

(2003) 12 PAT CK 0056

In the Patna High Court

Case No : CWJC No's. 797 of 2002, 4538, 4547, 4554 and 4621 of 2003

Ganesh Prasad Srivastava

APPELLANT

Vs

Punjab National Bank and Others

RESPONDENT

Date of Decision : 01-12-2003

Acts Referred:

Citation : (2004) 1 BLJR 73 : (2004) 1 PLJR 387

Hon'ble Judges : R.S. Garg, J; Nagendra Rai, J

Bench : Division Bench

Advocate : Alok Kumar and Madhuri Lata, in CWJC No. 797/02 and Shailendra Kr. Sinha, for the Appellant; S.K. Sinha in CWJC No. 797/02, C. Sinha, for the respondents No. 1 to 5, Manu Shanker Mishra, ASCCG and Rajni Kant Mishra, for the respondent No. 6, for the Respondent

Final Decision : Dismissed

Judgement

Nagendra Rai, J.—The petitioners of the four writ petitions, namely, CWJC Nos. 4538, 4547, 4554 and 4621, all of 2003, are the employees of the Canara Bank, whereas, the petitioner of CWJC No. 797/02 is an employee of the Punjab National Bank..

2. The question involved in all the cases is as to whether the qualification of "Sahityalankar" with English from Hindi Vidyapeeth Deoghar, is equivalent to Bachelor Degree/Diploma or certificate for the purposes of giving promotion, increment etc. in the service.

3. All the writ petitions were placed before a learned Single Judge, who, by order dated 15.9.2003, has referred the matter for authoritative decision by a Division Bench in view of the fact that the said question has wide-ranging effect. That is how the matter has been placed before us for decision.

4. The petitioners of the last four writ petitions are the employees of Canara Bank. They were appointed on daily wages and, thereafter, were appointed as permanent Sub-Staff on different dates. In the meantime, they acquired the

qualification of Sahityalankar with English from Hindi Vidyapeeth, Deoghar. They are aggrieved by the decision taken by the respondent-Manager, Staff Section (Workmen), Canara Bank, dated 15.2.2002, informing that their promotions from Sub-Staff to the clerical cadre under the Graduate category of the Bank have been rejected by the competent authority on the ground that the said promotions have not been considered favourably due to the fact that the recognition given to Sahityalankar examination conducted by Hindi Vidyapeeth, Deoghar, is not treated as full fledged decree for the purpose of releasing promotion and graduation increments. The said order has been annexed as Annexure 6 in CWJC No. 4538 of 2003. After passing of the aforesaid order, the petitioners of CWJC Nos. 4547, 4554 & 4621, all of 2003, represented the matter and the said decision has again been reiterated by orders dated 31.12.2002 and both the orders have been annexed as Annexures 7 and 9 in the three writ petitions.

5. So far as the petitioner of CWJC No. 797/2002 is concerned, he is aggrieved by the decision dated 21.6.1997 taken by respondent-Punjab National Bank, as contained in Annexure 6, whereby the benefit of priority marks for grant of increments to him on account of acquiring the qualification of Sahityalankar from Hindi Vidyapeeth, Deoghar, has been denied on the ground that the same is not equivalent to Bachelor degree.

6. Before proceeding to consider the respective cases of the parties, it is necessary to state the facts, which are not in controversy. The Bank has a scheme for promotion of Sub-Staff to clerical cadre on fulfilment of certain conditions and norms. For the promotion of Sub-Staff to clerical cadre under graduate category, the requirement is that such Sub-Staff, who complete their graduation and conform to the eligibility service stipulated, shall be called for interview for promotion to clerical cadre by the Sub-Committee and after interview the selection is to be made.

7. In 1991, the Indian Banks Association advised all the Banks including the Canara Bank that the Sahityalankar Examination along with English from Hindi Vidyapeeth, Deoghar, was recognized as equivalent to Bachelor degree, which was in the light of the recommendation of the Bihar Government. Thereafter, the Canara Bank on 6.12.1991 issued an instruction that passing of the Sahityalankar Examination alongwith an English examination from Hindi Vidyapeeth or from any other Indian University or Board of the same standard, can be treated as equivalent to graduation for all the purposes. The same view was again reiterated on 29.2.1996. Copies of the said decisions have been annexed as Annexures 1 and 2 to CWJC No. 4538/2003. Later on, the Indian Bank's Association informed the Bank that the Ministry of Human Resources Development, Government of India, had clarified that the recognition given to the examinations conducted by Voluntary Hindi Organisations is only with regard to the standard of Hindi prescribed in the equivalent Hindi Examination and it is not to be treated as full-fledged degree/diploma or certificate awarded by University or Education Boards and, thereafter, the respondent-Canara Bank

issued a circular to all its Branches dated 31.12.2001 clarifying that the recognition given to the examinations conducted by Voluntary Hindi Organisations is only with regard to the standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as full-fledged degree/diploma or certificate awarded by University or Education Boards as the case may be. Along with the said letter, a list of Hindi Examinations conducted by the Government recognised Institutions has also been given. A copy of the said letter has been annexed as Annexure 5 to CWJC No. 4538/2003. Item No. 4 of the said letter shows that the Sahityalankar certificate of Hindi Vidyapeeth, Deoghar, has been treated as equivalent to Hindi Examination in B.A.

