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W.P.No.24069 of 2022
and W.M.P. No.23048 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.01.2023

DELIVERED ON: 24.01.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.24069 of 2022

and

W.M.P. No.23048 of 2022

1. The Director,
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
2. The Deputy Director (Administration)
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
3. The Administrative Officer,
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6

...Petitioners

Vs.



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1. The Registrar
Central Administrative Tribunal
High Court Campus, Chennai 104.
2. The Secretary to Government,
Ministry of Health & Family Welfare,
Government of India, New Delhi.
3. A. Prabagarane
4. K. Viswananthan
5. M. Ganesan
6. D. Ramadoss
7. R.Nandagopal, MTS, Emp. No.JP5604
Multi Tasking Staff
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
8. R. Gopal, Emp. No. JO5261
Multi Tasking Staff
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
9. E.R. Raja, MTS, Emp. No. JO5265
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
10. S. Aroul, MTS, Emp. No. JO5268



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Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6

11. S. Saravanane, MTS, Emp. No. JO 5266
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
12. E. Pazhanisamy, MTS, Emp. No. JO 5270
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
13. A. Spreetha, MTS, Emp. No. JP5711
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
14. Lazare Marie, MTS, Emp. No. JP5714
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
15. S. Malarvizhy, MTS, Emp. No. JP5713
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
16. R. Rajendrakumar, MTS, Emp. No. JP5715
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6
17. V. Santhi, MTS, Emp. No. JP5725
Jawaharlal Institute of Postgraduate



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Medical Education and Research (JIPMER)
Puducherry-6

18. FloryIsaikumaran, MTS, Emp. No. JA5334
Jawaharlal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-6

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the 1st respondent in O.A. No.508 of 2020 dated 02.06.2022 in disposing the O.A. filed by the 3rd to 6th respondents with directions and quash the same.

For Petitioners	:	Ms. Sunitha Kumari
R1	:	Tribunal
R2	:	Not ready in notice.
For R3 to R6	:	Mr. R. Syed Mustafa for Mr. K.P. Jotheeswaran
R7 to R18	:	No appearance.

ORDER

(R.HEMALATHA, J.)

This petition is filed by the Director of JIPMER, Puducherry along with two others challenging the order dated 02.06.2022 in



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O.A.No.508 of 2020 on the file of the Central Administrative Tribunal,
Chennai Bench.

2.The facts of the case are as below:

- i. The sixteen respondents (respondents 3 to 18) are all Group-D employees of the JIPMER Institute and they were redesignated as multitasking staff (Group-C) consequent upon the implementation of sixth central pay commission.
- ii. On 01.06.2018, a circular was issued by the petitioners notifying the filling up of six posts of Lower Division Clerks (unreserved) to be filled from amongst the candidates with three years of regular service in Group-C posts, pass in XII standard or equivalent qualification and typing speed of 30 words per minute. The age limit was 45 years for unreserved candidates and 50 years for SC/ST. This designation of Lower Division Clerks was subsequently renamed as Junior Administrative Assistant.
- iii. 10% of these posts were to be filled on the basis of limited departmental competition exams for office attendants with five



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years of service and qualification of 10 + 2 (pass) and 15% of the posts were to be filled from among the office attendants with 8 years service on the basis of seniority cum fitness. This was as per the instructions of Ministry of Health and Family Welfare, New Delhi and accordingly was circulated by the first petitioner.

iv. Since the post of Office Attendant did not exist in JIPMER, the multitasking staffs were considered as a feeder cadre in the place of Office Attendants. However, again in 2019, in order to have uniformity in the recruitment rules for the post of LDC at par with AIIMS, New Delhi, it was decided to have

- a) 65% by direct recruitment
- b) 20% by limited departmental competitive exams with three years regular service in grade pay of Rs.1800/- who possess 12th class qualification.
- c) 15% by seniority cum fitness from Group-C staff members with three years regular service in the grade pay of Rs.1,800/- who possessed 12th class qualification or its equivalent.



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- v. This was circulated by Addendum dated 28.12.2019 and consequently, the last date of receipt of applications was also extended to 10.01.2020. In this circular, 'computer skill test' was mentioned for both the channels of promotion and for the seniority cum fitness basis, the candidates were to be shortlisted for computer skill test in the ratio of 1:2 as per the vacancy in each category based on the relative seniority.
- vi. There was one more Addendum dated 13.01.2020 to reduce the educational qualification from 12th class pass to 10th class pass as an one time measure.
- vii. Out of the 131 applications received under seniority cum fitness channel promotion, 127 persons were found eligible and list was published on 04.06.2020 and from among the eligible applicants 26 senior most candidates were called for the computer skill test and this included respondents 3 to 6.
- viii. The result of computer skill test was released on 05.11.2020 and immediately thereafter, on 11.11.2020 the final selection list was published. In the meanwhile they had given a representation dated



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01.09.2020 against the computer skill test. Aggrieved by their non selection, the respondents 3 to 6 approached the Central Administrative Tribunal, Chennai Bench in O.A.No.508 of 2020 in which the respondents 3 to 6 had prayed for setting aside the final selection list since it was contrary to the recruitment rules.

ix. The Central Administrative Tribunal, Chennai Bench in its order dated 02.06.2022 set aside the selection list dated 11.11.2020 issued by the petitioners and directed the petitioners to fill the 15% quota vacancies reserved for seniority cum fitness category by adopting pure seniority. This impugned order is under challenge before this Court.

