
(2014) 12 MAD CK 0245
In the Madras High Court
Case No : Writ Petition No. 32483 of 2014

P. Reena

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 11-12-2014

Acts Referred:

Citation : (2014) 12 MAD CK 0245

Hon'ble Judges : Satish K. Agnihotri, J;K.K. Sasidharan, J

Bench : Division Bench

Judgement

1. Challenge in this petition is to the order dated 04-05-2011 passed by the Madras Bench of the Central Administrative Tribunal in O.A. No.833 of 2010, wherein and whereunder the application of the petitioner seeking the relief of quashing the order, dated 21-07-2010, passed by the third respondent and also a consequential direction to the respondents to grant appointment to the petitioner as Laboratory Technician in pursuance of the selection held vide advertisement dated 02-10-2009, was dismissed.

2. The facts in brief are that pursuant to the advertisement dated 02-10-2009 for selection to the post of Laboratory Technician, the petitioner applied and was found successful. On scrutiny thereafter, it was found that the Diploma Certificate submitted by the petitioner for possessing a Diploma in Medical Laboratory Technology was not issued by a recognized Institution. Therefore, a show cause notice dated 11-06-2010 was issued. Thereafter, the candidature of the petitioner was rejected vide order dated 21-07-2010. The Tribunal framed the following questions for adjudication :

"(1) Whether the applicant, who was originally appointed on contract basis can be absorbed since, she has been continuing in the post till the date of the issue of the impugned order dated 21.7.2010;

(2) whether the applicant satisfies the recruitment rules for the post of Laboratory Technician, as advertised by the respondents in the Employment

News dated 26th September - 02nd October, 2010."

(a) In respect of the first question it was held that the petitioner was not entitled to be absorbed or regularized on account of her appointment on contract basis.

(b) Regarding the second question, it was observed that in the Notifications dated 26-09-2009 to 02-10-2009, the essential qualifications prescribed for the post of Laboratory Technician was in addition to B.Sc. with Biochemistry/ Microbiology/ Life- Science or equivalent from a recognized institution, possessing a Diploma in Medical Laboratory Technology from a recognized Institution and also, possessing one year experience in Medical Laboratory. The petitioner produced a Certificate, dated 15-12-2005, issued by All India Medical Laboratory Technologist Association wherein it was mentioned that the petitioner has completed one year training in Medical Laboratory Technology from Chennai Institute of Paramedical Laboratory, Coimbatore, Tamil Nadu. The said Institute located at Coimbatore was neither recognized by the State of Tamil Nadu nor Government of India or any other body and as such, her candidature was rejected and the decision of the authority was found just and proper by the Tribunal.

3. After the impugned order was pronounced on 04-05-2011, the petitioner preferred a review petition before the Tribunal, which was dismissed on 02-04-2014. There against, a writ petition was filed, being W.P. No.16329 of 2014. The said writ petition was dismissed on 05-08-2014. After dismissal of the said writ petition, the petitioner has come up with the instant writ petition questioning the legality and validity of the order dated 04-05-2011, after a period of more than three and a half years.

4. At this stage, the question has become academic for more than one reason. Firstly, the selection pursuant to the Notifications dated 26-09-2009 to 02-10-2009 had already attained finality. The selected candidates have been appointed and no successful candidate has been made a party to the application either before the Tribunal or before this Court. Secondly, the petitioner has not disclosed any reason for such an inordinate delay of three and a half years in challenging the original order passed by the Tribunal. Thirdly, on merit also, the petitioner has not pointed out any document in support of her case that the Certificate granted by the Association was a recognized Certificate by a competent authority. No document or material has been produced by the petitioner to take a contrary view as that of the Tribunal, as it has been clearly held that the Diploma Certificate was not issued by the recognized Institution. Needless to state that the possession of a Diploma Certificate by the recognized Institution was a necessary pre-condition for participating in the selection process, which had taken place and had been finalized. Looking from all angle, we do not find any reason to interfere at this stage, with the impugned order passed by the Tribunal.

5. The writ petition is dismissed, accordingly.