8. The Central Hindi Directorate, Government of India, has issued a Press Note as back as on 5.5.1988 with regard to the value or equivalence to be attached to the examination conducted by the Voluntary Organisations for the purposes of promotion and propogation of Hindi. It has been clarified that the examination of Sahityalankar and other examinations conducted by the Voluntary Organisations are not conducted either by any Board or any University and as such they have not been treated as equivalent to examination conducted by the University or Board and so far as the value of the aforesaid examination to be given in the Government service is concerned, if any Government Undertaking or Semi-Government Undertaking require special qualification in Hindi then the qualification acquired by a candidate in the examination conducted by the Voluntary Organisation will be taken into consideration, but in no case the same should be equated or treated to be equivalent to the decree awarded by the University, or statutory body of the State Government. It was clarified in clear terms that the recognition given to the examination conducted by the Voluntary Organisation will be only with regard to the standard of Hindi prescribed in the equivalent Hindi examination and it should not be treated as equivalent to the degree awarded by the University or Education Board for any other purpose. A copy of the said Press Note was also attached along with the letter dated 17.9.2001.

9. The case of the petitioners in the last four writ petitions is that there was a policy decision of the Bank as evident from Annexures 1 and 2 to treat the qualification of Sahityalankar as equivalent to degree and they having acquired the said qualification and participated in the process of selection for promotion from Sub-Staff to clerical cadre under graduate category, which had started prior to 31.12.2001, when the said recognition was withdrawn, their cases should have been considered in terms of the earlier policy decision and the subsequent policy decision will not be a ground to deny promotion to them.

10. The case of the respondent-Bank, on the other hand, is that no doubt in 1991 and 1996 a decision was taken to treat the Sahityalankar examination with English from the said institution as equivalent to degree, but that was in ignorance of the Press Note of the Government of India. However, the matter was reconsidered in the light of the clarification issued by the Central Hindi

Directorate, Ministry of Human Resources Development, Government of India and the Indian Bank Association informed all the Banks including the Canara Bank that the earlier decision was wrong one and the said qualification should not be treated as equivalent to degree of a recognised institution and, thereafter, the Canara Bank rectified or clarified its earlier decision. As a matter of fact, there is no amendment of the policy or rule of the Bank regarding the recognition of the qualification, on the other hand, the earlier mistake committed by the Bank in recognising the said qualification/degree has been corrected in the light of the Press Note of the Government of India of 1988 and the subsequent clarification by the Central Hindi Directorate, Ministry of Human Resources Development, Government of India, as indicated above.

11. So far as the case of the petitioner of first writ petition i.e. CWJC No. 797/2002 is concerned, he was appointed in the subordinate cadre of the Punjab National Bank in 1973 and in 1982, he was promoted to the post of Clerk-cum-Cashier by the respondent-Bank on account of passing the Praveshika examination conducted by the Hindi Vidyapeeth, Deoghar, which is equivalent to Secondary Examination. Subsequently, he acquired the qualification of Sahityalankar with English which was treated to be equivalent to B.A. A copy of the said decision has been annexed as Annexure 1 to the said writ petition. The Indian Bank Association has also in 1993 advised the Bank in question to treat the Sahityalankar qualification for giving promotion and increments. He approached the Bank for the grant of priority marks for the purposes of increments but he same has been denied by the Bank, which is arbitrary and impermissible in view of its earlier decision.

