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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.07.2019

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THE HONOURABLE Mr.JUSTICE M.S. RAMESH

W.P. 1202 of 2015

and

M.P. 2 of 2015 & W.M.P. 29171 of 2016

T.Radhakrishnan

... Petitioner

Vs

1. Central Board of Customs and
Central Excise,
rep. by its Secretary,
North Block,
New Delhi -110 001.

2. Director General of Inspection,
Customs and Central Excise,
Block-D, I.P.Bhawan, I.P.Estate,
New Delhi -110 002.

3. Commissioner of Customs (General)
New Customs House,
New Delhi - 110 037.

4. Commissioner of Customs,
Chennai-VIII Commissionerate,
Customs Broker Section,
Customs House,
60, Rajaji Salai, Chennai-1.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 4th respondent dated 02.01.2015 in F.No.S.Misc.08/2014-CBS, quash the same in so far as it excludes the petitioner in the list of eligible candidates and consequently direct the respondent to permit the petitioner to undertake the Customs Broker Examination, 2013.

For Petitioner : Mr.C.Vigneswaran

For Respondent : Mr.S.Rajasekar,
Senior Standing Counsel



O R D E R

The petitioner herein, who had applied for the written examination prescribed for issuance of customs broker license under Regulation 6 of Customs Brokers Licensing Regulations, 2013 was served with the rejection order dated 02.01.2015 stating that the petitioner had completed his Master's Degree from a foreign University, but had not submitted any proof to the effect that Degree awarded is equivalent to M.B.A. Degree awarded by Universities recognised by UGC/AICTE.

2. The petitioner claims to possess a Bachelor's Degree in Science from the University of Madras in the year 1975 together with Master Degree in Science in Chemistry with First Class from Indian Institute of Technology, Madras. Apart from these Degrees, the petitioner was also awarded with Master Degree in Business Administration from the International University in Louisiana.

3. Among other conditions, Regulation 5(f)(i) and (ii) prescribed for the applicants aspiring for a customs broker license under the Customs Brokers Licensing Regulations, 2013 (CBLR) are extracted hereunder :-

"(i) be a Graduate from a recognised University; and
(ii) possess a professional degree such as Masters or equivalent degree in Accounting, Finance or Management, CA/MBA/LLB or Diploma in Customs Clearance work from any institutes or University recognised by the Government or is having atleast two years experience in transacting Customs Broker work as G-Card holder."

4. A plain reading of the conditions prescribed in CBLR, 2013 reveals that the aspiring applicants should be a graduate from a recognised University and should possess one of the qualifications prescribed under Regulation 5(f) (ii). Effectively, if the applicant possesses a professional degree such as Master's degree, along with Graduation from a recognised University, he would be qualified to participate in the written examination subject to other qualifications.

5. The impugned order seems to refer to a disqualification by quoting a Degree obtained by the petitioner from a foreign university. Apparently, the Master's Degree in Science obtained by the petitioner from Indian Institute of Technology, Madras in the year 1977 has been lost sight of by the respondents, which can also be considered as a requisite qualification as prescribed under the Regulations. As such, a mere reference to the additional foreign degree obtained by the petitioner as a disqualification is unfounded, in view of the fact, that the petitioner has otherwise qualified himself to participate in the written examination. Apparently, the impugned order is contrary



to the CBLR Regulations.

6. In view of the fact that the petitioner has possessed both a Bachelor's Degree as well as Master's Degree in Science from the Indian Institute of Technology, Madras, he is deemed to have qualified himself to take up the written examination for Customs Broker License.

7. Pending the Writ Petition, this Court by way of an interim order dated 21.01.2015, had permitted the petitioner to write the written examination, which was held on 28.01.2015 and keep the results in a sealed cover. The learned standing counsel appearing for the respondent also submitted that in compliance of the interim order, the petitioner was permitted to write the written examination.

8. In the light of the observations made in this order, the impugned order of the 4th respondent dated 02.01.2015 in F.No.S.Misc.08/2014-CBS is set aside. Consequently, the respondents are directed to publish the petitioner's result in the written examination held on 28.01.2015 and if he is found to be qualified in the examination, permit him to participate in the subsequent oral interview, without any further reference to his educational qualification. Such an exercise shall be completed within a period of thirty days from the date of receipt of the copy of this order. Accordingly, this Writ Petition stands allowed. No costs. Consequently, the Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Secretary,
Central Board of Customs and
Central Excise,
North Block,
New Delhi -110 001.
2. Director General of Inspection,
Customs and Central Excise,
Block-D, I.P.Bhawan, I.P.Estate,
New Delhi -110 002.



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3. Commissioner of Customs (General)
New Customs House,
New Delhi - 110 037.

4. Commissioner of Customs,
Chennai-VIII Commissionerate,
Customs Broker Section,
Customs House,
60, Rajaji Salai, Chennai-1.

+1cc to Mr.s.Rajasekar, Advocate sr.58794

+1cc to Mr.C.Vigneswaran, Advocate sr.58794

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ln(co)
nr 03/09/2019