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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.23126 of 2013
and M.P.No.1 of 2013

R.Lakshmi Prabha

... Petitioner

-vs-

The General Manager (HR)
Chennai Metro Rail Limited,
(A Joint Venture of Govt. of India and
Government of Tamil Nadu)
"Harini Towers",
No.7, Conron Smith Road,
Gopalapuram, Chennai-600 086.

... Respondent

PRAYER: Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in Letter No.3465/CMRL/HR/2013 dated 31.07.2013 and quash the same and direct the respondent to appoint the petitioner to the Post of Train Operator / Station Controller/ Junior Engineer (Station).

For Petitioner : Mr.P.Manoj Kumar

For Respondent : Mr.Jayesh B.Dolia

O R D E R

This Writ Petition has been filed, seeking to quash the impugned order of the respondent dated 31.07.2013 passed in Letter No.3465/CMRL/HR/2013, by which the Petitioner was asked to produce a proof for not acquiring BE/B.Tech Degree as on 23.07.2013, as the Recruitment Committee has decided that the candidates, who had not passed/not been awarded BE/B.Tech Degree as on date of selection, i.e. 23.07.2013 may be considered for selection. The Petitioner also sought for a direction to the respondent to appoint her to the Post of Train Operator / Station Controller/ Junior Engineer (Station).

Facts in brief:

2. The petitioner, pursuant to the Employment Notice dated 01.02.2013, had applied to the post of Train Operation, Station



Controller, Junior Engineer (Station) and in the online test conducted on 31.03.2013, she was found successful and a certificate verification was done on 05.07.2013. Thereafter, by the order impugned herein, a direction was issued to the petitioner to furnish a proof regarding non-obtaining of B.E. BE/B.Tech Degree as on 23.07.2013. It is the case of the Petitioner that though she had cleared B.E. On 21.06.2013, the certificate to that effect was issued only on 24.07.2013 and at the time of application, she was not in possession of B.E. Degree, but had passed only Diploma in Electronics and Communication Engineering alone. It is the further case of the petitioner that she had not suppressed any information with regard to acquiring of B.E. Qualification and therefore, her candidature has to be considered for appointment.

3. The contention of the respondent is that vide Clause No.13(a), there was a general instruction given to the candidates, who opted to apply for the post of Station Controller/Train Operator/Junior Engineer (Stations) that "Candidates with B.E./B.Tech or any other higher qualifications are not eligible for the above mentioned posts. Candidates with such higher qualification should keep in their mind that their candidature will summarily be cancelled at any time of recruitment or even after appointment in CMRL, if they are found to have suppressed the information of having possessed B.E./B.Tech at the time of filling up the vacancy." and therefore, Clause No.2 of the Employment Notice has to be read together with Clause No.13(a) stated supra. The further contention of the respondent is that the candidature of the Petitioner was rejected not on the ground of suppression of fact, but on the ground of over qualification and therefore, the Petitioner is not entitled to any relief sought for.

4. To controvert the above contention, the learned counsel for the Petitioner has relied upon a judgment of this in the case of B.Ramamoorthy vs. Chief Engineer, Highway and Rural Works, Chennai and Others, reported in (2007) 1 MLJ 370 to state that the criterion, which has the effect of denying a candidate his right to be considered to a post on the principle that he is having a higher qualification than prescribed, cannot be rational. For the sake of convenience, the relevant Paragraph No.20 of the order reads as under: -

"20. In this case, the Government taking note of the unemployment problem thought fit to prescribe only minimum qualification in the Ad hoc Rules. It is common knowledge that for the entry level posts of Office Assistants in various Government Offices/Conductors in Transport Corporations, even post-graduates are submitting



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applications and are being selected due to difficulty in getting employment as per the qualification. The respondents without taking note of the ground reality has chosen to blame the petitioner and also passed the impugned order, which is highly irrational, arbitrary and illegal."