12. The case of the respondent-Punjab National Bank, on the other hand, is that the Bank made enquiry from the Association of Indian Universities regarding status of Sahityalankar, in pursuance of which the Association of Indian Universities by its letter dated 7.6.1994 replied that the Hindi Vidyapeeth, Deoghar, is one of the Voluntary Institutions for promotion and propogation of Hindi and its certificates are not equated with Degree Examination. A copy of the said letter was appended as Annexure "A to the counter-affidavit. Before that, the Bank had made a query from Ministry of Human Resources Development about the status of Sahitya Alankar Certificate provided by the Hindi Vidyapeeth, Deoghar and the Department informed by letter dated 28.6.1987 that it could contact Akhil Bhartiya Hindi Sansthan Sangh, New Delhi. Then the Bank contacted said Akhil Bhartiya Hindi Sansthan Sangh and it replied that Sahitya Alankar was only equivalent to Hindi level of B.A. and it would not be treated as equivalent to complete Degree Examination. The same question arose in CWJC5 No. 119 of 1988, where some employees claimed benefit on the basis of certificates of degree provided by Hindi Vidyapeeth, Deoghar and the Bank took a stand that a decision was taken in the year 1987-88 at the highest level not to recognise the certificate of the aforesaid Hindi Vidyapeeth, Deoghar, for the purpose of promotion and appointment and the earlier decision of 1983 stood superseded by the subsequent decision of 1987. The said stand was accepted

and the writ application was dismissed on 16.5.1988, a copy of which has been appended as Annexure "D" to the counter-affidavit.

13. Thus, the case of the Bank is that it had recognised the qualification of Sahityalankar granted by the Hindi Vidyapeeth, Deoghar, as equivalent to degree up to 1985 but after receiving the said clarification in the year 1987 from the Government of India, Association of Universities and Akhil Bhartiya Hindi Sansthan Sangh, it changed its earlier decision and the same was not treated as equivalent to degree for the purpose of increments, promotion etc.

14. The sole question for consideration is as to whether the Sahityalankar qualification awarded by the Hindi Vidyapeeth, Deoghar, which is a Voluntary Organisation, is equivalent to a Bachelor Degree or not. Hindi Vidyapeeth, Deoghar, has been established for propogating and promoting Hindi. From the Press Note issued by the Central Hindi Directorate, Ministry of Human Resources Development, Government of India (Annexure "A" to the counter-affidavit of CWJC No. 4538/03), it is clear that the Government of India has recognised the Hindi Organisations, including the Organisation in question, for the sole purpose of propogation and promotion of Hindi. It provides that in case of employment in Government or the Semi-Government service, if Hindi is required to be a special qualification, then the candidates having certificates from such organisations may be eligible for the said employment but in case any other qualification other than the Hindi is required then the certificate granted by the Voluntary Organisations cannot be treated to be equivalent to a certificate, degree or diploma conferred by the different Universities and the same will not be recognised as qualification of High School, Intermediate or B.A. When the Indian Bank Association sought clarification from the Central Hindi Directorate, Ministry of Human Resources Development, then it clarified the same by letter dated 17.9.2001 that the recognition is only with regard to the standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as a full-fledged degree, diploma or certificate awarded by the University or Educational Boards, as the case may be. As back as in the year 1987, the Ministry of Human Resources Development, New Delhi, on 28.6.1987 and the Akhil Bhartiya Hindi Sansthan Sangh, New Delhi, on 29.6.1987 clarified the said position as evident from Annexures A & B to the counter-affidavit filed in CWJC No. 797/2002.

15. Thus, it is clear that the qualification of Sahityalankar obtained from Voluntary Organisations, including Hindi Vidyapeeth, Deoghar, is with regard to the standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as Bachelor degree awarded by a University or Educational Board etc. of the State. Therefore, in a case where minimum qualification is prescribed as Bachelor degree, a person cannot claim promotion or other benefits by virtue of acquiring a qualification of Sahityalankar from Voluntary Organisations like Hindi Vidyapeeth, Deoghar. Though, it is well-settled that where process of selection/promotion etc. had started, then the rule or Policy, which was in force at the time when the process had started, will apply, but the said principle has no

application in the present cases. In the present cases, the Banks under wrong impression were treating the qualification of Sahityalankar as equivalent to degree. When the matter was clarified by the Central Government and they were reminded of the earlier Press Note of the Central Government, they have rectified that mistake. Subsequent circular or instruction issued by the respondent-Banks not treating the said Sahityalankar qualification as equivalent to Bachelor degree is only a clarification and not the change of Policy or Rule of the Bank. NO vested right of the petitioners of the last four writ petitions who are employees of the Canara Bank, has been taken away by the aforesaid decision of the Bank, which has rectified the earlier mistake committed by it. So far as the case of the petitioner of CWJC No. 797 of 2002, who is an employee of the Punjab National Bank, is concerned, already a decision was taken long back not to treat the aforesaid qualification as equivalent to degree. This apart, the decision taken by the Punjab National Bank not to treat Hindi Sahityalankar with English from Hindi Vidyapeeth, Deoghar, as equivalent to degree has been upheld by this Court as back as in the year 1988 in CWJC No. 1191 of 1988.

16. For the reasons aforementioned, I find no merit in any of the five writ petitions and, accordingly, they are dismissed.