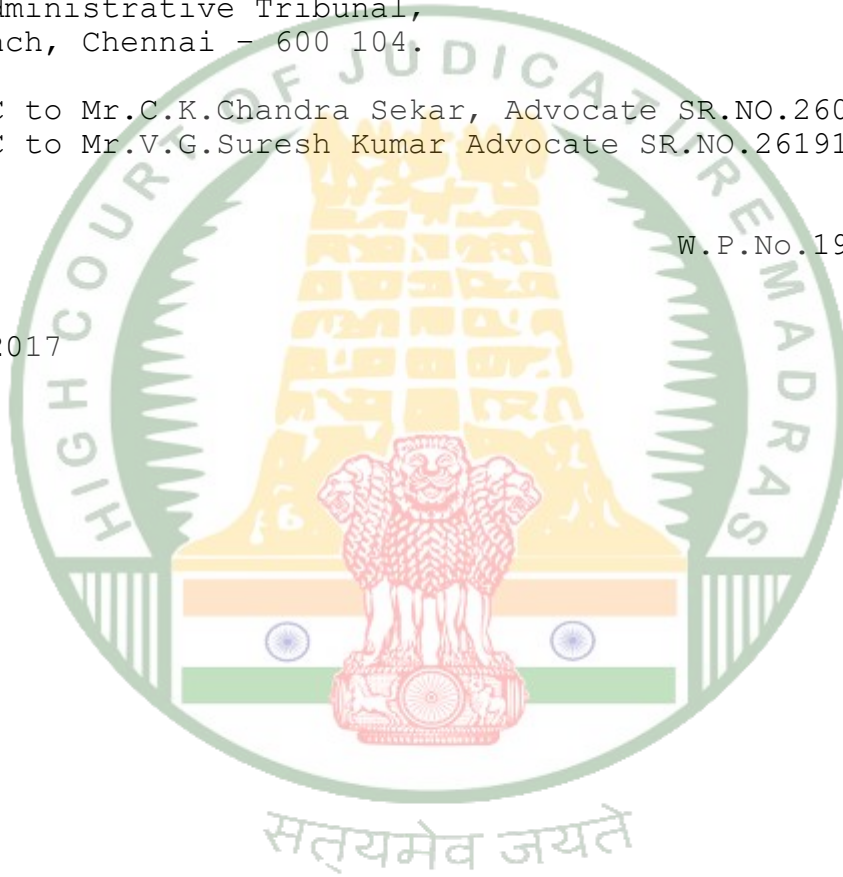
To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai - 600 104.

+2 CC to Mr.C.K.Chandra Sekar, Advocate SR.NO.26031
+1 CC to Mr.V.G.Suresh Kumar Advocate SR.NO.26191

Order in
W.P.No.19956 of 2016

BR[CO]
MK:31/05/2017



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