



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 16106 of 2012

WEB COPY

P.Narayanamoorthy

... Petitioner

-vs-

- 1.Staff Selection Commission,
Rep by its Chairperson,
Dept of Personnel and Training,
Block No.12, Kendriya Karyalay parisar
Lodi Road,
New Delhi-110 003
- 2.Staff Selection Commission (Southern Region)
Rep by its Regional Director,
II nd Floor, E.V.K Sampath Building,
College Road, Chennai-600 006.
- 3.The Chief Commissioner of Central Exercise,
26/1, Mahatma Ganthi Road,
Nungambakkam,
Chennai 600 034.
- 4.Additional Commissioner of Central Excise (P&V)
Office of the Chief Commissioner of Central Excise,
26/1, Mahatma Ganthi Road,
Nungambakkam, Chennai 600 034.
- 5.Union of India,
Rep by Ministry of Finance,
Central Board of Excise & Customs
HUDCO Vishala,
Bhikaji Cama Place,
R.K.Puram,
New Delhi-110 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned letter No.C.No.II/3/31/2010-CCA (Estt.) dated 31.03.2011 and the consequential letter No.C.No.II/3/31/2010-CCA (Esst.) dated 30.11.2011 issued by the 4th respondent and quash the same and consequently direct the Respondents to issue appointment order for the post of Inspector of Central Excise w.e.f April 2011.



For Petitioner : Mr. J.Ashok
For R1 and R2 : No appearance
For R3 to R5 : Ms. S.Ragaventhre

O R D E R
(through video conference)

WEB COPY

Heard Mr. J.Ashok, Learned Counsel for the Petitioner and Ms. S.Ragaventhree, Learned Counsel appearing for the Third to Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. There is no representation for the First and Second Respondents when the matter is called today.

3. The Petitioner had applied for the post of Inspector of Central Exercise (Group 'B' Non-Gazette) as per the notice published in April 2008 by the First Respondent. The candidature of the Petitioner, whose height is 157.3 cms., for the said post was rejected as he did not possess the requisite height of 161 cms., and he has filed this Writ Petition seeking for extending the benefit of concession granted to disabled persons in the said notice.

4. The Full Bench of this Court in **Government of Tamil Nadu -vs- P.Hepzi Vimalabai** [(1995) 1 MLJ 1] has ruled that use of the words 'recruitment and matters concerning recruitment' in the preamble in Section 14, 15 and 28 of the Administrative Tribunals Act, 1985, and in Article 323-A of the Constitution of India, 1950, would necessarily mean that the Administrative Tribunals established under the Administrative Tribunals Act, 1985, shall have exclusive jurisdiction to deal with all matters specified therein and the High Court shall not have jurisdiction to decide questions relating to recruitment and matters concerning recruitment to Writ Petitions filed under Article 226 of the Constitution of India. That apart, the Constitution Bench of the Hon'ble Supreme Court of India in **L.Chandra Kumar -vs- Union of India** [(1997) 3 SCC 261] has laid down the law relating to entertaining the Writ Petition in respect of the matters which fall within the ambit of the Administrative Tribunals under the Administrative Tribunals Act, 1985, in the following words:-

"99.The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first



instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned...."

There is no explanation offered by the Petitioner for directly approaching this Court under Article 226 of the Constitution without having agitated the matter before the Central Administrative Tribunals under the Administrative Tribunals Act, 1985.

5. Learned Counsel for the Third to Fifth Respondents has brought to notice that the contention raised by persons similarly placed to the Petitioner has been rejected by order dated 15.07.2014 in O.A. Nos. 735 and 1046 of 2011 passed by the Central Administrative Tribunal, Chennai, which has been confirmed by order dated 16.09.2016 in W.P. (MD) No. 16349 of 2014 passed by the Division Bench of this Court explaining the reasons for stipulating minimum height of 161 cms. for the post of Inspector of Central Excise and it has been recorded that eligible concessions for physically challenged persons in that notice have been duly extended. In that view of the matter, there does not appear to be any justification for this Court to interfere with the impugned notice in the exercise of the discretionary powers of judicial review under Article 226 of the Constitution.

In fine, the Writ Petition, which cannot be entertained, is dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Ns/vjt

Note: (i) Issue order copy by 15.09.2021.

(ii) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

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 - 5.The Ministry of Finance,
Union of India,
Central Board of Excise & Customs
HUDCO Vishala,
Bhikaji Cama Place,
R.K.Puram,
New Delhi-110 006.
- +1 CC to M/s.K.KUTTALATHAN, Advocate (SR-24239[F] dated
28/07/2021)

W.P. (MD) No. 16106 of 2012
08.07.2021

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