
(2001) 08 AHC CK 0063

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 27858 of 2001

C.P.L.Vidya Sagar Sonker

APPELLANT

Vs

Union of India & Ors.

RESPONDENT

Date of Decision : 07-08-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 08 AHC CK 0063

Hon'ble Judges : S.R.Singh, J and D.R.Chaudhary, J

Final Decision : Allowed

Judgement

1. The petitioner, a Corporal R.D.O./TECH posted as Section Signals, Central Air Command, Bamrauli, Allahabad applied on 1212001 for appointment to the post of Probationary Officer pursuant to advertisement dated 2491999 published in Employment News, a copy of which has been annexed as Annexure 3 to the writ petition, issued by the Central Recruitment Board (State Bank Group). On the date of advertisement as well as on the date of application the petitioner was fully eligible to get permission to apply for grade "A post/services under Central/ State Governments and equivalent jobs in Central/State Government Undertakings as per Air Force Order 07/95 AIR H.Q. New Delhi dated 1121995, a copy of which has been annexed as Annexure 1 to the writ petition. Clause 1 of the said AFO 07/95 is quoted below:

"Airmen irrespective of their term of engagement are permitted to apply for group "A posts/services under Central/State Government. And equivalent jobs in Central/State Government undertakings. "A post/service with a pay scale carrying a maximum of not less than Rs. 4000 p.m. as basic is classified as a group "A" post."

2. It is clear from AFO 07/95 that pay scale carrying a maximum of not less than Rupees 4000 per month was classified as Group A" post. It would appear that by AFO No. 09/2000 dated 1442000 a copy of which has been annexed as Annexure VIII, the classification was altered. Clause 1 of the said AFO 09/2000 reads as

under:

"Airmen NC(E) is irrespective of their term of engagement are permitted to apply for group A" posts/services under Central/State Governments and equivalent jobs in public sector undertakings. "A" post/service with a pay scale carrying a maximum of not less than Rs. 13,500 p.m. as basic is classified as a group "A" posts."

3. It is not disputed that the petitioner was permitted to apply and appear in the examination which was held on 2082000. The petitioner has been successful in the said examination held for appointment to Group "A" post and an appointment letter dated 182001 being Annexure SAII has also been issued. The grievance of the petitioner is that although he has been selected for appointment to a Group A" post but the Respondents are not issuing "NoObjection" Certificate with the result he is not able to join the post. The instant petition has therefore, been instituted for issuance of a mandamus commanding the respondents to issue a "NoObjection" Certificate to the petitioner to enable him to join as Probationary Officer in the State Bank of India. The relief of quashing the order dated 2932001 passed by Respondent No. 2 as communicated on 1642001 as well as orders dated 2262001 and 1072001 passed by Respondent No. 3 has also been claimed. By these orders the representations filed by the petitioner have been rejected.

4. We have heard Sri Manoj Mishra for the petitioner and Sri S.K. Rai learned Counsel representing the Union of India. Learned Counsel for the petitioner submits that AFO No. 09/2000 dated 1442000 cannot be given retrospective effect so as to destroy the effect of the permission earlier given to the petitioner as per AFO 07/95 dated 1121995. Sri S.K. Rai, on the other hand submits that in view of AFO No. 09/2000 dated 1442000 Annexure VIII to the writ petition posts with a pay scale carrying a maximum of not less than Rs. 13,500 p.m. as basic pay are classified as a Group A" posts whereas the basic pay of the Probationary Officer of State Bank of India as on date is less than 13,500.

5. Having heard Counsel for the parties we are of the considered view that AFO 09/2000 dated 1442000 will not apply to the permission already given to the petitioner to apply and appear in the examination as per AFO 07/95 dated 1121995. Once the permission to appear in the examination was given as per rules contained in AFO 07/95 dated 1121995 any subsequent amendment in the rules governing grant of permission to appear in any examination for any post outside the cadre, will be of no avail unless the amendment is given retrospective effect. AFO 09/2000 dated 1442000 has not been given retrospective effect.

6. The writ petition is allowed.