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W.P.No.29082 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.P.No.29082 of 2019
and
W.M.P.No.28860 of 2019

N.Umamaheshwari

.. Petitioner

VS

1.Government of India,
Rep. by Director,
Department of Atomic Energy,
Indira Gandhi Centre for Atomic Research,
Kalpakkam – 603 102.

2.Assistant Administrative Officer (R),
Indira Gandhi Centre for Atomic Research,
Homi Bhabha Building, 3rd Floor,
Kalpakkam – 603 102.

3.Assistant Administrative Officer – III (R&SR),
Indira Gandhi Centre for Atomic Research,
Homi Bhabha Building, 3rd Floor,
Kalpakkam – 603 102.

4.Thiruvalluvar University,
Rep. by Registrar,
Vellore – 632 004.

5.Central Administrative Tribunal,
Madras Bench,
Chennai.

.. Respondents



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Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records pertaining to the order passed by the 5th respondent in O.A./310/00050/2017 dated 04.07.2019 consequently direct the respondents to appoint the petitioner as Scientific Assistant / B – Industrial Safety (SA-05) pursuant to the Notification No. 02/2014 in the same manner in which it was given to the other candidate S.Mohandoss with seniority and all other attendant benefits.

For Petitioner : Ms.Pravin Banu.L
for Mr.N.G.R.Prasad

For Respondents : Mr.A.Kumaraguru, SPC
for R1 to R3

R4 – No appearance

R5 - Tribunal

ORDER

(Order of the Court was made by Dr. ANITA SUMANTH.,J)

The petitioner had approached the Central Administrative Tribunal (CAT / Tribunal) by way of an application challenging the order passed on 04.07.2019 by the appropriate authority of the Indira Gandhi Centre for Atomic Research (Centre) holding her ineligible for the post of Scientific Assistant (Industrial Safety), and an order of the Administrative Officer of that Centre on 04.10.2016 reiterating her non-selection.



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2. The petitioner had completed Bachelors in the Sciences with a first class in 2006 from the Thiruvalluvar University. She had responded to an advertisement issued by the Department of Atomic Energy, Indira Gandhi Centre for Atomic Research / R1 calling for applications for Scientific Assistants. The qualification that was required qua Scientific Assistants in the discipline of Industrial Safety, was a '*Bachelor in Science with minimum 60% marks plus one year Diploma / Certificate Course in Industrial Safety*'. It is not in dispute that the petitioner has completed her Diploma in Industrial Safety.

3. The application of the petitioner was processed and she was found eligible on all counts. The list of successful applicants that was published on-line reveal the name of the petitioner as being first in rank. Thereafter, the petitioner was in receipt of a communication from the respondents, wherein she was asked to provide a clarification on the manner by which she had computed the percentage, on the basis of which the application had been submitted by her.

4. To be noted that the marks secured by the petitioner in the course subjects are as follows and the computation of percentage was taking into account all subjects, core as well as non-core i.e., English (referred to hereinafter as Table A):-



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Sl.No	Name of the Subject with subject code	Actual as per mark sheets	
		Marks Obtained	Max. Marks
1	TAMIL (LTA)	53	100
2	ENGLISH (LEA)	46	100
3	THERMAL PHYSICS AND ACOUSTICS (UPA)	56	100
4	PRACTICAL – I (UPB)	52	60
5	MATHEMATICS (AMA 1)	44	100
6	CHEMISTRY (ACH1)	69	100
7	PRACTICAL – I – CHEMISTRY (ACH2)	50	50
8	ENGLISH – II (LEC)	41	100
9	TAMIL – II (LTB)	50	100
10	ENVIRONMENTAL STUDIES (ENV)	63	100
11	MECHANICS, PROPERTIES OF MATTER AND MATHEMATICAL METHODS (UPC)	50	100
12	PRACTICAL – II (UPD)	24	60
13	OPTICS AND SPECTROSCOPY (UPE)	62	100
14	ELECTRICITY AND MAGNETISM (UPF)	57	100
15	ATOMIC PHYSICS AND ELECTRONICS (UPG)	55	100
16	RELATIVITY, QUANTUM MECHANICS AND NUCLEAR PHYSICS (UPH)	52	100
17	APPLIED ELECTRONICS (UPJ)	32	60
18	PRACTICAL – III (UPI)	76	80
19	PRACTICAL – APPLIED ELECTRONICS (UPK)	30	40
TOTAL		962	1650
PERCENTAGE		58.30	

5. The petitioner submitted a clarification to the effect that her claim of having secured 60.37% was based on the following marks wherein she had converted the marks in regard to the practicals to be



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based on 100% as against 60% on which she had been marked.

(hereinafter referred to as Table B). This is what has led to a percentage

of 60.37% as against 58.30% if the marks were to be taken as such.

