

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.738 of 2013
and
M.P.Nos.1 & 2 of 2013

K.Baskaran

.. Petitioner

- Vs -

1. Chennai Metro Rail Limited
"Harini Towers"
No.7, Conron Smith Road,
Gopalapuram, Chennai 600 086.
2. Thiru.Suman Kumar Manja
Deputy Manager (Civil)
Chennai Metro Rail Limited
"Harini Towers"
No.7, Conron Smith Road,
Gopalapuram, Chennai 600 086.
3. Thiru. P.Venkat Reddy,
Deputy Manager (Civil)
Chennai Metro Rail Limited
"Harini Towers"
No.7, Conron Smith Road,
Gopalapuram, Chennai 600 086.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified Mandamus, calling for the records from the 1st respondent in respect of selection process made in advertisement CMRL/HR/07/12- Results of the interview held on 15.12.2012 quash the same and consequently directing the 1st respondent to notify the future vacanices with full particulars and recruit the employees under the reservation policy of State of Tamil Nadu and the services law and procedure.

For Petitioner : No appearance

For Respondents : No appearance

ORDER

It is seen that, though the case was initially listed on 12.08.2020, there was no representation for the petitioner, hence it was listed today for hearing, however, today also, there is no representation for the petitioner.

2.The first respondent has filed its counter affidavit, however no one appeared on behalf of the respondents.

3.Considering the fact that the petition has been filed way back in the year 2013 and has been pending on the file of this Court since then, this Court proceeds to decide the case on merits and pass orders, which would in no way be a detriment to the case of the petitioner.

4. A perusal of the entire records reveals that it is the averment of the petitioner is that the petitioner is a B.E. Graduate studied in Tamil Medium upto 12th std., and having 15 years of experience in Civil Engineering in Metro Rail Project. While so the petitioner came to know from the notification issued by the 1st respondent's company in its official website called for applications for various posts including two posts of Deputy Manager (Civil), therefore, the petitioner attended interview on the same day, produced all the records along with N.O.C. From the present employer, however the petitioner was not selected and thereafter the petitioner came to know the selection list was published in the official website of the 1st respondent for the interview held on 15.12.2012, to a shock and surprise the said post was filled up by selecting the respondents 2 and 3, who have not produced any N.O.C from their employers, and have not studied or having any address in Tamil Nadu and they are not conversant with official language of Tamil Nadu.

5. It is the further averment of the petitioner that the Chennai Metro Rail Limited /1st respondent did not follow the condition as prescribed by the State of Tamil Nadu for reservation and the 1st respondent has appointed more persons from outside of the State of Tamil Nadu deliberately without considering the eligible unemployed youth in Tamil Nadu and further the CMRL ought to have followed communal reservation for SC/ST, MBC, BC and Women and also for the category of Tamil Medium studied graduates and for differently disabled persons. However the 1st respondent did not follow the above said prescribed conditions, and, therefore, the selection of 2nd and 3rd respondent to the said post is wholly unsustainable. Hence, the petitioner filed this petition with the above said prayer.

6. The counter filed by the 1st respondent reveals that

there is complete denial of all the averments raised by the petitioner. Inter alia, it is contended that Chennai Metro Rail Project is a Central Government Scheme and the posts are filled up in accordance with the rules and regulations and the question of reservation policy of the State would not arise. It is further contended that the 1st respondent, after due evaluation of all the persons have selected the 2nd and 3rd respondents, which process does not suffer from any infirmity.

6.1. It is further submitted that the 1st respondent/Chennai Metro Rail Limited is a company registered under the Companies Act, 1956 to implement Chennai Metro Rail Project, and it was incorporated in the year 2007 and its affairs are controlled by the Board of Directors. The Board has approved a 'HR Manual' containing rules/regulations relating to recruitment and general conditions of service, applicable to the employees of the first respondent company.

6.2. It is further submitted that CMRL is a joint venture of Government of India and the Government of Tamil Nadu. Further due to scarcity of qualified and competent professionals in Metro Technology, for securing the services of suitable professionals, a selection has necessarily to be conducted on an all India basis, and Metro Technology is a unique one and qualified people have to be considered for appointment irrespective of the place of their residence and communal reservation has been strictly followed and no person satisfying the rules relating to appointment on preferential basis for having obtained the educational qualification through Tamil Medium has so far applied for this post.

6.3. As regards differently challenged persons, the Government of India have already been addressed to exempt CMRL from the reservation to be made in this regard as has been done in the case of DMRC and BMRC taking into account the nature of work involved and in public interest.

7. This Court bestowed its best attention to the contentions advanced by the parties in their respective affidavits and also gave its anxious consideration to all the materials found in the typed set of papers.

8. The facts in the case are not in dispute. It transpires from the records that the petitioner had appeared for the interview for the post of Deputy Manager. It is evident from the records that the petitioner has scored 44.75 marks out of 100, though the minimum cut off mark for being considered for selection was fixed at 50. It is clear from the above that the petitioner has not secured the minimum eligibility marks that was fixed for falling within the zone of consideration. Further

the qualification of respondents 2 and 3, as is revealed in the counter are:-

"The 1st respondent company has issued an Employment Notice No.CMRL/HR/07/2012, calling for applications for various posts including two posts of Deputy Manager (civil). The applications received in response to the advertisement for the said posts were evaluated for short listing of eligible and suitable candidates, by an evaluation committee consisting of CGM(C), GM(EC2) and the GM (Stations), the short-listed candidates in respect of the post of Deputy Manager (Civil), were asked to appear for an interview on 15.12.2012, then the committee interview the candidates and selected eligible candidates, especially taking into account the provisions of the HR Manual of CMRL, the result was uploaded in the website of CMRL on 15.12.2012 itself.