3. Heard Ms.Sunita Kumari, learned counsel appearing for the petitioners and Mr.R.Syed Mustafa, learned counsel appearing for the respondents 3 to 6.

4. Learned counsel appearing for the petitioners would contend that the name of the promotion channel itself would suggest that it is a



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seniority cum fitness category and it is not as though seniority was given a go by in pursuit of fitness. In fact, the computer skill test was only one of the criteria for the promotion on seniority cum fitness basis and the other criteria were grading in Annual Performance Appraisal reports and also vigilance clearance. According to the counsel, the nature of duty expected to be performed by Lower Division Clerk (LDC) staff required minimum computer knowledge and it is totally different from the nature of duties assigned to the Group-C employees (MTS). It was also contended that the Director of JIPMER was also the appointing authority and it is his prerogative to ensure quality of work force and there was nothing wrong or arbitrary in his decision to include computer skill test in the selection process. He would further contend that none of the respondents had objected to the office notification dated 28.12.2019 and it was only after conduct of the computer skill test, the representation dated 01.09.2020 from the respondents came up to the petitioners. Therefore, according to him, this petition is liable to be allowed as the Central Administrative Tribunal, Chennai Bench had erred in setting aside the selection list dated 11.11.2020 for the post of LDC under



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seniority cum fitness channel.

5. Per contra, learned counsel appearing for the respondents contended that the element of seniority took a back seat once a computer skill test was introduced afresh in the addendum dated 28.12.2019. This was in total violation of the original recruitment rules and therefore, the respondents were constrained to first present their case before Assistant Labour Commissioner (Central Puducherry) who in turn advised the petitioners to consider the recruitment of LDC purely based on seniority cum fitness without skill test. This order was passed on 09.10.2020. Subsequently, after the release of the selection list on 11.11.2020 the aggrieved respondents filed O.A.No.508 of 2020. According to him, the order of Central Administrative Tribunal, Chennai Bench was perfectly in order and in tune with the rules of recruitment of the petitioners. Therefore, he prayed for the dismissal of the present petition.

6. The crux of the issue of this case is whether the channel of seniority cum fitness should include the computer skill test and whether it



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is in contravention to the extant recruitment rules dated 12.02.1982 which was subsequently modified on 29.05.2020. It can be easily seen that even in 1982 the educational qualification and other qualifications for direct recruitment in the cadre of Lower Division Clerk were

- i. Matriculation exam passed from a recognised Indian Board.
- ii. Typing speed of 30 words per minute.

In the latest notification dated 29.05.2020 also it was clearly mentioned that for a Junior Administrative Assistant (erstwhile LDC), 12th class pass and typing speed of 35 words per minute are required for direct recruitment. It is pertinent to note that the nature of work and responsibilities of a Junior Administrative Assistant (erstwhile LDC) cannot be equated with that of any staff in the MTS cadre. With a rapid growth of computerisation and technology, no LDC can perform his official duty without basic knowledge of computer and claiming that insisting on a pass in computer skill test was very much against the extant recruitment rules which does not augur well for the health of the institute. Furthermore, had the computer test being waived there were other criteria to decide on the fitness of the candidates and it was not as though the



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seniority was not considered at all for the promotion. The promotion process which was initiated in 2018 itself had to undergo changes including increase in the quota from 25% to 35% by way of promotion, relaxation in educational qualification from 12th standard to 10th standard which were found to be beneficial for the respondents. At the same time, the quality of the candidates could not be compromised by an Autonomous Institution like JIPMER. The contention of the learned counsel for the petitioners that had the computer skill test been waived, more number of applicants would have been there, is reasonable. Moreover, the respondents 3 to 6 have not substantiated how they are senior to all the selected respondents (S.No.7 to 18). The Central Administrative Tribunal, Chennai Bench has relied on the decision of High Court of Punjab and Haryana in the case of *Nita Mallick vs. PGIMER Chandigarh & Ors* in CWP No. 22491 of 2014 decided on 21.03.2016 wherein it was held that the requirement to pass typing test on computer is contrary to the rules of recruitment governing the post of LDC. However, it is seen that the High Court of Punjab & Haryana found that the modified recruitment rules were issued by the governing body



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while the notice dated 23.09.2013 prescribing the typing test was issued by the Director, PGIMER and therefore found to be invalid. So this decision was on an entirely technical ground. The facts of the present case are totally different. Therefore, we find the orders of the Central Administrative Tribunal, Chennai Bench is perverse and therefore is liable to be set aside.

7. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed. The order of Central Administrative Tribunal, Chennai Bench in O.A.No.508 of 2020 dated 02.06.2022, is set aside.

(V.M.V.,J.) (R.H.,J.)
24.01.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga/mtl



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Central Administrative Tribunal
High Court Campus, Chennai 104.
2. The Secretary to Government,
Ministry of Health & Family Welfare,
Government of India, New Delhi.



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and
R. HEMALATHA, J.
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