

(2011) 03 MAD CK 0060

In the Madras High Court

Case No : Writ Petition No's. 22243 and 22244 of 2010

M. Mouhammadhou Arshadh

APPELLANT

Vs

Indian Oil Corporation Limited

RESPONDENT

Date of Decision : 01-03-2011

Acts Referred:

Citation : (2011) 03 MAD CK 0060

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : M. Sundar, for the Appellant; Abdul Saleem, for Anand, Abdul and Vinoth, Associates, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The Petitioner is an Engineering Graduate in Bachelor of Technology (B.Tech degree) Information Technology and he has been

working as a Manager in one Sarate Agency, an Indian Oil Corporation Ltd. Dealer at 8/3, Nagore Main Road (near ONGC), Nervy Main

Road, Karaikal. When there was a notice by the 1st Respondent issued in the Hindu Newspaper dated 27.04.2010 for engagement of Service

Provider for its Corporation Owned and Corporation Operated Retail Outlets (COCO) inviting applications from eligible individuals and other

entities for being appointed as service provider for COCO outlets, the Petitioner has also applied for the same. Though the Petitioner, after passing

through selection process was awarded 84 out of 100 marks, other candidates, who participated like the Petitioner, having been awarded 86 out

of 100 marks, were wrongly equated with the Petitioner and as a result, the labor contract was not given to the Petitioner. Therefore, the grievance

of the Petitioner is that only on the age criteria he was discriminated by not providing any marks for his age of 27, when others, above 30 years of age, were allotted marks. On that basis, he also brought to the notice of the Court the guidelines issued by the Indian Oil Corporation, wherein it was mentioned that as per the eligibility criteria, any individual having minimum age of 21 years, is eligible to apply for getting service providership. As per the guidelines of 6.2.3.1, the age group, namely 21 to 29, was not awarded any marks. In the matter of allotment of awarding marks, persons at the age of 30 to 45, 45 to 60 and 60 to 65 years are awarded 10, 5 and 3 marks respectively, therefore, the Petitioner being at the age of 27, was not awarded any single mark. Therefore, he contended that, since no mark is contemplated in the guidelines for the age group between 21 to 29, the same is not only arbitrary, but also violative of equality clause and on that basis, he prayed for setting aside the selection process with a further prayer to issue a direction to hold fresh enquiry.

2. In reply, the learned Counsel appearing for the Respondents submitted that the entire guidelines challenged by the Petitioner is only in line with the policy circular No. P-19011/9/2001-IOC issued by the Government of India, Ministry of Petroleum and Natural Gas. Further, he contended that the Petitioner, unfortunately, has not impleaded the Government of India, Ministry of Petroleum and Natural Gas. Therefore, for non joined of the necessary party, namely, Government of India, Ministry of Petroleum and Natural Gas, sought for dismissing the writ petition. Secondly, it was contended that the Petitioner was well aware of the guidelines issued on the basis of the circular No. 160-09/2009, dated 25.09.2009, at the time of his application sent to the Respondents. Having known the fact that the Petitioner's category, namely, the age group of 21 to 29 are not given any mark in the advertisement, he has not challenged the selection process. But, after participating in the selection process and being not selected by not securing requisite marks, a defeated candidate cannot challenge the selection process, for the reason that when he participated in the selection process, he has accepted the terms and conditions and therefore, the Petitioner may not be allowed to complain that the conditions imposed in the guidelines are unreasonable and arbitrary.

3. Heard the learned Counsel appearing on either side and perused the materials

available on record.

4. It is admittedly true that the guidelines were issued to all the candidates and accordingly, marks were allotted according to their age. But, in the case of age group falling between 21 and 29, no marks were allotted. The Petitioner has admitted a fact that he has downloaded the detailed guidelines pertaining to the selection of service provider for Cocoa's from the official website of IOC. Therefore, he was aware of the fact that under the parameter of age, marks have been allotted for individuals and non-individuals. In the case of "individuals", for age equal to or more than 30 years, but less than 45 years as on date of publication, 10 marks would be allotted. For age equal to or more than 45 years, but less than 60 years, 5 marks would be allotted and for age equal to or more than 60 years, but less than 65 years, 3 marks would be allotted. These information's were obtained by the Petitioner only from the website. Therefore, it goes to show that he was fully aware of the marks system well in advance and also the fact that he would not be allotted marks under the parameter "age", since he is falling in the age group of 21 years to 29 years. When he was fully aware of the fact that he is outside the scope of the age group between 30 years and 65 years, his further statement that he was not aware of the marks for the age group between 21 years and 29 years is not the fault of the Respondent. Further, the awarding of marks has been made in such a way to give priority to the elder persons, on the presumption that they are fatly running to cross the age limit. Such policy of the Respondent cannot be found fault with. After the selection was over, the COCO at Malayalam Junction has already been handed over to the newly appointed service provider on 8th August, 2010, who is presently operating in line with the company's guidelines. Hence, for the reasons stated above, I do not find any merit in the present writ petitions to interfere with the guidelines issued by the Respondents. Accordingly, the writ petition in W.P. No. 22243 of 2010 is dismissed.

5. In view of the dismissal of W.P. No. 22243 of 2010, the 2nd writ petition in W.P. No. 22244 of 2010 is also stand dismissed. No Costs.

Consequently, all the connected miscellaneous petitions are closed.