

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.24339 of 2009
and M.P.No.1 of 2009

Union Public Service Commission,
rep.by its Secretary,
Dholpur House, Shahjahan Road,
New Delhi. Petitioner

-vs-

- 1.P.Sundharajan
- 2.Ministry of Railways,
rep.by the Chairman Railway Board,
Rail Bhawan, New Delhi-110 001.
- 3.Manohar Vishnu Kumbhalkar,
C/o.The Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
- 4.The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the entire records leading to the issue of the order made in O.A.No.845 of 2008 dated 21.08.2009 on the file of the Central Administrative Tribunal, Chennai Bench, Chennai, the fourth respondent herein and quash the same and dismiss the O.A.No.845 of 2008.

For Petitioner :: Mr.K.Sridhar

For Respondents :: Mr.N.Chandar Raj for
M/s.Raj & Raj Associates for R1

Mr.P.T.Ramkumar for R2

R3-Given up

ORDER
(Order of the Court was made by
HULUVADI G.RAMESH, J.)

This writ petition has been filed to quash the order passed in O.A.No.845 of 2008 dated 21.08.2009 on the file of the Central Administrative Tribunal, Chennai Bench, Chennai, the fourth respondent herein.

2.The application in O.A.No.845 of 2008 was filed by the first respondent herein to declare the action of the Secretary, Union Public Service Commission, New Delhi and the second respondent herein in not considering the first respondent for the post of Chemist and Metallurgist (Senior Scale) in the Railways as per the advertisement No.11/07 dated 09.06.2007 as illegal, arbitrary and unconstitutional and consequently for a direction to consider him for the post of Chemist and Metallurgist (Senior Scale) and appoint him to the said post with all attendant benefits on the ground that they have failed to see that the first respondent is possessing B.Sc.Degree with M.E.(Metallurgy) integrated course.

3.The educational qualification required for the said post is a degree in Metallurgical Engineering from a recognised University or equivalent or degree in Chemical Technology from a recognised University or equivalent covering any or more fields from (i)Petroleum products (ii)Paints and corrosion products and (iii)Polymers. Seven years practical experience is also one of the qualification for consideration to the said post. The first respondent had applied for the said post, but the same was rejected on the ground that the applicant was having a degree of B.Sc.Chemistry which do not qualify whereas the requirement was of degree in Engineering in Chemical Technology. It was also stated that the advertisement sought for applications from the core engineering stream, whereas the applicant did not have such core degree in Metallurgy or Chemical Technology, and thus he does not possess the requisite educational qualification for the post.

4.It was argued before the Tribunal on behalf of the applicant that when the Union Public Service Commission restricted the required eligibility qualification with B.E.with Metallurgical Branch, one can presume that the intention of the Commission was only to confine to Engineering Branch. When they have provided eligibility equivalent to such B.E.Metallurgy, it is up to the Commission to satisfy what are all the other equivalent qualifications and to satisfy that the educational qualification of M.E.(Metallurgy) Integrated PG degree does not fall under equivalent to degree in Metallurgical Engineering or Chemical Technology, as required in the advertisement. It was also argued that in an earlier occasion, the Commission recognised the course of M.E.(Metallurgy) of the applicant as

equivalent to Metallurgical Engineering and also selected him for such post.

5.The Tribunal allowed the application of the first respondent. Challenging the same, the present writ petition has been filed.

6.When this writ petition came up before this Court, this Court granted interim stay in favour of Union Public Service Commission.

7.Today, when this writ petition is taken up, the learned counsel appearing for Union Public Service Commission submitted that selection process has been completed and the candidates have also joined to the said post and working for the past 10 years. It has also been submitted that in the absence of the selected candidates impleaded as party respondents in the case, nothing survives in this writ petition and hence the same has to be dismissed.

8.Originally, as per the advertisement, the candidates applying for the said post should possess the qualification of B.E.in Metallurgy or B.Tech.in Chemical Technology. The first respondent was possessing B.Sc.(Chemistry) degree with M.E.(Metallurgy). The first respondent's application was rejected on the ground that M.E.(Metallurgy) integrated course, is not equivalent to that of B.E.(Metallurgy). On a perusal of the materials available on record, it is seen that a clarification has also been given by the Indian Institute of Science to the first respondent, that Bachelor's degree in Science is not equivalent to that of Bachelor's Degree in Engineering. This information was obtained by the first respondent under the Right to Information Act, 2005. Thus, since the first respondent was not possessing the required qualification as prescribed in the advertisement, ie., a Bachelor's degree in Metallurgy or Chemical Technology, his application was rejected. The contention of the first respondent is that the Union Public Service Commission recognised the course of M.E.(Metallurgy) of the applicant as equivalent to a degree in Metallurgical Engineering and also selected him to such post, in an earlier occasion. Now that the vacancies have been filled up. Further, the stand of the Central Government is that as per the advertisement in the present case, the first respondent was not possessing the required degree in B.E.(Metallurgy). When it is the specific case that the applicant should possess a degree in B.E.(Metallurgy) and not otherwise, the order of the Tribunal does not stand to reason in stating that though the applicant is having the required qualification or equivalent to B.E.(Metallurgy) degree, the rejection of his application is not at all satisfied.

9. In the above stated circumstances, while setting aside the impugned order passed by the Tribunal, we are of the view that any observation made by the Union Public Service Commission while rejecting the case of the first respondent, shall not be taken note of while considering the case of the first respondent in future.

10. The writ petition is allowed to the extent indicated above. Consequently, the connected miscellaneous petition is closed. No costs.

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

KM

To

1. The Chairman, Railway Board,
Ministry of Railways,
Rail Bhawan, New Delhi-110 001.

2. The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai.

+1 C.C. to MR.P.T.Ramkumar Standing Counsel SR.NO.71895

C.C. to M/S.K.Sridhar Associates Advocate SR.NO.71931

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VS 27.10.2017

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