Though the petitioner possessed the qualification and experience, and was participated in the interview on 15.12.2012, he has not been selected for the said post as he has not scored the minimum qualifying marks for selection, scored only 44.75 marks in the aggregate out of 100, which is less than the qualifying marks for selection as per the HR Manual is 50%, he has not produced any NOC from his employer, therefore not eligible for selection. Further, at the time of interview, it came to light that he was working with a contractor of CMRL, this has rendered him ineligible for consideration for appointment in CMRL as per the relevant provision in the HR Manual.

The qualifications possessed by the selected candidates namely P.Suman Kumar Manja, /2nd respondent and P.Venkat Reddy /3rd respondent herein are B.E(Civil), P.G.Diploma in Qs and valuation and M.Tech respectively better than the petitioner's qualification, therefore the petitioner has no loco-standi to maintain a writ petition to question the selection of the 1st respondent company."

8.From the above, it is evident that the case of the petitioner that respondents 2 and 3 do not fulfil the criteria for being considered for appointment in the post sans merit. Further, the counter of the respondents reveal that the interview board consisted of the Chief General Manager, General

Manager and General Manager (Stores). All the persons, who formed the selection committee are persons in the higher hierarchical position in the organisational set-up. No allegations have been made by the petitioner against the members of the selection committee. Further, it is to be pointed out that the selection for the said post is on Pan-India basis and is not limited to the State of Tamil Nadu and, therefore, the claim of the petitioner that reservation and roster were not followed does not arise. The reservation is on the basis of the all India quota and does not confine itself within the borders of the State of Tamil Nadu.

9. Further, it is not the case of the petitioner that no interview was conducted for selection. Contrary to the same, recruitment process was followed in selection of candidates and the candidates have been awarded marks to arrive at a subjective satisfaction as to the suitability of the individuals. The selection committee, comprising of persons from the higher hierarchical structure in the respondent organisation have, after following a selection process and based on the HR Manual and following the rules governing selection to the said post, have short-listed respondents 2 and 3, while rejecting the candidature of the petitioner for the reason that the petitioner not having secured the minimum qualifying marks for falling within the zone of consideration. In such a backdrop, this Court is of the considered view that the petitioner has not made out a case for interfering with the selection process and, therefore, the prayer sought for by the petitioner cannot be granted.

10. Accordingly, the writ petition fails and the same is dismissed. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True copy//

Sub Assistant Registrar

To

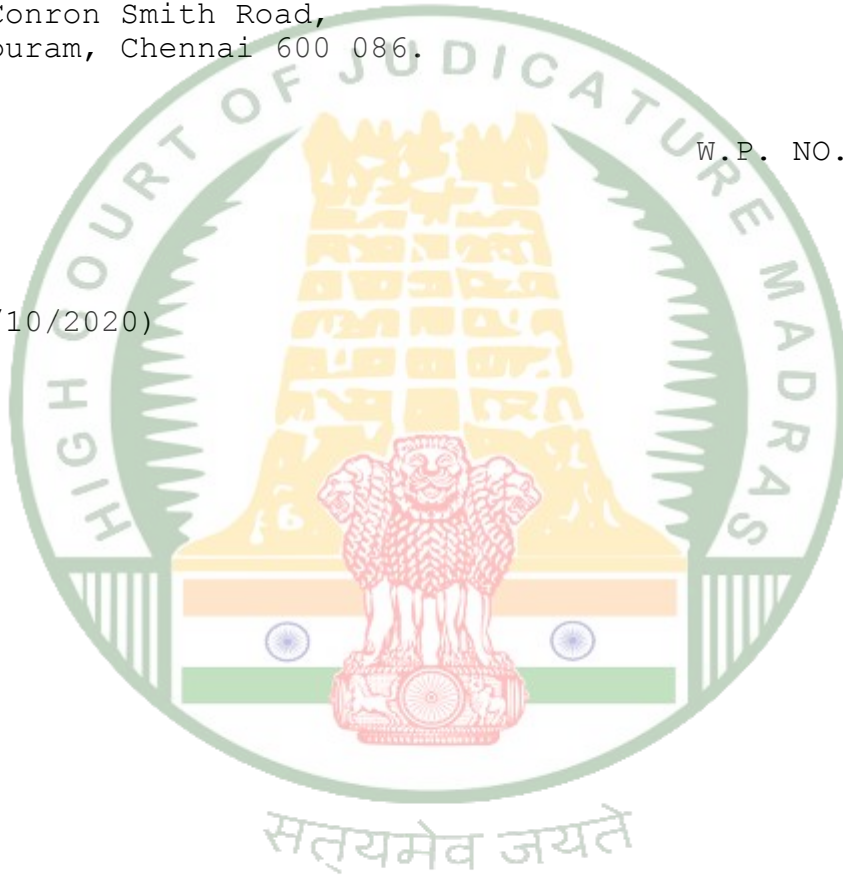
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