

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 02.02.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.37694 of 2005 and
W.P.M.P.No.40347 of 2005

S.Arokiyadoss

... Petitioner

Vs.

1.The Managing Director,
Pondicherry Road Transport Corporation Ltd.,
Pondicherry.

2.The Manager (Administration)
Pondicherry Road Transport Corporation Ltd.,
Pondicherry.

... Respondents

Prayer : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner and to appoint the petitioner to the post of Conductor as notified by the respondents with all other consequential benefits including seniority, arrears of wages etc.

For Petitioner : Mr.V.Ajaykumar

For Respondents : Mr.A.R.Nixon

for R1

R2- No appearance

ORDER

The prayer sought for in this writ petition is to issue a writ of mandamus to direct the respondents to consider the petitioner and to appoint him to the post of Conductor as notified by the respondents with all other consequential benefits including seniority, arrears of wages etc.

2. Pursuant to the notification, inviting application from eligible candidates issued in this regard by the respondents on 14.09.2005, the petitioner applied for appointment of Conductor post on daily wage basis to the respondents.

3. On processing the application, there was a memorandum or communication issued by the respondents on 10.10.2005 instructing the petitioner to appear for certificate

verification on 19.10.2005 at 9.30 a.m. without fail, where, the following certificates were directed to be produced.

- "1) Certificate relating to Educational and Technical Qualification
- 2) Birth Certificate
- 3) Caste/Community Certificate
- 4) Experience Certificate
- 5) Employment Exchange Registration Card"

4. According to the petitioner, he has produced all those certificates and even though the certificate verification was successfully completed, he was even not called for any further action and no posting or appointment order has been given, therefore, seeking a direction, by way of mandamus, to issue to the respondents for giving post of Conductor, pursuant to the aforesaid notification as well as the memorandum for certificate verification, the present writ petition has been filed.

5. Heard Mr. V. Ajayakumar, learned counsel appearing for the petitioner, who would reiterate, what has been stated in the affidavit and also the aforestated factual matrix.

6. However, Mr. A. R. Nixon, learned Standing Counsel appearing for the respondents, on instructions, would submit that, no doubt, notification was issued calling applications and the petitioner was one of the applicant, who made application, pursuant to which, he was instructed to appear on 19.10.2005 for Certificate Verification Session, where, he has produced the certificates, that has been mentioned in the memorandum.

7. In this context, it is the further contention of the learned Standing Counsel appearing for the respondents that, one of the important certificate is experience certificate, that means, the person must have two years experience in plying or in driving heavy vehicle with token and that was one of the rule which requires that experience of two years. However, the experience certificate obtained by the petitioner was the recent one or latest one obtained in the year 2005 itself. Therefore, it does not disclose that, the petitioner is having the required experience of two years, which is one of the essential qualification for consideration of his candidature to be appointed as Conductor on daily wage basis.

8. Therefore, the learned Standing Counsel appearing for the respondents would submit that, his candidature was not taken up for consideration to give the posting and therefore, the petitioner is not entitled to get any appointment as Conductor in view of the lack of experience, that was one of the essential qualification.

9.I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

10.Since one of the essential qualification is the two years experience, for which, the certificate must be produced for the satisfaction of the authorities and even on the certificate verification, the experience certificate of the petitioner, which was obtained only in the year 2005, does not disclose that, the petitioner is having two years experience of driving the heavy vehicle, which was the requirement for the respondents to consider his candidature for appointment to the post of Conductor. No such experience certificate having two years experience claimed to have been produced by the petitioner at the time of certificate verification, has not been filed before this Court either at the time of filing the writ petition or thereafter to substantiate the contention of the petitioner.

11.It is the settled proposition that, if at all any essential qualification is prescribed for making any public employment, at the initial stage, such essential qualification must have been fulfilled by the candidate, without which, if any appointment is sought for, that would be an illegal appointment and if any such appointment is made by the employer, that can only be treated as an illegal appointment and that cannot be at any latter time ratified or regularised. Therefore, such kind of appointment, without the essential or basic qualification, as contemplated by the employer, cannot be expected to be made in this regard and therefore, this Court cannot issue any mandamus as sought for by the petitioner.

12.In view of the above, this Court feels that, this writ petition fails, as there is no plausible reason has been given or ground raised by the petitioner to seek for such a mandamus, as claimed by him, hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1.The Managing Director,
Pondicherry Road Transport Corporation Ltd.,
Pondicherry.

2.The Manager (Administration)
Pondicherry Road Transport Corporation Ltd.,
Pondicherry.

+1cc to Mr.V.Ajayakumar, Advocate Sr.No.5293
+1cc to Mr.A.R.Nixon, Advocate SR.No.5668

AKM/17.2.21 /4P-5C/

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