Sl.No	Name of the Subject with subject code	Calculations done by me	
		Marks Obtained	Max. Marks
1	TAMIL (LTA)	53	100
2	ENGLISH (LEA)	46	100
3	THERMAL PHYSICS AND ACOUSTICS (UPA)	56	100
4	PRACTICAL – I (UPB)	86	100
5	MATHEMATICS (AMA 1)	44	100
6	CHEMISTRY (ACH1)	69	100
7	PRACTICAL – I – CHEMISTRY (ACH2)	100	100
8	ENGLISH – II (LEC)	41	100
9	TAMIL – II (LTB)	50	100
10	ENVIRONMENTAL STUDIES (ENV)	63	100
11	MECHANICS, PROPERTIES OF MATTER AND MATHEMATICAL METHODS (UPC)	50	100
12	PRACTICAL – II (UPD)	40	100
13	OPTICS AND SPECTROSCOPY (UPE)	62	100
14	ELECTRICITY AND MAGNETISM (UPF)	57	100
15	ATOMIC PHYSICS AND ELECTRONICS (UPG)	55	100
16	RELATIVITY, QUANTUM MECHANICS AND NUCLEAR PHYSICS (UPH)	52	100
17	APPLIED ELECTRONICS (UPJ)	53	100
18	PRACTICAL – III (UPI)	95	100
19	PRACTICAL – APPLIED ELECTRONICS (UPK)	75	100
TOTAL		1147	1900
PERCENTAGE		60.37	

6. Thus, the computation of percentage per the mark-sheet taking into account the totality of the subjects i.e., core subjects as well as in languages viz., English and Tamil lead to a percentage of 58.30 whereas, the computation where the practicals marks had been converted, led to a percentage of 60.37.



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7. The respondents were of the view that the basis of the petitioner's computation (Table B) was incorrect and according to them, it was Table A that set out the correct position. Hence, the impugned order has come to be passed rejecting the application of the petitioner for want of necessary qualification/marks.

8. Before us, Mr.N.G.R.Prasad and Ms.Pravin Banu learned counsel appearing for the petitioner, would furnish an alternate computation, being the percentage obtained of core subjects alone, as follows (hereinafter referred to as Table C):-

Sl.No	Name of the Subject with subject code	Actual without Language subjects	
		Marks Obatined	Max. Marks
1	TAMIL (LTA)	-	-
2	ENGLISH (LEA)	-	-
3	THERMAL PHYSICS AND ACOUSTICS (UPA)	56	100
4	PRACTICAL – I (UPB)	52	60
5	MATHEMATICS (AMA 1)	44	100
6	CHEMISTRY (ACH1)	69	100
7	PRACTICAL – I – CHEMISTRY (ACH2)	50	50
8	ENGLISH – II (LEC)	-	-
9	TAMIL – II (LTB)	-	-
10	ENVIRONMENTAL STUDIES (ENV)	63	100
11	MECHANICS, PROPERTIES OF MATTER AND MATHEMATICAL METHODS (UPC)	50	100
12	PRACTICAL – II (UPD)	24	60
13	OPTICS AND SPECTROSCOPY (UPE)	62	100
14	ELECTRICITY AND MAGNETISM (UPF)	57	100
15	ATOMIC PHYSICS AND ELECTRONICS (UPG)	55	100



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Sl.No	Name of the Subject with subject code	Actual without Language subjects	
16	RELATIVITY, MECHANICS AND PHYSICS (UPH) QUANTUM AND NUCLEAR	52	100
17	APPLIED ELECTRONICS (UPJ)	32	60
18	PRACTICAL – III (UPI)	76	80
19	PRACTICAL – APPLIED ELECTRONICS (UPK)	30	40
TOTAL		772	1250
PERCENTAGE		61.76	

9. Thus, we have, before us, three possible percentages (i) 58.30% / A which would be the actual computation as per mark-sheet; (ii) 60.37% / B, being the computation if the marks obtained for the practical tests (marked on 60) were stepped up to 100% ; and (iii) 61.76% / C if only core subjects were taken into consideration.

10. While the petitioner would submit that the computation per B or C tabulations should rightly be taken into consideration, it is the case of Mr.Kumaraguru, appearing for the official respondents that the proper percentage to be taken into account would be as per Table 'A'. He would maintain that it has been the uniform policy of the Department of Atomic Energy to proceed on the basis of the percentage computed qua all subjects, including English and not restricted to core subjects alone.

11. Learned counsel was specifically requested to provide clarity on this aspect citing internal circulars / instructions, if any, but has confirmed the absence of any such clarification within the Department.

12. Having heard the rival contentions, we are of the view that



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the petitioner must succeed. We have been furnished a copy of Memorandum OCES/DGFS-2019 (Memorandum) issued by the Bhabha Atomic Research Centre also coming within the purview of the Department of Atomic Energy. The Memorandum sets out in detail, the eligibility and admission criteria as well as the interpretation of all parameters set out therein.

