

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2017

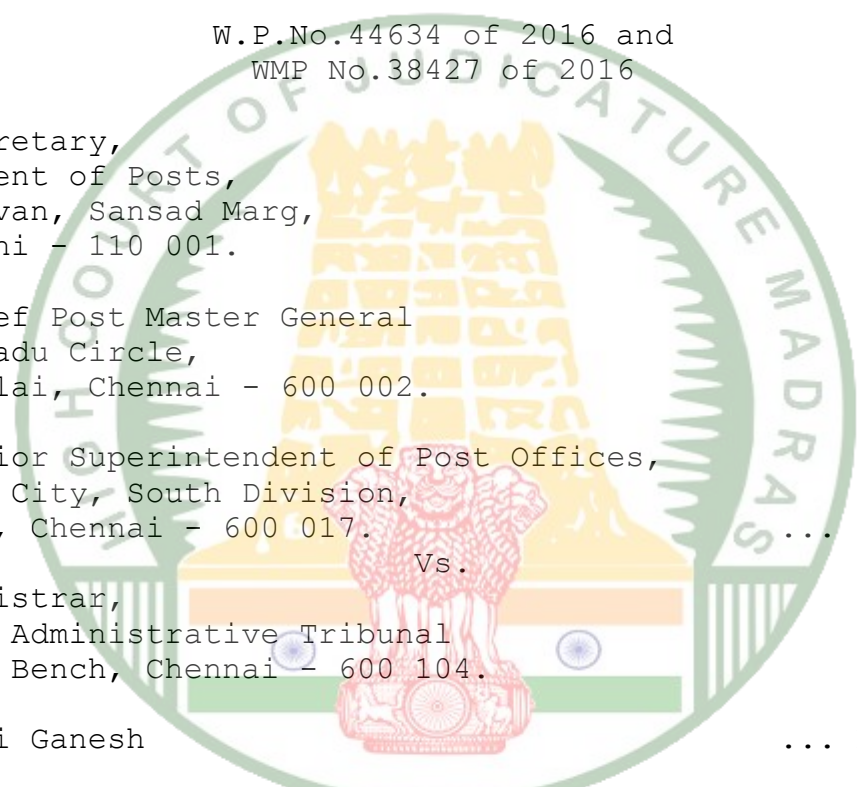
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THE HONOURABLE Mr.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.44634 of 2016 and
WMP No.38427 of 2016

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- 1.The Secretary,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi - 110 001.
- 2.The Chief Post Master General
Tamil Nadu Circle,
Anna Salai, Chennai - 600 002.
- 3.The Senior Superintendent of Post Offices,
Chennai City, South Division,
T.Nagar, Chennai - 600 017. Petitioners
- Vs.
- 1.The Registrar,
Central Administrative Tribunal
Chennai Bench, Chennai - 600 104.
- 2.Kamakshi Ganesh ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the entire records on the file of the Hon'ble Central Administrative Tribunal pursuant to the impugned order dated 20.06.2010 passed in O.A.No.510 of 2015 and quash the same.

For Petitioners : Mr.C.V.Ramachandramurthy

For Respondents : No appearance for R2
R1 - Tribunal

O R D E R

This writ petition is directed against the order, dated 20 June 2016 in the original application in O.A.No.510 of 2015,

whereby and where under, the Central Administrative Tribunal (hereinafter referred to as "Tribunal"), without quashing the condition enumerated in the Notification with regard to undergoing the course in Tamil, directed the Postal Department to appoint the second respondent as Postal Assistant, within a period of six weeks.

2. Heard the learned Standing Counsel for the petitioners. None appears on behalf of the respondent, inspite of service and printing the name of the counsel in the cause list.

3. The second respondent submitted application for appointment to the post of Postal Assistant, pursuant to the Notification, dated 21 February 2014. There was a condition prescribed in the Notification that the applicants should have studied in the local language of the State or Union Territory of the concerned Postal Circle or in Hindi as a subject at least in Matriculation level or equivalent. The second respondent appears to have studied Tamil upto 8th standard and thereafter, she took Sanskrit as the first language. Even though, the second respondent was not eligible to apply for the post in question, she made an application indicating that she is fully qualified and that she satisfies the condition including study in the local language.

4. The application submitted by the second respondent was considered by the Postal Department. The Department, having found that she failed to satisfy Clause 9(b) of the Notification, rejected her application. Thereafter, the second respondent filed original application before the Tribunal in O.A.No.510 of 2015, challenging the very condition enumerated in the Notification, with a further prayer to accept her application and appoint her to the post of Postal Assistant.

