



W.P.(MD)No.18678 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.18678 of 2016

and

W.M.P.(MD)Nos.13504 and 13505 of 2016

Govindaraj

... Petitioner

Vs.

1. The Union of India,
Represented by its Secretary,
Ministry of Science and Technology,
Technology Bhavan,
New Mahrauli Road,
New Delhi.
2. The Council of Scientific and Industrial Research,
Represented by its Director General,
Anusandhan Bhavan,
No.2, Rafi Marg,
New Delhi.
3. The Central Electrochemical Research Institute,
Represented by its Director,
Central Electrochemical Research Institute,
Karaikudi.



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4. The Controller of Administration,
CSIR - Central Electrochemical Research Institute,
Karaikudi.

5. Harshal Agarwal

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the fourth respondent proceeding No.07-01(01)/2015-R&C dated 26.08.2016 and quash the same in respect of Serial No.19 and also direct the fourth respondent to select the petitioner as qualified candidate for the post of S06-b as per Serial No.19 in the Advertisement No.2/2015 dated 12.08.2015.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.P.Paul Pandi
Senior Panel Counsel for R1 and R2
Mr.K.P.S.Palanivel Rajan
for R3 and R4
No appearance for R5

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the fourth respondent vide proceedings in No.07-01(01)/2015-R&C, dated 26.08.2016 in respect of



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Serial No.19 and consequently, direct the fourth respondent to select the petitioner as qualified candidate for the post of S06-b as per Serial No.19 in the Advertisement No.2 of 2015, dated 12.08.2015.

2. The learned counsel for the petitioner submitted that the petitioner completed B.E. Electrical and Electronic Engineering Degree in 2007 at Anna University, Chennai and he studied "Renewable Energy Systems" as one of the subjects under M.Tech Energy Conservation and Management Programme in Anna University, Tiruchirapalli. During his Post-Graduation, he underwent a project in Energy Management and Integration of PEM Fuel Cell with UAV at High Energy Batteries. After completion of his Post Graduation, he worked as Assistant Professor in NPR College of Engineering and Technology, Natham, for more than three years, i.e., from 13.07.2011 to 06.05.2015. The fourth respondent gave an Advertisement in Advertisement No.2 of 2015 dated 12.08.2015, calling for the posts of Scientist, Senior Scientist and Technical Assistant. The petitioner applied for the post of Scientist (S06 (b)) M.Tech in Renewable



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Energy Systems. He submitted that his "PG Degree Examination statement of grades" with "Renewable Energy Systems" comes under M.Tech Energy Conservation and Management Programme. Seven persons including the petitioner were called for interview. The fourth respondent vide proceedings in Na.07-01(01)/2015-R&C dated 26.08.2016, announced a list of selected candidates. Now, as per the list, the fifth respondent was selected. The fifth respondent was selected by the fourth respondent without following the conditions in the advertisement for the reason that he is doing Ph.D., in the same Institute. The fifth respondent did not have previous experience. But at the same time, the petitioner has three years experience as Assistant Professor and also having six months experience in the same field, i.e., fuel cell. The selection of the fifth respondent by the fourth respondent is illegal, arbitrary and unreasonable. Therefore, this petition.

3. It is further submitted by the learned counsel for the petitioner that the fifth respondent has not produced his Ph.D., Provisional Certificate, and in fact, the petitioner and others filed O.A.No.4361 of 2014 before the Central Administrative Tribunal, Chennai seeking the following reliefs:



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"(a) Direct the Respondent to appoint the Applicants as Scientist in Pay Band-3 of the Govt. of India in pay scale of Rs.15600-39100 with Grade Pay of Rs.6660/- plus other allowance as applicable as per the advertisement dated 25.05.2012.

(b) Declare invalid the provisions of the Appointment Letters issued to the Applicants, insofar as they are inconsistent with the terms of the Advertisement dated 25th May 2012 and the Amended CSRAP Rules 2001.

