

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 5.2.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.Nos.5849 and 29764 of 2010

1. B.Manikandan
2. Jose Augustine
3. R.Saravanamuthu
4. N.Kumar
5. K.Manisekaran

Petitioners in W.P.No.5849 of 2010

R.Sekar

Petitioner in W.P.No.29764 of 2010

Versus

1. Union of India,
rep. by the Chairman,
Railway Board, Ministry of Railways,
Government of India, New Delhi.
2. The General Manager,
Southern Railway, Chennai-600 003.
3. The Principal Chief Manager,
Southern Railway, Park Town,
Chennai 600 003.
4. The Chief Personnel Officer,
Southern Railway, Park Town,
Chennai 600 003.

Respondents in both cases

5. M.P.Geetha

R5 in WP 29764/2010 alone

The Central Administrative Tribunal,
Chennai Bench, Chennai 600 104.
rep. by the Registrar.

R5 in WP 5849/2010 &
R6 in WP 29764/2010

Prayer in WP 5849/2010: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records on the file of the 1st respondent in connection with the order passed by him in Railway Board's Letter No.81-E(SCT)15/26 dated 23.3.81 and also the order passed by the 2nd respondent in his Proc.P(G) 532/I/2005-2007 (LDCE) 30% dated 24.12.07 and 24.11.2006 selecting the candidates as per his whims and fancies without following any uniform rule of law and procedure and assessing

vacancies erroneously respectively along with the order passed by the 5th respondent in O.A.No.364 of 2008 dated 11.11.09 confirming the same and quash the same as unconstitutional and ultra vires and direct the respondents to select the petitioners for promotion to the Group 'B' post for the year 2005-2007 who are denied promotion because of the wrong assessment of vacancies and uniform adjustment of the merits of the candidates by filling up the 1 SC and 1 ST candidate by applying the relaxed standard for 2005-2007.

Prayer amended as per order dt.21.8.2012 by EDRJ & MrJ in MP.1/12 in WP.5849/2010.

Prayer in WP 29764/2010: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the entire records in connection with the order dated 11.11.2009 made in O.A.No.358 of 2008 on the file of the Central Administrative Tribunal, Madras Bench, quash the same and consequently direct respondents 1 to 3 to promote the petitioner to Group B services with all consequential service and monetary benefits.

For petitioners in
WP 5849/2010 : Mr.K.V.Subramanian, Senior Counsel for
Mr.V.S.Jagadeesan

For petitioner in
WP 29764/2010 : Mr.G.Shankar

For RR1 to 4 : Mrs.A.Srijayanthi,

COMMON ORDER

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

Heard the learned counsel appearing for the parties.

2. It appears that the petitioners are working in Group C category posts and the vacancies in Group B posts were sought to be filled on the basis of Limited Departmental Competitive Examination (LDCE) and the petitioners herein though competed in the selection process initially, later, filed the Original Application before the Central Administrative Tribunal and the present writ petitions before this court contending among other grounds mainly that the respondents had notified only 7 vacancies against the unreserved quota whereas, it ought to have been 19, had they followed the instructions and guidelines issued from time to time in this regard.

3. Pointing out the counter version, the learned Standing Counsel appearing for the respondents would submit that the authorities have assessed the vacancies and conducted the selection process in accordance with rules.

4. On perusal of the order passed by the Tribunal, it is seen that the Tribunal had analysed the entire selection process and having found that the petitioners, after having participated in the selection process, cannot take a stand that the

assessment of vacancies was not proper and had it been proper, they would have got chance of success.

5. To summarise, it is the stand of the petitioners that the number of vacancies had not been properly assessed and the notified vacancies did not include the vacancies that were likely to arise in the next six months and it should have been 16 if not 19, but, it was restricted to 7, that all the selected candidates did not have complete ACRs, though though 115 SC candidates and 29 ST candidates had taken part in the selection, none of them was selected for the via voce test and hence, seeks indulgence of this court.

6. Per contra, it is the stand of the Railways that the selected candidates, whose interest is involved in deciding the writ petitions, are not the parties before this court or the Tribunal. It is their further stand that though the petitioners had secured the requisite qualifying marks in the Limited Departmental Competitive Examination, they were not eligible to be included in the panel as they stood lower in the order of merit. They would further contend that the assessment of vacancies as on 1.7.2005 was done strictly in accordance with Rules and notified after getting approval from the General Manager Southern Railway which is as under:-

Existing Vacancies	3
Anticipated vacancies (from 1.7.2005 to 30.6.2007)	20
30% of cadre strength ($71 \times 30 / 100$)	21
Total number of vacancies	44
Less probationer likely to join & repatriation from deputation	19
Net vacancies (44-19)	25

7. It is the further stand of the Railways that the above vacancies were notified as under:-

	UR	SC	ST	TOTAL
Vacancies to be filled by regular selection (70% of vacancies) $25 \times 70 / 100 = 17.5 = 18$	15	2	1	18
Vacancies to be filled by LDCE Selection (30% of vacancies) $25 \times 30 / 100 = 7.5 = 7$	5	1	1	7

8. The Railways would further contend that none of the SC/ST candidates secured minimum qualifying marks in the written examination and hence, they were not called for viva-voce and even if any relaxation is shown to the SC/ST candidates, it would not be helpful to the petitioners and only in the case of two employees, where ACR for two years were not available and hence, ACRs of the earlier years were taken into account to complete the requisite number of ACRs for assessment and hence,

prayed for dismissal of the writ petitions.

9. Considering the entirety of the above materials, we find that it is the authorities in the Railways who are empowered to assess and notify the vacancies and it appears that they have followed the guidelines scrupulously and it is not known as to how the petitioners could arrive at an increased number of vacancies for notification and on such calculation of their wisdom, they cannot seek for a direction to the authorities to re-notify or re-assess the number of vacancies. Therefore, we are of the view that the Tribunal has rightly rejected the claim of the petitioners. We do not find any reason to interfere with the order passed by the Tribunal or with the impugned order. Accordingly, both the writ petitions are disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. Union of India,
rep. by the Chairman,
Railway Board, Ministry of Railways,
Government of India, New Delhi.
2. The General Manager,
Southern Railway, Chennai-600 003.
3. The Principal Chief Manager,
Southern Railway, Park Town,
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4. The Chief Personnel Officer,
Southern Railway, Park Town,
Chennai 600 003.
5. The Central Administrative Tribunal,
Chennai Bench, Chennai 600 104.
rep. by the Registrar.

+1cc to Mr.V.S.Jagadeesan, Advocate SR.No.8377
+2cc to M/s.A.SriJayanthi, Advocate sr.No.8511, 8512
+1cc to K.V.Subramanian Associates Sr.No.9586

AD(CO)

sm:28.3.2018

W.P.Nos.5849 & 29764 of 2010