

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-09-2017

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P. No.6922 of 2015
And
M.P.Nos.1 and 3 of 2015

E.Kamal Raj .. Petitioner
Versus

1. The Secretary
Staff Selection Commission,
Block No.12, 5th Floor, GO Complex,
Lodi Road, New Delhi.
2. The Regional Director,
Staff Selection Commission (Southern Region),
II Floor, EVK Sampath Building,
College Road, DPI Campus,
Chennai - 600 006. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent of the impugned order dated on 7.1.2015 for the remarks and quash the same and further directing the respondents to include the petitioner in the selection candidate for the interview as fully qualified in the combined graduate level examination 2013 and 2014 for the post of Assistant, Inspector of Assistant, Inspector of Central Exercise. (Prayer amended vide order of the Court made in M.P.No.2 of 2015 dated 16.3.2015).

For Petitioner : Mr.J.Justin
For Respondents : Mr.Su.Srinivasan,
Assistant Solicitor General of India.

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O R D E R

The relief sought for in this writ petition is to quash the remarks in the impugned order of the second respondent dated 7.1.2015 and to direct the respondents to include the name of the writ petitioner as a selected candidate for the interview as fully qualified in the Combined Graduate Level Examination 2013 and 2014 for the post of Assistant, Inspector of Assistant, Inspector of Central Exercise.

2. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner is hearing impaired candidate with 68% hearing loss and completed B.Tech Course in the year 2007 and thereafter, completed the Degree Course in the year 2013.

3. Pursuant to the Notification issued by the Staff Selection Commission for .Combined Graduate Level Examination, 2013 dated 19.1.2013, the writ petitioner submitted his application and he received a call letter and accordingly, appeared in the written examination conducted on 14.4.2013.

4. Some other candidates submitted their applications and filed cases before the Central Administrative Tribunal, New Delhi, questioning the irregularities and the Central Administrative Tribunal, New Delhi, directed the respondents to conduct re-examination in this regard.

5. Pursuant to the directions issued by the Central Administrative Tribunal, New Delhi, re-examination also was conducted on 21.4.2013 and the writ petitioner had participated in the re-examination.

6. The learned counsel for the petitioner states that in both the written examinations, the writ petitioner was successful and he passed in the Examinations. On that basis, the petitioner claims that he must be invited for the interview for recruitment.

7. Mr.Su.Srinivasan, learned Assistant Solicitor General of India, appearing on behalf of the respondents, made a submission that no doubt the re-examination was conducted pursuant to the direction issued by the Central Administrative Tribunal, Chennai. However, re-examination was conducted pursuant to the original Notification which was issued on 19.1.2013.

8. Thus, the qualifications and the conditions as stated in the original Notification dated 19.1.2013, are applicable to the writ petitioner and the writ petitioner is bound by the conditions therein as the application itself was submitted pursuant to the Notification dated 19.1.2013.

9. On perusal of the Notification dated 19.1.2013, the essential qualifications are enumerated in paragraph-6 of the Notification. It was made clear that the essential qualifications are to be fulfilled as on 1.1.2013 and the qualifications prescribed are extracted hereunder:-

"6. ESSENTIAL QUALIFICATIONS as on 1st

January, 2013

i) Computer : Bachelor's Degree from any recognised University with Economics or Statistics or Mathematics as compulsory or Elective subject.

ii) Statistical Investigator Grade - II Bachelor's Degree with Statistics as one of the main subjects

OR

Bachelor's Degree with Mathematics (with Statistics as a papers studied in one year/two years/all three years as the case may be) as one of the main subjects

OR

Bachelor's Degree with Economics (with Statistics as a paper studied in one year/two years/all the three years as the case may be) as one of the main subjects

OR

Bachelor's Degree with Commerce (with Statistics as a paper studied in one year/two years/all the three years as the case may be) as one of the main subjects

Note:- "Statistics" means any branch of Statistics, applied or otherwise.

iii) All other Posts: Bachelor's Degree from a recognised University or equivalent.

Note I: For posts of Assistants (CSS), Computer Proficiency has also been prescribed as an Essential Qualification.

Note II: As per Ministry of Human Resource Development Notification No.44 dated 01.03.1995 published in Gazette of India edition dated 8.4.1995, the Degree obtained through open Universities/Distance Education Mode needs to be recognised by Distance Education Council, IGNOU. Accordingly, unless such Degrees had been recognised for the period when the candidates acquired the relevant qualification, they will not be accepted for the purpose of Educational Qualification.

Note III: All candidates who are declared qualified by the Commission for appearing at the Interview/Skill Test/Computer Proficiency Test will be required to produce the relevant Certificates such as Mark Sheets for all the three years of Graduation/Provisional Certificate/Certificate of Graduation in original as proof of having acquired the

minimum educational qualification on or before the 1st January, 2013, failing which the candidature of such candidates will be cancelled by the Commission.

Note IV: Wherever Desirable Qualification is prescribed in Recruitment Rules, appropriate weightage will be given at the time of interview."

10. Accordingly, the writ petitioner ought to have completed the Degree Examination as on 1.1.2013. However, the writ petitioner had completed the Degree Examination in April 2013 and the Certificate issued by the Kalasalingam University is enclosed in page 9 of the typed set of papers filed along with the writ petition.

11. The Certificate was issued to the writ petitioner on 14.9.2013. Thus, as on 1.1.2013, the writ petitioner was not possessing the prescribed qualifications as per the Notification. A mere appearance in the written examination or passing out, will not confer any right for the writ petitioner to participate in the further process or claim appointment in this regard.

12. Appointment can never be claimed as a matter of right. A candidate, who appears in the selection process though selected, cannot claim the appointment, unless the candidate established an irregularity, illegality or certain malpractices in the process of selection. In the absence of any such valid legal ground, a mere participation or passing in the written examination, cannot be made as a ground for seeking appointment to a public post.

13. The learned Assistant Solicitor General of India, appearing on behalf of the respondents, drawn the attention of this Court to the call letter issued to the writ petitioner on 10/11th December, 2014, wherein the following conditions are prescribed as under:

"2. The Essential Qualification prescribed for the above recruitment is "Bachelor's Degree from a recognised University or equivalent" as on 1st January, 2013.

3. You should bring Certificates in support of your Date of Birth (DOB), Educational Qualification (EQ), Community Certificate (if applicable) and other relevant Certificates as mentioned in the Annexure, in original AND submit 2 set of

self-attested copies of the documents/certificates for our record.

4. It may be noted that candidates not possessing Certificates in support of DOB, EQ etc., will not be allowed for the interview."

14. Further, an information was provided by the Staff Selection Commission to the writ petitioner stating that "candidate does not possess EQ as on the crucial cut off date hence rejected".

15. This Court do not find any infirmity in the order of rejection in view of the admitted fact that the writ petitioner was not possessing the required educational qualifications of Degree as on 1.1.2013.

16. Such being the factum of the case, the other grounds raised in this writ petition deserve no further consideration. However, the writ petitioner need not get dejected from and out of the order passed in this writ petition and he should work hard for better performance by putting more efforts in the forthcoming competitive examinations and this Court wishes him for the best in all his future life.

17. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Secretary
Staff Selection Commission,
Block No.12, 5th Floor, GO Complex,
Lodi Road, New Delhi.

2. The Regional Director,
Staff Selection Commission (Southern Region),
II Floor, EVK Sampath Building,
College Road, DPI Campus,
Chennai - 600 006.

+1cc to Mr.J.Justin, Advocate in sr.no.65346

W.P.No.6922 of 2015

SV(CO)
NR 05/12/2017



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