IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2017

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.22390 of 2016 and

WMP. No.19103 of 2016

1.Union of India rep. by
Rep. by the General Manager,
Southern Railway,
Park Town, Chennai - 600 003.

2.The Chief Personnel Officer,
Southern Railway, Park Town, Chennai - 600 003.

3.The Deputy Chief Engineer,
Track Machines, Southern Railway,
Royapuram. ... Petitioners

Vs.

1.M.Gnanajothy

2.The Registrar,
Central Administrative Tribunal,
Madras Bench. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records on the file of the 2nd respondent in O.A.No.610 of 2013, dated 26.06.2015 and quash the same.

For Petitioners : Mrs.V.Bhavani Subbaroyan

For Respondents : Mr.L.Chandrakumar for R1
R2-Tribunal

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O R D E R

K.K.SASIDHARAN,J.

This writ petition is directed against the order, dated 26 June, 2015 in O.A.No.610 of 2013, whereby and where under, the Madras Bench of the Central Administrative Tribunal, directed the petitioners to consider the claim of the first respondent in the light of the instructions in RBE.No.160 of 2006, dated 28 October 2016 and pass appropriate orders.

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2. The learned Standing Counsel for the Railways contended that the first respondent was not eligible to take part in the selection process, in view of his non-possession of the required qualification. According to the learned Standing Counsel, the Tribunal was not correct in directing the petitioners to consider the case of the first respondent, in the light of the order given in favour of Thiru.G.Karunakaran, which was on totally different facts. The learned Standing Counsel contended that ever as per the instructions, dated 23 October, 2006, the first respondent is not entitled to claim promotion.

3. The learned counsel for the first respondent, on the other hand submitted that under similar circumstances, the petitioners promoted Thiru.G.Karunakaran, taking into account the existing qualification and as such, the first respondent is also entitled to similar indulgence. According to the learned counsel, the first respondent would come within the ambit of the instructions given by the Railways, dated 23 October 2006, and as such, the Tribunal was correct in directing consideration.

4. The petitioner submitted application for selection to the post of Junior Engineer, pursuant to the notice issued by the Deputy Chief Engineer, Track Machines on 7 January 2012. The first respondent attended the written examination. He was declared qualified. Subsequently, it was found that the name of the first respondent was not included in the selection list. The first respondent, therefore, made a request to include his name in the select list. Though the name of the first respondent was found in the list prepared originally, it was omitted in the subsequent list. It was only under the said circumstances, the first respondent filed the original application.

5. Before the Tribunal, the petitioners contended that the name of the first respondent was not included in the select list, as he was not ITI qualified. According to the Railways, the first respondent does not possess the required qualification and as such, he was rightly not selected.

6. The Tribunal opined that the claim of the first respodnent should be considered in the light of the instructions given by the railways, dated 23 October 2006 and keeping in view the appointment of Thiru.G.Karunakaran. There is nothing on record to show that the Tribunal has given a positive finding in favour of the first respondent. The direction was to consider him in the light of the instructions, dated 23 October 2006 and the appointment of Thiru.G.Karunakaran on the basis of pre-existing qulification. There is no adverse order against the petitioners so as to compel them to file the writ petition. Liberty is given to the petitioners to consider the case of the first respondent on merits.

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7. We are therefore of the view that there is absolutely no merit in the contention taken by the petitioners that an adverse order was passed against them and the same requires to be reviewed by exercising the review jurisdiction. We clarify the position that it is open to the petitioners to consider the case of the first respondent on merits and as per law.

8. The writ petition is disposed with the above clarification. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

To

The Registrar,
Central Administrative Tribunal
Madras Bench.

+1 cc to Mr.V.Bhavani Subbaraya, Advocate,sr 20527

+1 cc to M/s.L.Chandrakumar,advocate,sr.22591.

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