

(2004) 03 MAD CK 0228

In the Madras High Court

Case No : Writ Petition No"s. 8308 of 2001 and 15642 of 2001

Smt. T. Indra and G. Panneerselvam

APPELLANT

Vs

The Member Secretary, Chennai Metropolitan Development
Authority

RESPONDENT

Date of Decision : 16-03-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 CTC 125 : (2004) 4 MLJ 242 : (2004) WritLR 430

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : V. Chandrakanthan and D.S. Rajasekaran, for the Appellant; N. Sampath, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—By a resolution dated 6.7.1999, the respondent authority prescribed the age, qualification and method of recruitment for the post of Law Officer Grade II, which reads as follows,

Name of the Method of Qualifications/ Age Category Recruitment Experience (for
direct recruitment only)

Law Officer i) By direct For Direct Grade-II recruitment Recruitment Must be a
Law ii) By transfer Graduate and of service must have 3 from the years bar
category of experience. Superintendent or Assistant. For Promotion 35 years

Must be a Law Graduate and must have served as Superintendent/ Assistant
for not less than 10 years in CMDA and must have bar experience of 2 years.

----- 2.

Concededly, there is no provision under the above regulation to relax either of
the above qualifications, prescribed for the post of Law Officer Grade II. Even
though, both the petitioners possess the minimum educational qualification,

namely Graduation in Law, they do not have experience in the Bar for two years, which is required for the recruitment to the post of Law Officer Grade II by promotion.

3. The request of the petitioner in W.P. No. 8308 of 2001 was refused by the respondent Board by its proceedings dated 29.12.2000, and aggrieved by the same, the petitioner in the said writ petition has prayed for the issuance of a writ of Certiorarified Mandamus calling for the records relating to the order of the respondent dated 29.12.2000 rejecting the request for relaxation of bar experience of two years by quashing the same and further direct the respondent to appoint the petitioner as a Law Officer Grade-II since she is having experience in legal division in the Chennai Metropolitan Development Authority.

4. The case of the petitioner in W.P.15642 of 2001 was also not considered for want of two years bar experience, and aggrieved by the same the petitioner seeks to issue a Writ of Mandamus directing the respondent to appoint the petitioner as Law Officer, Grade-II in the respondent's office without insisting on two years bar experience.

5.1. Mr. Chandrkanthan, learned counsel for the petitioner in W.P. No. 8308 of 2001, contends that since the petitioner belongs to Scheduled Caste community, the respondent ought to have relaxed the condition relating to the qualification and considered her for the post of Law Officer Grade II by way of promotion.

5.2. Mr. D.S. Rajasekaran, learned counsel for the petitioner in W.P.15642 of 2001 contends that since the petitioner has got educational qualification and as he was also an internal candidate, want of bar experience cannot be a ground to deny his right for promotion.

6. Per contra, learned counsel for the respondent authority invites my attention to the regulation and points out that there is no provision for relaxing the qualification in either case.

7. After careful consideration of the submissions of both sides, I am of the considered opinion that it may not be proper for this Court, by exercising power of judicial review conferred under Article 226 of the Constitution of India, to direct the respondent to relax the qualification prescribed under the regulation, particularly when there is no provision for the same. That apart, when the employer insists for a minimum qualification, either relating to the educational qualification or experience, as the case may be, it may not be proper for this Court to interfere with such powers of the respondent. Otherwise, the efficiency expected by the respondent may not be achieved. Hence, both the writ petitions fail and they are dismissed. No costs.