

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 970-972 OF 2020
[@ SPECIAL LEAVE PETITION (C) NO. 23209-23211 OF 2018

THE MANAGING DIRECTOR CHENNAI
METRO RAIL LIMITED & ANR.

Appellant(s)

VERSUS

M. KARTHIKEYAN & ANR.

Respondent(s)

WITH

CIVIL APPEAL NO. 974-975 OF 2020
[@ SPECIAL LEAVE PETITION (C) NO. 23213-23214 OF 2018

WITH

CIVIL APPEAL NO. 973 OF 2020
[@ SPECIAL LEAVE PETITION (C) NO. 23212 OF 2018

O R D E R

Heard the learned counsel of the parties at length.

Leave granted.

These appeals have been preferred against the dismissal of the Writ Appeal No. 615 of 2018 decided on 21.03.2018 and Contempt Petition Nos. 1609 and 1610 of 2017 dated 13.07.2018 by the Division Bench of the High Court of Judicature of Madras. A selection procedure was held for 183 posts of Junior Engineer Grade-II in 2013. Out of the selection process, 117 incumbents were appointed and 66 candidates could not be appointed. Thereafter, fresh advertisement was issued on 23.08.2016. At the same time, the provisional merit list of 66 candidates was

also cancelled. That was questioned in Writ Petition No. 15196 of 2016 before the High Court. The learned Single Judge allowed the writ petition setting aside the advertisement issued on 23.08.2016. The learned Single Judge issued following directions :-

"17. This Court, taking into consideration the peculiar facts and circumstances of the case coupled with the stand of the respondents/CMRL as to the merit-wise selection of the petitioners herein, is of the view that the following orders would meet the ends of justice:

i) W.P. Nos. 31491, 31492 and 31550 of 2016 are partly allowed and the impugned cancellation notification dated 23.08.2016 and the consequential Advertisement No. CMRL/HR/06/2016 for the posts of Junior Engineer Grade II published by the respondents and signed by the third respondent are set aside. The respondents/CMRL are directed to call for the willingness of the petitioners in the order of merit ranking, within the period of four weeks from the date of receipt of a copy of this order and thereafter shall consider their claim for appointment to the post of Junior Engineer Grade-II (Station Control) in the Scale of Pay to Rs. 8,000-14,140, subject to exercise of option by them and fulfillment of eligibility criteria and issue orders of appointment within a period of six weeks thereafter and communicate the decision taken to the petitioners. No costs.

Consequently, connected miscellaneous petitions are closed.

ii) In the light of the orders passed in W.P. Nos. 31491, 31492 and 31550 of 2016, no further orders are necessary in W.P.Nos. 15196 and 15197 of 2016. Hence, W.P.Nos. 15196 and 15197 of 2016 are closed. No costs. Consequently, connected miscellaneous petitions are closed.

iii) It is made clear that since this order came to be passed on peculiar facts and circumstances, it cannot be cited as a precedent in future cases."

Thereafter, review application was filed, in which the order was partially modified to the following effect :-

"8. In the light of the fact that the respondents/writ petitioners have no objection for restoration of the Cancellation Notification dated 23.08.2016 as well as the employment notification in Advt. No. CMRL/HR/06/2016 dated 2.3.2016, these Review Applications are allowed with the following directions :

(i) Paragraph No. 17(i) of the common order dated 02.01.2017 made in W. P. Nos. 15196, 15197, 31491, 31492 and 31550 of 2016 insofar as the impugned Cancellation Notification dated 23.08.2016 and consequential employment notification dated 23.08.2016 is recalled and both

stand restored.

(ii) The appellants/official respondents in the writ petitions, in the light of the stand taken in Groud D of the Review Application, is directed to draw the merit list as per the above said notification/advertisement dated 23.08.2016 insofar as the respondents/writ petitioners are concerned and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the writ petitioners. No costs."

Paragraph D of the Review Application, which has been referred in Paragraph 8(ii) is extracted hereinbelow :-

"D. It is submitted that initially in the year 2013, CMRL issued Advertisement No. CMRL/HR/01/2013 for filling up of 244 posts in post Code-I which intern had 3 posts namely Station controller, Train Operator and Junior Engineer (Stations). It was also informed in the said Advertisement that the above said posts of Station Controller, Train Operator and Junior Engineer (Station) are interchangeable in nature and CMRL reserves its right to appoint eligible candidates in any of the 3 posts. A total of 183 candidates were finally short listed and offer of appointment was issued to 117 candidates. The remaining

66 candidates including the 1st Respondent as well as the rest of the Writ Petitioners covered by the common order dated 02.01.2017, could not be issued with offer of Appointment since occupational requirement for the posts called for had been fulfilled and there was no need to keep them waiting. Thereafter, CMRL though fit to cancel the provisional selection of those 66 candidates including the Writ Petitioners covered in the common order dated 02.01.2017. Subsequently, Advertisement No. CMRL/HR/06/2016 dated 24.08.2016 was issued by CMRL for filling up of 41 vacancies for the post of Junior Engineer Grade II (Station Control). As things stood, the common order dated 02.01.2017 set aside the cancellation notification dated 23.08.2016 and subsequent Advertisement No. CMRL/HR/06/2016 and held that the Writ Petitioners be considered for issuing offer of appointment in terms of pay scale of Rs. 8,000-14,140 contained in the Advertisement No. CMRL/HR/06/2016 for the post of Junior Engineer Grade-II (Station Control) subject to fulfillment of eligibility criteria."

The appellants have come up in the appeal seeking the relief that the appointments as against 41 posts are to be made as per the merits of the candidates on the basis of the selection list prepared as per the

selection held pursuant to the advertisement issued in 2013.

After hearing the learned counsel for the parties at length, we find that as the agreement was to appoint the persons as per their merit, obviously the appellants, in case they are below in merit as compared to other incumbents, cannot be appointed and the appointments as per the order have to be strictly in terms of the merit of the candidates. Let the posts be filled up within six weeks from today in accordance with law on the basis of merit list.

In view of the above, the appeals are disposed of.

.....J.
[ARUN MISHRA]

.....J.
[M. R. SHAH]

New Delhi;
FEBRUARY 03, 2020.

ITEM NO.42

COURT NO.3

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 23209-23211/2018

(Arising out of impugned final judgment and order dated 21-03-2018 in WA No. 615/2018 13-07-2018 in CONTP No. 1609/2017 13-07-2018 in CONTP No. 1610/2017 passed by the High Court Of Judicature At Madras)

THE MANAGING DIRECTOR CHENNAI
METRO RAIL LIMITED, & ANR.

Petitioner(s)

VERSUS

M. KARTHIKEYAN & ANR.

Respondent(s)

WITH

SLP(C) No. 23213-23214/2018 (XII)
(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 112339/2018
IA No. 112339/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 23212/2018 (XII)
(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 111592/2018
FOR ADDITION / DELETION / MODIFICATION PARTIES ON IA 5960/2019
IA No. 111592/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 03-02-2020 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. K. V. Vishwanathan, Sr. Adv.
Mr. Senthil Jagadeesan, AOR
Ms. Suriti Chowdhary, Adv.
Ms. Sonakshi Malhan, Adv.
Ms. Mrinal Kanwar, adv.

For Respondent(s) Mr. K. K. Mani, AOR
Ms. K. Subhashini, Adv.
Ms. T. Archana, Adv.

Mr. Durga Dutt, Adv.
Mr. Bharat Singh, Adv.
Mr. Raj Bahadur Yadav, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed
of.

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER

(Signed order is placed on the file)