5. It is further submitted by the learned counsel for the Petitioner that taking note of the unemployment situation in this country, more particularly in the State of Tamil Nadu, the act of the respondent, in depriving the rights of the petitioner on the ground of over qualification, cannot be accepted. When the Employment Notice itself had prescribed the same qualification, it cannot be said that the selection was made by adopting a dubious method. In support of his stand, he has referred to a judgment of the Hon'ble Supreme Court in *Munna Boy vs. Union of India and Others*, reported in (2000) 9 SCC 283, wherein it has been held as under:-

"2....We really fail to understand that if a candidate possesses a qualification higher than the required qualification and the advertisement itself had prescribed the same then how can the authority come to a conclusion that selection has been made by adopting a dubious method....."

6. I have given anxious consideration to the submissions made on either side and perused the material documents available on record.

7. The Petitioner had applied to the post of Train Operator / Station Controller/ Junior Engineer (Station) in pursuance of the advertisement dated 01.02.2013 and also participated in the online test conducted on 31.03.2013, in which she was declared successful. The contention of the Petitioner that though she had cleared her B.E. Degree Course on 21.06.2013, the certificate was issued only on 24.07.2013 and therefore, she was not in possession of required qualification, cannot be accepted, because, once she had the knowledge of clearance of all papers in the degree course, that itself is sufficient to say that she is a B.E. Graduate. Admittedly, she came out successful in her graduation course prior to the cut off date, viz., 23.07.2013 and even before the date of certificate verification, which fell on 05.07.2013 and therefore, by no stretch of imagination, it can be said that she was not overqualified as on 23.07.2013.

8. It is appropriate to state here that there may be several other candidates, who may be similarly placed like that of the petitioner (perhaps more brilliant than the petitioner) and



would not have applied for the post, taking note of the Clause 13 of the Employment Notice and had they applied, the petitioner's candidature would have been a bleak one and anyhow, this Court do not want to go into those hypothetical aspect.

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9. Of course, it is true that the Petitioner had not suppressed the fact of her B.E. Qualification, but at the same time, when Clause No.13 is read in conjunction with Clause No.2 of the Employment Notice, it can easily be said that the Petitioner is overqualified as on the cut off date and therefore, she is not entitled to any relief.

10. It is not denied that there is an existence of unemployment problem and when there is a clear prescription of minimum qualification, barring over-qualified candidates from applying, even after appointment, the candidature can be rejected and therefore, the judgment quoted by the Petitioner in B.Ramamoorthy vs. Chief Engineer, Highway and Rural Works, Chennai and Others (cited supra) is not applicable to the present case on hand. With regard to the other decision referred to by the Petitioner in Munna Boy vs. Union of India and Others, a candidate, having higher qualification is entitled to apply and participate in the selection, when there is no prescription in the advertisement. In this case, the minimum required qualification has been clearly described with further indication that over qualified candidates need not apply and therefore, the said judgment may not be helpful to the petitioner. It is to be noted that while relying on a judgment, if it is found that the factual situation totally differs, then there is no compulsion for the subordinate courts to blindly rely on the same to arrive at a conclusion, as held by the Hon'ble Supreme Court in the case of Padmasundara Rao (Dead) & others vs. State of Tamil Nadu and others, reported in (2002) 3 SCC 533, as follows:

"Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington vs. British Railways Board (1972) 2 WLR 537. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."

11. In view of what is stated herein-above, this Court has no other option, but to hold that the petitioner is not entitled to the relief on account of over qualification and the present



Writ Petition is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The General Manager (HR)
Chennai Metro Rail Limited,
(A Joint Venture of Govt. of India and
Government of Tamil Nadu)
"Harini Towers",
No.7, Conron Smith Road,
Gopalapuram, Chennai-600 086.

+1cc to Mr.Jayesh B.Dolia, Advocate, SR.No.50739
+1cc to Mr.P.Rajendran, Advocate, SR.No.49993

W.P.No.23126 of 2013

Kak(12/09/2019)