5. The Tribunal without addressing the issue raised by the petitioners that the second respondent failed to satisfy the eligibility criteria allowed the original application and issued direction for appointment. The said order is under challenge in this writ petition at the instance of the Postal Department.

6. The Notification issued by the Postal Department contained a clear indication that candidates should have studied in the local language of the State. It is a matter of record that the second respondent studied in Tamil only upto 8th standard and thereafter, she studied in Sanskrit. Therefore, it is clear that the second respondent failed to satisfy the condition with regard to study in local language as contained in Clause 9(b) of the Notification.

7. The second respondent was fully aware that she does not satisfy the eligibility criteria. It was only on account of the said fact that she challenged the very condition before the Tribunal.

8. The Tribunal was expected to decide as to whether the petitioners were right in incorporating a condition with regard to the study in local language. The second respondent having understood the contents of the notification submitted application, as if she was eligible for making application for appointment to the post of Postal Assistant. It was only when the Department rejected her candidature, she challenged the very condition in the Notification. In case, there is no requirement for study in local language, there would have been several candidates like the second respondent. It was only on account of the stipulation that the candidates should have studied in local language, that those who have not studied in the concerned local language, failed to make application. This aspect was not considered by the Tribunal.

9. The order challenged in this writ petition does not contain any indication that the condition in question was quashed by the Tribunal. There is no question of directing the petitioners to appoint the second respondent, unless the condition is quashed. The Tribunal, by way of a very brief order directed the petitioners to appoint the second respondent, without quashing the condition enumerated in the Notification. We are therefore of the view that the impugned order is liable to be set aside.

10. The order dated 20 June 2016 is set aside. The original application in O.A.No.510 of 2015 is dismissed.

11. The writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

svki

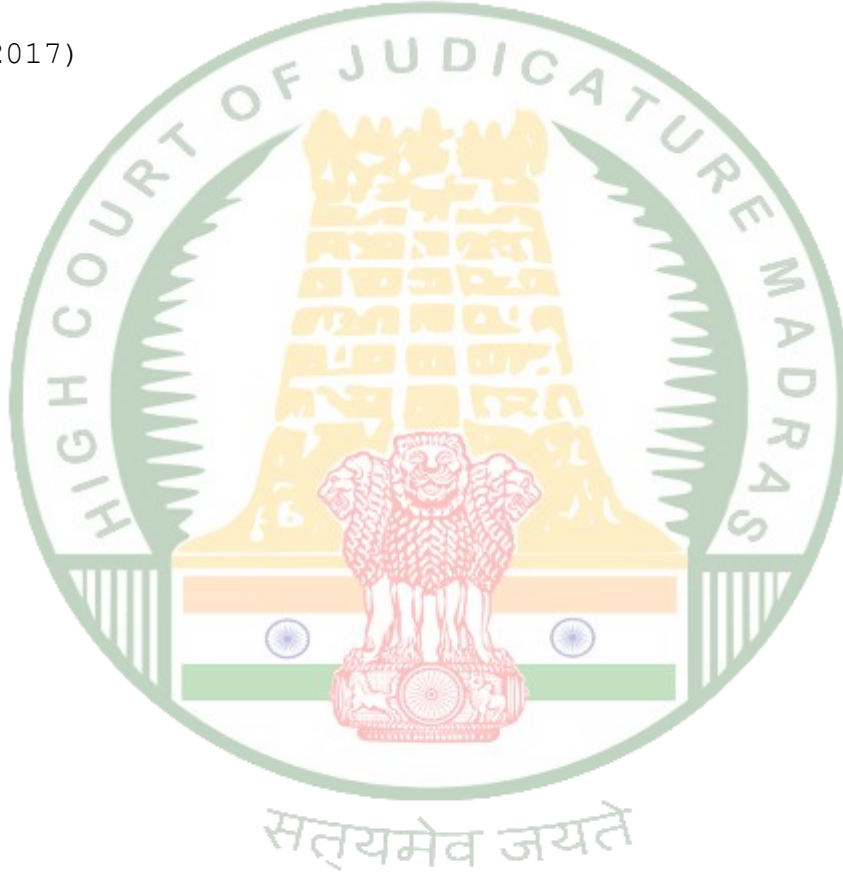
To

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

+lcc to Mr.Ramachandramurthy, Advocate, S.R.No.16651

W.P.No.44634 of 2016

SR(CO)
RS(04/04/2017)



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