

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27..02..2019
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN
AND
THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.2910 of 2019
and
W.M.P.Nos.3170 of 3172 of 2019

E.Murugesan

... Petitioner

-Versus-

- 1.In the High Court of Judicature at Madras,
Rep. by its The Registrar General,
High Court, Chennai 600104.
- 2.The Chief Secretary,
Government of Tamil Nadu,
The Secretariat St. George Fort,
Chennai 600009.
- 3.The Principal Secretary to Public (Special-A),
Government of Tamil Nadu,
The Secretariat St. George Fort,
Chennai 600009.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for records in sub-clause (B) of Clause 3 in the Notification No.01/2019 dated 13.01.2019 issued by the 3rd respondent and to quash the same and for a consequential direction to the respondents to permit the petitioner to participate in the selection process for the post of District Judge (Entry Level).

For Petitioner
For Respondent(s)

: Mr.R.Rajarajan
: Mr.B.Vijay for R1
Mr.E.Manoharan, AGP

For R2 & R3

ORDER

Challenge in this writ petition is to sub-clause (B) of Clause 3 in the Notification No.01/2019 dated 13.01.2019 issued by the 3rd respondent for direct recruitment to the post of District Judge (Entry Level) in the Tamil Nadu State Judicial Service and for a consequential direction to respondents to permit the petitioner to participate in the selection process.

2. The case of the petitioner in brief is that the petitioner got enrolled as an Advocate on 22.10.2003 in the Bar Council of Tamil Nadu and Puducherry. He was practicing as Advocate before the Principal Bench of this Court as well as Madurai Bench of this Court. Thereafter, he was selected and appointed as Lecturer and he joined in the Government Law College at Tiruchirapalli, on 13.07.2012 and he has completed six years of service as Lecturer in the Government Law college. Now, as per the notification issued by the 3rd respondent, for direct recruitment to the post of District Judge (Entry Level), the applicant must be a practicing Advocate in the High Courts or Supreme Courts or Courts Subordinate thereto and must have practiced for a period of not less than seven years on the date of notification. According to the petitioner, under Article 233 of The Constitution of India, there is no bar for a person holding a post in the service of the State Government to participate in the selection. The grievance of the petitioner is that, if the period of teaching experience put by him in the Law College is taken into account as contemplated under Article 233 of the Constitution of India, he would be eligible to apply for selection and appointment for direct recruitment to the post of District Judge (Entry Level). Hence, challenging the validity of the relevant clause in the notification with regard to essential qualifications, the petitioner is before this court with this writ petition.

3. We have heard the learned counsel for the petitioner and the learned standing counsel for 1st respondent and the learned Addl. Government Pleader for the respondents 2 and 3 and also perused the records carefully.

4. In the instant case, admittedly, the petitioner challenges only the sub-clause (B) of Clause 3 of the Notification issued by the 3rd respondent which stipulates essential qualifications to apply for direct recruitment to the post of District Judge (Entry Level) in the Tamil Nadu State Judicial Services. The above notification was issued pursuant to Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007. Sub-clause (3)(2) to the Schedule of Rule 5 which deals with Method of appointment and Qualification reads as follows:-

"5. Method of appointment, Qualification and Age:-

In respect of each category of posts specified in column (1) of the Schedule below, the method of appointment and the qualifications shall be specified in the corresponding entries in columns (2) and (3) thereof and the respective Annexure thereof:-

The Schedule			
Sl.N o.	Category	Method of Appointment	Qualification
3	District Judge (Entry Level)	(iii) 25 percent of the posts shall be filled by direct recruitment from amongst the eligible advocates on the basis of the Preliminary Examination, Main Examination and viva-voce Test, prescribed and conducted by the High Court in accordance with the procedures prescribed in Annexure-I to these Rules	"1. Must possess a Degree in Law of a University in India established or incorporated by or under a Central Act or a State Act or an Institution recognized by the (1) University Grants Commission, or any other equivalent qualification and got enrolled in the Bar Council of Tamil Nadu or in the Bar Council of any other State

		(2) Must be practising on the date of Notification as an Advocate and must have so practised for a period of not less than seven years as on such date (See Annexure-I)
		(3) Must have attained the age of 35 years and must not have attained the age of 48 years in the case of SC / ST and 45 years in the case of others as on 1st July of the year in which notification for recruitment to the post was issued.

5. The petitioner, without challenging the relevant provision in the Statutory Rules, cannot challenge a clause in the recruitment notification alone. In the above circumstances, without challenging the substantial rule, the petitioner cannot challenge the notification and, therefore, we are not inclined to admit the writ petition and the writ petition deserves only to be dismissed at its threshold.

6. In the result, the writ petition is dismissed. No costs. Consequently, connected WMPs are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

kmk

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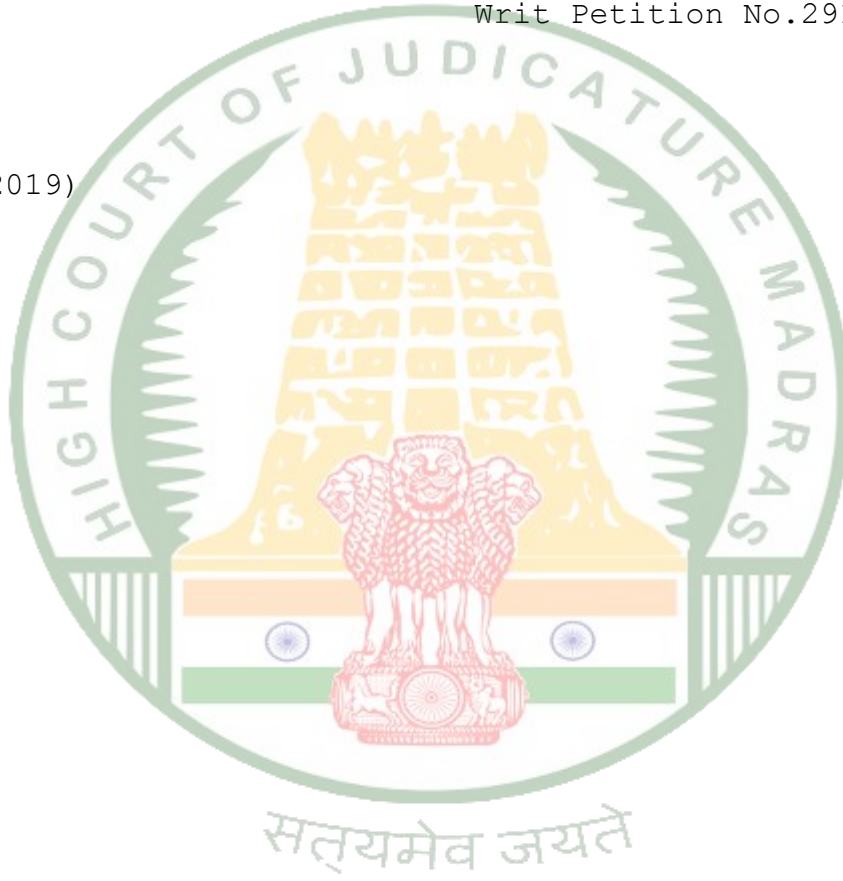
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RR(CO)
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