13. A specific query was put forth to Mr. Kumaraguru, as to whether the Memorandum would apply to the recruitments by the Indira Gandhi Centre for Atomic Research as well, and he would confirm the same. He has also, on instructions, filed a memo in this regard reading thus:

"I submit that I am the counsel for Respondent Nos 1 to 3 and file the memo on their behalf.

I submit that both Indira Gandhi Center for Atomic Research (IGCAR) and Bhabha Atomic Research Center (BARC) function under the Department of Atomic Energy, Government of India and they both are governed by the same service and employment rules.

I submit that guidelines followed by Bhabha Atomic Research Center (BARC) are the same as that of Indira Gandhi Center for Atomic Research (IGCAR).

Hence it is prayed that this Hon'ble Court may be pleased to take this Memo into consideration and pass any order that this Hon'ble Court may deem fit and thus render justice."

14. After setting out the eligibility criteria in detail such as the qualifying degrees and other academic requirements for various disciplines, the Memorandum states, by way of a foot note, that the minimum of 60% aggregate marks would mean *'the marks as per the*



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ordinances of the respective University'.

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15. This would provide clarity in regard to how one should understand the stipulation relating to 60%. To put it alternatively, this would clarify the position as to whether the stipulation of 60% relates only to core subjects or all subjects.

16. The clarification would, in turn take us to the guidelines of the Thiruvalluvar University and the counter filed by it in O.A.No. 50 of 2017 before the CAT, that reads as follows :-

"

1. I am holding the post of controller of examination of Thiruvalluvar University. I am aware of the facts of the cases from the records; Hence I am competent to swear the counter affidavit on behalf of the other respondents also.

2. I would like to submit that the university awarding the mark and the grade for the students based on the marks obtained in main subject and auxiliary part III. The marks obtained by the students either in the language or in second language are not taken into the account for the awarding the grade / class.

3. I submits that the Uma Maheshwari has been awarded 1 class based on the marks obtained in the part III UG course. I filling the affidavit to the same effect.

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17. The stand of the University is that the marks obtained by a student in core subjects alone, without reference to the marks obtained in language is taken into account for awarding the grade / class. This also finds support from the degree certificate that has been issued by the



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University, where the class awarded confirms that the petitioner has been admitted to the Degree of B.Sc in Physics and placed in First Class in her examinations conducted in November, 2006. Thus, she has obtained marks in excess of 60%.

18. The degree certificate incidentally may be contrasted with the provisional certificate issued by the Thiruvalluvar University where they have identified the Class separately for languages and for core subjects. The provisional certificate states that candidate / petitioner has passed Tamil / English in second and third classes, respectively and has completed her core subject, Physics, in the First Class. Thus, there is no ambiguity in regard to the position that the application of the petitioner must be tested in the light of the marks obtained in the core subjects alone which is in excess of 60%.

19. In this case, and as per the computation of Thiruvalluvar University, the petitioner has obtained 61.76% (Table C) in the core subjects and hence is entitled to the position that she aspires to. The conclusion of the Tribunal is found to be incorrect, particularly for the reason that the Tribunal has not taken into account the parameters set out under OCES/DGFS-2019, and the affidavit filed by Thiruvalluvar University, a combined reading of which, would clearly enure to the benefit of the petitioner.

20. The writ petition is thus allowed and the order of the Tribunal is set aside. Pending writ petition, the petitioner holds a seat by virtue of



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interim order dated 11.01.2017 in O.A.No.50 of 2017. Let the respondents do needful to effect compliance with this order forthwith, and not later than three weeks from date of receipt of a copy of the same. Needless to say, the conclusions in this order are specific to cases where Memorandum in OCES/DGFS-2019 and the stipulations therein, apply.

21. As a foot note, we may mention that there has been a hiatus of seven years between the date of recruitment notification and today, and not on account of any fault of the petitioner. The post that the petitioner aspires to, is that of a Scientific Assistant in the IGCAR which is a sensitive post, calling for a great deal of skill and ability. The petitioner is undoubtedly competent for the post. However, as in the interim, the petitioner is stated to have been without any avocation / employment, it is necessary that the respondents provide her with special / additional training that she may reasonably require in order to do complete justice to the post during the period of probation / training of one year.

22. There shall be no order as to costs. Connected miscellaneous petition is closed.

[A.S.M., J] [G.A.M., J]
17.10.2024

Index:Yes
Neutral Citation:Yes
ssm



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To
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Department of Atomic Energy,
Indira Gandhi Centre for Atomic Research,
Kalpakkam – 603 102.
- 2.The Assistant Administrative Officer (R),
Indira Gandhi Centre for Atomic Research,
Homi Bhabha Building, 3rd Floor,
Kalpakkam – 603 102.
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and
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