(c) Quash the letter No.1-1 01(11(PGRPE)/2013-RAB) dated 19th September, 2014 issued by CSIR to the laboratories.

(d) Quash all consequential actions taken pursuant to the letter No.1-1 01(11(PERPE)/2013-PAB) dated 19th September, 2014.

(e) Pass such further orders(s) as this Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."

While disposing of the application, this Court, quashed the letter dated 19.09.2014 by which the service of the applicants has been discontinued. It was further directed that the respondents shall consider the applicants for



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absorption in CSIR as Scientists in PB-3 with Grade Pay of Rs.6,600/- in accordance with CSRAP Rules. Till the consideration is completed, their tenure as Trainee Scientists shall be extended.

4. The learned counsel for the petitioner submitted that as per the order, the petitioner and other applicants' tenure as Scientist stood extended. It shows that the fifth respondent was preferred to the petitioner for the reason that the fifth respondent was a Trainee Scientist under the fourth respondent. The selection of fifth respondent is not on merits, but for the aforesaid reason. Therefore, the selection has to be declared as null and void and the petitioner has to be declared as selected.

5. Per contra, the learned Senior Panel Counsel appearing for the respondents 1 and 2 submitted that Advertisement No.2 of 2015, dated 12.08.2015 was issued by the fourth respondent calling for the application for the posts of Scientist, Senior Scientist and Technical Assistant. For the post of Scientist, the essential qualification is 'M.E/M.Tech in Renewable



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Energy Systems' and the experience is not specifically required for this post.

The desirable qualification and experience was that 'Specialization in materials for renewable energy applications like fuel cells with experience in the design and fabrication of novel fuel cells'. The petitioner has claimed that he had studied M.Tech., (Energy Conservation and Management) and one of the papers in Master Programme is 'Renewable Energy Systems'. On the other hand, the fifth respondent had studied M.Tech (Renewable Energy). This is the essential qualification required for the post of Scientist,S06-(b). Not only that, the fifth respondent had been the Trainee Scientist during the period from 03.09.2012 to 02.09.2014 while pursuing M.Tech in Renewable Energy with Research and Development in energy related projects. He was also Trainee Scientist during 03.09.2014 to 09.09.2015 while pursuing Ph.D., in Renewable Energy with Research and Development in energy related projects. Similarly, another candidate, namely, Bala Krishna Nallamothe had undergone training as a Trainee Scientist from 2012 to 2015. Out of seven candidates called for interview, two of them had no previous experience. Two had experience in teaching as



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Assistant Professor and Guest Faculty. The petitioner's claim is that he had experience in teaching as Assistant Professor for three years and then as Graduate Apprentice for one year. The Selection Committee considered the educational qualification and desirable experience and the fifth respondent was selected in preference to petitioner and other candidates.

6. He further submitted that the role of the Court in interfering with the selection process is very limited. In this regard, he pressed into service the following judgment in the case of ***Union public Service Commission vs. M.Sathiya Pria and others*** reported in ***(2018) 15 SCC 796*** and the relevant portion is extracted hereunder:

“17. The Selection Committee consists of experts in the filed. It is presided over by the Chairman or a Member of UPSC and is duly represented by the officers of the Central Government and the State Government who have expertise in the matter. In our considered opinion, when a High-Level Committee or an expert body has considered the merit of each of the candidates, assessed the grading and considered their cases for promotion, it is not



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open to CAT and the High Court to sit over the association made by the Selection Committee as an appellate authority. The question as to how the categories are assessed in light of the relevant records and as to what norms apply in making the assessment, is exclusively to be determined by the Selection Commission. Since the jurisdiction to make selection as per law is vested in the Selection committee and as the Selection Committee members have got expertise in the matter, it is not open for the Courts generally to interfere in such matters except in cases where the process of assessment is vitiated either on the ground of bias, mala fides or arbitrariness. It is not the function of the court to hear the matters before it treating them as appeals over the decisions of the Selection Committee and to scrutinise the relative merit of the candidates. The question as to whether a candidate is fit for a particular post or not has to be decided by the duly constituted expert body i.e. the Selection Committee. The courts have very limited scope of judicial review in such matters.”

