

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.01.2002

CORAM

THE HONOURABLE MR.JUSTICE R.JAYASIMHA BABU

AND

THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

WRIT PETITION No.3689 of 2001 and W.M.P.No.5124 of 2001

Union of India,
rep. By the Sub-Divisional Inspector,
Department of Post,
Sooramangalam Sub-Division,
Salem-5. ..Petitioner

-vs-

1.B.Sivaprakasam

2.G.S.Senthilkumar

3.The Registrar,
The Central Administrative Tribunal,
Madras Bench. ..Respondents

Petition praying for issue of writ of certiorari calling for the records pertaining to the order dated 23.10.2000 passed by the 3rd respondent herein, in O.A.No.257 of 1999 and to quash the same.

! For petitioner : Mr.R.Santhanam

^ For Respondent No.1 : Mr.L.Chandrakumar

For Respondent No.2 : Mr.P.K.Sabapathi

: ORDER

(The order of the Court was made by R.JAYASIMHA BABU, J.)

The Tribunal has, in effect, rewritten the recruitment rules, which it is not empowered to do. The qualification for the post of E.D. Delivery Agents as set out in the relevant instructions governing the recruitment reads thus:-

"The minimum educational qualification of Extra Departmental Delivery Agents, Extra Departmental. Stamp Vendors and other categories of E.D.D.As should be

8th Standard. Preference may be given to the candidates with Matriculation qualification. No weightage should be given for any qualification higher than Matriculation."

2. The Tribunal has faulted the administration for having given weightage to a matriculate. Its reasoning in its own words at paragraph 6 of the order reads thus:-

"It is to be seen from the notification itself marked as Annexure A-1 that the minimum requirement of educational qualification for EDA is 8th standard. This Tribunal has held in catena of decisions that the required standard of educational qualification is 8th standard. In case preference is to be given to the other candidates who are better qualified the very purpose of giving chance to candidates having 8 th standard qualification will be loosing their chance for being considered. Therefore in this case as seen from the tabular form filed as annexure R-1, almost all the candidates are SSLC passed candidates except the candidate at S.No.2 K.Jayaraman who has failed SSLC. The proceedings of the respondents which are marked as Annexure R-2 clearly goes to show that they have not considered this aspect of the minimum qualification as 8th standard and they have taken the other educational qualification of the candidates in respect of other things which is not permissible. Therefore, the entire selection process suffers from the nonfollowing of the rules of having the necessary qualification as 8th standard."

3. This reasoning of the Tribunal is wholly fallacious. When a minimum qualification is prescribed along with a further stipulation that a person possessing a qualification higher than the minimum would be preferred, if other things are equal, the authorities engaged in making the selection would be fully justified in giving preference to a person possessing additional qualification. It is not for the Tribunal to direct the authority not to give weightage to the additional qualification when the possession of such additional qualification is relevant and would enable the employer to choose a person who would be more suited for discharging the duties attached to the post by reason of possessing the higher educational qualification.

4. Here, having regard to the nature of the duties attached to the post, the preference accorded for the higher qualification is only Matriculation, which is practically the minimum in most employments. If that is the minimum qualification for employment under any State Government the selection of a person possessing matriculation qualification, is in no way unreasonable or arbitrary nor has it resulted in denial of any right to any other person.

5. As noticed by the Tribunal in this very case almost all the applicants for the post were matriculates, except one who had studied upto matriculation but had not completed it. This itself would show that there are sufficient number of persons who possess matriculation qualification and had offered themselves for being considered for the post for which the applications had been invited. A direction practically compelling the employer to prefer a person who has failed matriculation, ignoring others who

have passed matriculation is, on the face of it, totally unjustified.

6. The reference made by the Tribunal to a 'catena of decisions' are merely orders which the Tribunal itself had passed in earlier cases. Merely passing orders one after the other does not add any value to it unless the very first order is intrinsically sound. We must also observe here that there are numerous writ petitions filed in this Court against such orders made by the Tribunal.

7. The impugned order of the Tribunal setting aside the selection process on the ground that only a person who had passed 8th standard and had not passed Matriculation examination should be considered is, therefore, set aside. The writ petition is allowed. The W.M.P is closed.

Index: Yes/No (RJB) (FMKJ)
30-01-2002

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar
Statistics/C.S.

Copy to

The Registrar,
The Central Administrative Tribunal,
Madras Bench.

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