

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 17.08.2020**

**CORAM :**

**The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE**

**AND**

**The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.10863 of 2020**

**and W.M.P.Nos.13183 and 13185 of 2020**

Service Bar Association,  
Rep. by its President, L.Chandrakumar. .. Petitioner

-VS-

1.Union of India,  
rep. by its Secretary,  
Dept. of Personnel & Training,  
Ministry of Personnel, Public  
Grievances and Pensions,  
North Block, New Delhi 110 001.

2.Union of India,  
rep. by its Secretary,  
Ministry of Law and Justice,  
4<sup>th</sup> Floor, Prasad Road,  
Shastri Bhavan, New Delhi 110 001. .. Respondents

Petition filed under Article 226 of the Constitution of India  
praying for issue of Writ of Declaration to declare the Tribunal  
Appellate Tribunal and other Authorities(Qualificatiion Experience and

other conditions of service of members) Rules 2020 vide first respondents impugned Notification No.GSR 109(E) dated 12.02.2020 and that of Notification No.A-11013/2019-AT dated 27.07.2020 as null and void defective and unconstitutional being violative of Articles 14, 21, 50 of the Constitution of India and the Doctrine of Separation of Powers and Independence of Judiciary which are part of the Basic Structure of the Constitution of India and further contrary to the principles laid down by the Hon'ble Supreme Court in *Union of India vs. R.Gandhi (2010) 11 SCC 1* and *Roger Mathew vs. South Indian Bank Ltd. in Civil Appeal No.8588 of 2019, dated 13.11.2019 (2019) SCC online SC 1456.*

For Petitioner : Mr.V.Vijayashankar

For Respondents : Mr.N.Ramesh  
SPC

**ORDER**

(Order of the Court was passed by The Hon'ble Chief Justice)

सत्यमेव जयते

The present writ petition has been filed by the Service Bar Association, contending that the Rules, namely, The Tribunal, Appellate Tribunal and other Authorities (Qualification, Experience and other Conditions of Service of Members) Rules, 2020, significantly omit

advocates from being considered as qualified and eligible for being appointed as Member, in the present case, with regard to the Central Administrative Tribunal, for which a notification has been issued on 27.07.2020, fixing the last date of applications as 20.08.2020.

2.A similar issue was raised by the Revenue Bar Association in W.P.No.6037 of 2020 and W.P.No.9883 of 2020, the second petition being that of the Recovery Tribunal Advocates Association and after having granted sufficient time in the said writ petitions to the respondents Union of India, since no response was shown in the said writ petitions, the following order came to be passed on 31.07.2020 in the said writ petitions:

*"Heard the learned counsel for the petitioners and the learned Additional Solicitor General of India, who submits that his instructions are still awaited and he further prays for time to file counter affidavit.*

*2. We find that we had granted four weeks time on 08.07.2020 for seeking instructions, keeping in view the ratio of the judgment in the case of **Roger Mathew vs. South Indian Bank Limited and others, 2019 SCC OnLine SC 1456**, which in turn relied on the judgment of the Apex Court in the case of **Madras Bar Association vs. Union of India, (2004) 10 SCC Page 1.***

3. It may also be pointed out that we had heard this matter along with W.P.No.9883 of 2020 (**Recovery Tribunal Advocates Association – Vs- Union of India and another**), where we had observed that an interim order may be necessary to enable the advocates to participate in the said selection process. The last date for submitting applications is till 03.08.2020 and has not been modified by the respondents.

4. In this Writ Petition, we had passed an interim order on 09.03.2020 that any selection which shall be made, shall be subject to the outcome of the writ petition. This order was passed in anticipation that the matter would be heard and disposed of. But, till date we find that no response has come forward from the respondents either by way of a counter affidavit or otherwise.

5. Keeping in view the fact that the last date for receipt of applications is 03.08.2020, we direct that the respondents shall also accept the applications that may be filed by Advocates, who claim to be eligible for such appointment and also show cause as to why such applicants be not considered eligible for the posts in question. Further, the participation of the Advocates so permitted will not create any right in their favour and selection, if any, and the final selections shall not be announced except with the leave of this Court or any other appropriate orders that may be passed in future.

6. Keeping in view the request made by the learned Additional Solicitor General of India, we again post the matter on 28.08.2020, within which time he may file his response to both the petitions.”

3.The same situation is evident in the present case and since the aforesaid matters have been directed to come up on 28.08.2020, as the learned Additional Solicitor General of India had prayed for four weeks time to file a response, we post this matter also along with the aforesaid writ petitions to be heard on 28.08.2020.

4.In view of the fact that the last date in the present case is 20.08.2020, the interim order as indicated in paragraph 5 of the order dated 31.07.2020 quoted hereinabove, shall also be available to the petitioner herein.

5.Mr.N.Ramesh, learned counsel, has accepted notice on behalf of the respondents Union of India.

Connect and list with W.P.Nos.6037 and 9883 of 2020.

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(A.P.S., CJ.) (S.K.R., J.)  
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sra

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The Hon'ble Chief Justice  
and  
Senthilkumar Ramamoorthy, J.

(sra)



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