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



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8. From the records produced and the submissions made by the learned counsel appearing for the parties, it is clear that for the post of S06-b Scientist, the essential educational qualification is M.E/M.Tech in Renewable Energy Systems. The petitioner had done his Master Degree in Renewable Energy System. On the other hand, the fifth respondent had studied M.Tech (Renewable Energy). Petitioner had studied only one paper in Renewable Energy System. Studying one paper in Renewable Energy System and studying the entire course in the Master Programme in Renewable Energy System is totally different. *Prima facie*, when it comes to the desirable essential educational qualification, this Court is of the considered view that the fifth respondent is better qualified and better placed for the reason that his area of study is M.E/M.Tech in Renewable Energy System required for the post of Scientist.

9. That apart, as referred to earlier, the learned counsel appearing for the petitioner and the learned Senior Panel Counsel appearing for the respondents 1 and 2 produced the synopsis of online application. It contains



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the details of educational qualifications of the seven candidates and their experience. So far as the fifth respondent is concerned, he is a Trainee Scientist during the period from 03.09.2012 to 02.09.2014 while pursuing M.Tech in Renewable Energy with Research and Development in energy related projects. He was also Trainee Scientist during 03.09.2014 to 09.09.2015 while pursuing Ph.D., in Renewable Energy with Research and Development in energy related projects. However, the petitioner is an Assistant Professor in Teaching and Electrical Engineering Subject and Guiding Projects in Renewable Energy (Modelling Fuel Cell Stacks, Modelling Flow Field Plates, Modelling Catalyst Layers, Modelling Gas Diffusion layers) in NPR College of Engineering and Technology from 13.07.2011 to 06.05.2015. He was a Graduate Apprentice in Tamil Nadu Electricity Board from 08.09.2008 to 07.09.2009.

10. The fifth respondent had experience even before the issuance of advertisement for the selection of Scientist in Renewable Energy System with Research and Development in energy related project from 2012 to



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2015. On the other hand, the petitioner had experience only in teaching and apprentice. In terms of area of experience and desirable qualification, this Court finds that the fifth respondent is better placed than the petitioner.

11. With regard to the submission of the learned counsel for the petitioner that as per the order passed in O.A.No.4361 of 2014, there was a direction to consider the petitioner and other applicants for absorption CSIR as Scientists in PB-3 with Grade Pay of Rs.6,600/- in accordance with CSRAP Rules, it appears that the fifth respondent was not absorbed as Scientist in PB-3 with Grade Pay of Rs.6,600/- as per the direction issued in O.A.No.4361 of 2014. He was selected as per the Advertisement in Advertisement No.2 of 2015, dated 12.08.2015 on the basis of his educational qualification and other desirable experience.

12. Therefore, on the basis of the order passed in O.A.No.4361 of 2014, this Court cannot come to the conclusion that the fifth respondent was given preference, because he was a Trainee Scientist of the fourth



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respondent. It is seen from the aforesaid judgment relied on by the learned Senior Panel Counsel for the respondents 1 and 2, the role of the Court in the matter of selection process is very limited, especially, when the selection panel consists of eminent personalities. Fifth respondent was selected in accordance with the law. Thus, this Court finds that there is no merit in this Writ Petition.

12. In fine, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Speaking Order : Yes / No

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To

1. The Secretary,
The Union of India,
Ministry of Science and Technology,
Technology Bhavan,
New Mahrauli Road,
New Delhi.
2. The Director General,
The Council of Scientific and Industrial Research,
Anusandhan Bhavan,
No.2, Rafi Marg,
New Delhi.
3. The Director,
The Central Electrochemical Research Institute,
Central Electrochemical Research Institute,
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4. The Controller of Administration,
CSIR - Central Electrochemical Research Institute,
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G.CHANDRASEKHARAN, J.

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