



W.P.(MD)No.13243 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.13243 of 2015

and

M.P.(MD)Nos.1 to 3 of 2015

and

W.M.P.(MD)Nos.17190 to 17192 of 2016

M.Elizabeth Geetha

... Petitioner

vs.

The Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi – 110 069.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, to declare the Public Prosecutor in Central Bureau of Investigation based an advertisement No.14/2013, dated 28.09.2013, issued by the respondent is illegal and consequently, to direct the respondent to include the petitioner's name in recommended list.

(Prayer amended, vide this order, dated 26.09.2022, in W.M.P.(MD)No.17190 of 2016 in W.P.(MD)No.13243 of 2015)



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For Petitioner : Mr.T.A.Ebenezer
For Respondent : Mr.M.Ashok Kumar

ORDER

This writ petition is filed for issuance of Writ of Declaration, to declare the recommendation list of the respondent for post of Public Prosecutor in Central Bureau of Investigation is illegal.

2. The brief facts as stated in the affidavit are that the petitioner applied through online for the post of Public Prosecutor for 85 posts as per the notification in Advertisement No.14/2013, in vacancy No.13091410228. The respondent had accepted the petitioner's application and also since the application is in full form, after completing the scrutiny, the respondent had sent a call letter, dated 13.01.2014, to the petitioner for direct interview. The petitioner had published a recommended list. However, the petitioner's name was not included.

3. The contention of the petitioner is that even though she had successfully answered all questions and possess 54.39% marks with 14 years experience, the



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petitioner's name was not selected. The petitioner further contended that the recommended list is not as per roaster system which is mentioned in the advertisement. Moreover, the age limit was also not followed. The petitioner further contended that the candidates were recommended by the respondent against unreserved vacancy. Aggrieved over the selected list, the petitioner has preferred this writ petition.

4. Pending this writ petition, the petitioner submitted an application under Right to Information Act to the respondent wherein the respondent has replied, vide letter, dated 04.09.2015 and has furnished information stating that pending recruitment process, the educational qualification was raised to LLM. Since the petitioner is not having LLM degree, the petitioner's candidature was rejected.

5. The respondent has filed a counter affidavit stating the same averment. It is stated in the counter affidavit that the Commission received 2226 applications for 85 posts on the category wise prescribed posts. On the reserved post under various categories the number of applications was considered. Thereafter, the



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Commission fixed the following criteria for short listing the candidates.

Sl. No.	Category	No. of Posts	No. of applicants
1	ST	7	72
2	SC	11	472
3	OBC	27	770
4	GEN	40	912
5	PH [Low Vision]	3*	11
6	PH [Orthopaedically Handicapped]	1*	28
	Total	85	2226

Sl. No.	Category	Criteria fixed for shortlisting	No. of vacancies	No. of candidates called
1	PH (L.V)	EQ(A) + EQ(B)	3*	06
2	PH (OH)	Criteria-1: EQ(A) raised to LLM + EQ(B) Criteria-2: EQ(A) + EQ(B) raised to 10 years	1*	14
3	ST	EQ(A) + EQ(B)	7	37
4	SC	Criteria-1: EQ(A) raised to LLM + EQ(B) Criteria-2: EQ(A) + EQ(B) raised to 10 years	11	114
5	OBC	-do-	27	172
6	GENERAL	-do-	40	151
	Total		85	494

6. The contention of the respondent in the counter affidavit is that because



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the applications that was received is more than 2000 for only 85 posts, it was decided to raise the educational qualification.

7. The contention of the petitioner is that pending recruitment process, after issuing the notification, the respondent is not empowered to change the educational qualification. In the present case, the notification was issued, the petitioner applied for the said post, thereafter, the petitioner called for interview. The petitioner attended the interview and after verifying the certificates, the respondent had suddenly raised the educational qualification. Whenever any process of recruitment is initiated, there cannot be any modification of any condition, the candidates who are applying for the said post based on the notification will have a legitimate expectation that the conditions are complied with and they will get an opportunity.

8. In the present case, the initial notification states that the candidates who are possessing bachelor degree are eligible for appointment. Pending recruitment, the respondent unilaterally increased the qualifications. Therefore, this Court is of



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the considered opinion that the respondent is not authorized to raise the qualification unilaterally. When the recruitment had started the respondent is not empowered to change the rules of the game and also conditions cannot be changed. Therefore, the respondent is directed to consider the petitioner's candidature based on the earlier notification and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

9. The impleading petition in M.P.(MD)No.3 of 2015 is not necessary at this stage. Therefore, the impleading petition is dismissed. The amendment petition filed in W.M.P.(MD)No.17190 of 2016 is allowed.

10. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes

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S.SRIMATHY, J

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Note:

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.

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