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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 2nd December, 2019

+ W.P.(C) 12693/2019

ROHIT BHALLA Petitioner

Through: Mr. Ashes Lal, Adv.

Versus

MINISTRY OF RAILWAYS AND ORS. Respondents

Through: Mr. Jagjit Singh, Sr. Standing
Counsel with Mr. Preet Singh & Mr. Vipin
Chaudhary, Advs. for Railways

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

: **D.N. PATEL, Chief Justice (Oral)**

C.M.No. 51872/2019 (exemption)

Allowed, subject to all just exceptions.

W.P.(C) 12693/2019 & C.M.No.51873/2019 (stay)

1. This so-called Public Interest Litigation has been preferred with the following prayers:

“a. Issue writ of mandamus or any other appropriate writ, direction for quashing the vacancy Notice No.20/2019 dated 22.03.2019 and Notice No.22/2019 dated 28.03.2019 and the entire selection process arising out of the said vacancy notices in the interest of justice.

b. Call for the record of the case for proper adjudication of the case.

c. pass any other order/orders which this Hon'ble Court may deem fit and proper.”

2. The learned counsel appearing for the petitioner submitted that the vacancy notice dated 22nd March, 2019 [Annexure P-1 (colly) to the memo of this writ petition] has been issued by respondent No.1, inviting applications for the post of Technical Member in the Railway Claims Tribunal, prescribing the requisite qualifications along with age limit, pay scale etc. It is further submitted that the candidates applying for the post of Technical Member in the Railway Claims Tribunal are required to hold a post for atleast 3 years under a Railway Administration, carrying pay-scale not less than that of a Joint Secretary to the Government of India and having adequate knowledge of rules and procedures as well as experience in claims and commercial matters relating to Railways.

3. Similarly, another vacancy notice dated 28th March, 2019 inviting applications for the post of Vice-Chairman (Technical) required the applicant to hold a post under a Railway Administration carrying a pay-scale not less than that of a Joint Secretary to Government of India and having adequate knowledge of rules and procedures as well as experience in claims and commercial matters relating to Railways for atleast 5 years or has held the post of Technical Member in Railway Claims Tribunal for a period of not less than 3 years.

4. Learned counsel appearing for the petitioner further submitted that the respondents have invited applications for the aforesaid vacancies from the serving/current as well as retired employees of Indian Railway Traffic

Service (IRTS) and Indian Railway Accounts Service (IRAS). It is further submitted by the counsel for the petitioner that these candidates have no such experience as required for the posts in question. Similarly, the retired persons also cannot be considered for appointment on the aforesaid posts because they cease to be IRTS and IRAS Officers once they retire.

5. Having heard both the sides and looking to the facts and circumstances of the case, we see no reason to entertain this writ petition for the following reasons:

- (i) The respondents have given two vacancy notices; one is dated 22nd March, 2019 for the posts of Technical Member – 12 posts in Railway Claims Tribunal (RCT). The said notice is at Annexure P-1 (Collectively) (page 17 to the memo of this writ petition). For the ready reference, the specific requirements for the post in question as per the vacancy notice dated 22nd March, 2019 read as under:

*“SPECIFIC
REQUIREMENTS*

A PERSON SHALL NOT BE QUALIFIED FOR APPOINTMENT AS A TECHNICAL MEMBERS UNLESS HE HAS, FOR ATLEAST 3 YEARS HELD A POST UNDER A RAILWAY ADMINISTRATION CARRYING A SCALE OF PAY WHICH IS NOT LESS THAN THAT OF A JOINT SECRETARY TO GOVERNMENT OF INDIA AND HAS ADEQUATE KNOWLEDGE OF RULES AND PROCEDURE OF, AND EXPERIENCE IN CLAIMS AND COMMERCIAL MATTERS

RELATING TO RAILWAYS.”

- (ii) Similarly, second vacancy notice dated 28th March, 2019 has been issued by the respondents for the post of Vice Chairman (Technical) – 01 post in Railway Claims Tribunal (RCT) which is annexed as Annexure P-1 (Collectively) (Page 20 to the memo of this writ petition). As per the said vacancy notice, specific requirements for the post in question read as under:

“SPECIFIC

REQUIREMENTS

A PERSON SHALL NOT BE QUALIFIED FOR APPOINTMENT AS A VICE CHAIRMAN (TECHNICAL) UNLESS HE HAS, ATLEAST FOR 5 YEARS HELD A POST UNDER A RAILWAY ADMINISTRATION CARRYING A SCALE OF PAY WHICH IS NOT LESS THAN THAT OF A JOINT SECRETARY TO GOVERNMENT OF INDIA AND HAS ADEQUATE KNOWLEDGE OF RULES AND PROCEDURE OF, AND EXPERIENCE IN CLAIMS AND COMMERCIAL MATTERS RELATING TO RAILWAYS

OR

HAS FOR A PERIOD OF NOT LESS THAN 3 YEARS HELD OFFICE AS A TECHNICAL MEMBER IN RCT.”

- (iii) It appears that for the posts mentioned in the aforesaid vacancy notices, the applications have been invited from the employees of IRTS and IRAS as well as from the retired employees of IRTS and IRAS. A Multi-Members Committee had been constituted in accordance with law and the selection process

has already commenced.

- (iv) Counsel appearing for the petitioner submitted that the list of the candidates appearing for interview for the post of Technical Member is at page 25 – Annexure P-4 (collectively) wherein it is stated that most of these candidates are not eligible because they do not fulfil the requisite eligibility criteria, especially the candidates from IRAS. We are not accepting this contention of the petitioner mainly for the reason that the employees of IRAS, who have applied for the posts in question, would, in ordinary course, be dealing with the claims and commercial matters relating to Railway. The petitioner has not placed on record any material on the basis of which it could be alleged, much less held, that IRAS members do not possess the requisite experience. Moreover, as to whether a particular applicant/candidate is fulfilling the required eligibility criteria or not can only be verified once the selection process is over.
- (v) Thus, before the Multi-Members Committee of the respondents finalizes the selection, it will be premature to exercise our powers of judicial review under Article 226 of the Constitution of India to come to a conclusion whether a particular candidate is qualified or not. Petitioner has not placed on record qualifications of candidates who have appeared in the interview. The names of such candidates have been mentioned at page 25-27 of the memo of this writ petition. Hence, we further see no reason to entertain this writ petition at this stage.

6. In view of the aforesaid facts and reasons, this writ petition is hereby dismissed.

CM APPL.51873/2019 (Stay)

7. In view of the final order passed in W.P.(C) 12693/2019, this application stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

DECEMBER 02, 2019
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