
(2001) 12 J&K CK 0007

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1092 of 1997

Harbans Lal

APPELLANT

Vs

State Bank of India and ors.

RESPONDENT

Date of Decision : 03-12-2001

Acts Referred:

Constitution of India, 1950 — Article 16, 226

Citation : (2003) 2 SCT 263

Hon'ble Judges : Tejinder Singh Doabia, J

Bench : Single Bench

Advocate : Gagan Basotra, Sunil Sethi, Advocates appearing for the Parties

Judgement

Tejinder Singh Doabia, J.—Appointment of respondents 6 to 12 as messengers is being called in question mainly on the two grounds : First

ground is that these respondent were having some connections with the officers of the Bank and second ground is that they were working as

canteen boys of the canteen run by the Staff Association of State Bank of India and, therefore, they should have been regularised as such.

2. With regard to first submission the factual averments made for each of the private respondents 6 to 12 be noticed.

3. Respondent 6 is said to be relation of one Mr. P.C. Sharma. He is said to be an officer in regional office Jammu. It is stated that he exercised his

influence. Fact remains that he was not the member of the selection committee. With regard to respondent 7 it is stated that he mentioned his

address as C/o B.B. Sadotra. Mr. B.B. Sadotra is said to be Chairman of the selection board. With regard to this respondent it is further stated

that it was on account of influence of respondent No. 5 respondent No. 7 came to be selected. Respondent 8 is said to be son of an employee of

State Bank of India and is said to be relative of one O.P. Gupta who is an officer in the regional office at Jammu. This O.P. Gupta is said to be

exercised influence on the chairman of the selection committee. As to what precise relationship is has not been indicated in para 14 of the writ

petition. It is in this manner challenge is being made to the selection of the respondent No. 8. So far as respondent 9 is concerned, he is said to be

son of a Guard of State Bank of India. It is on account of influence said to have been exercised by the father of the respondent 9 this respondent is

said to have been selected. So far as respondents 10 to 12 are concerned it is stated that they are not permanent residents of the State of Jammu

and Kashmir and therefore, they could not be selected. It is stated that selection being district wise, District Employment Exchange could not refer

the case of the respondents 10 or 12 who are not State subject. In addition to this it is urged that petitioners being canteen boys were entitled to

seek regularisation. It is stated that these petitioners have been working as canteen boys for more than six years except petitioner No. 5 who is

said to have been working for about two years.

4. Stand taken by the State Bank of India be now taken note of:

It is stated that in the year 1997 posts of messngercumpeons in the State Bank of India were to be filled in each district of the State of Jammu and

Kashmir. It is stated that request was made to the District Employment Exchange to sponsor eligible candidates for the post of messenger. Names

of the petitioners as also the private respondents were sponsored. They were all interviewed. Petitioners secured less marking and it was for this

reason they were not selected. With regard to merit position stand taken is to the following effect :

It may further be submitted that the petitioners No. 1, 2, 3, 4, 5 secured 35/50, 32/50, 32/50, 29/50 & 40/50 marks respectively in the interview,

whereas the respondent No. 6 7, 9, 10, 11 & 12 secured 48/50, 42/50, 42/50, 43/50, 43/50 & 40/50. The respondent No. 8 secured 37/50 but

his interse merit was determined in the Rajouri District as the respondent No. 8 was a candidate who had competed in the said District. Since the

private respondents, as submitted above, had secured higher marks in the interview than that of the petitioners, as such, the petitioners were to

selected to the post of Messengers and as such no cause of action has accrued to

the petitioners for filing the present writ petition.

5. With regard to allegation that some of the respondents were related to the officers of the bank is concerned all that is required to be said is that

merely because some of the respondents were related to the officers/senior officers of the bank would not lead to the conclusion that their selection

is vitiated. However, allegation against the respondent No. 7 who is said to have given the address of the Chairman of the bank may be on

different footing. So far as relationship with the officers of the bank and allegation that for this purpose selection was not fair is concerned, this is

without any basis. With regard to allegation that respondent No. 8 had relation with O.P. Gupta, it has been categorically stated that the

respondent No. 8 had no relation with O.P. Gupta and O.P. Gupta was not a member of the selection committee. With regard to allegation of

selection of respondent No. 7 who is said to have given address as C/o Mr. B. B. Sadotra who is told to be Chairman, I am of the opinion that

merely because respondent No. 7 has given his address C/o Mr. B. B. Sadotra would not lead to a conclusion that the Chairman of the selection

committee has given undue benefit to respondent No. 7. Only giving address by the respondents C/o certain officers would not lead to a

conclusion that on account of this reason selection process is vitiated. With regard to the fact that some of the candidates were not State subjects

and their names could not be sponsored is concerned all that is required to be said is that requirement of a person being a State subject is

applicable to person who seeks employment within the State. Such requirement cannot be made mandatory when employment is being sought with

State Bank of India.

6. Other argument is that the petitioners have been working as Canteen boys which is being run by the Staff Association of the State Bank of India

and therefore, their services be regularised. This is a matter which has been considered in case reported as State Bank of India v. State Bank of

India Canteen Employees Union, 1998(3) SCT 12 (SC) : AIR 2000 SC 1518. In the above case it has been held that category to which

petitioners belong are not the employees of the bank. It was observed :

31. In the present case also, the facts are similar. There is no obligation statutory or otherwise to run the canteens by the Bank. The scheme is

stated above only provides for grant of subsidy, for promoting running of the canteen and if some more cost is incurred in running the canteen, the

members of the staff working in that particular branch are required to bear it. The Bank is not supervising or controlling the work or the details

regarding the canteen or its employees appointed by the Local Implementation Committee. Auditing the work of Local Implementation Committee

whether subsidy given by it is properly utilised or not also would not be a ground for holding that Bank is having any control in running the canteen.

Bank is not taking any disciplinary action or directing any canteen employee to do a particular work or for that purpose on scheme is laid down by

the Bank. Not only this, the other most important aspect in the recruitment by the Bank is to be made as per the statutory rules framed by it after

giving proper advertisement, test and or interview. As against this for appointing a canteen employee there are no rules framed by the Bank.

It was further observed :

For the canteens run by the Local Implementation Committees there is no question of its recognition by the State Bank as in the case of

recognised canteens in the Railways where Railway Board granted recognition to the canteen as per prescribed detail in the Railways

Establishment Manual. On the contrary, the status of canteens run by the Local Implementation Committees would be nonstatutory nonrecognised

canteens.

7. It is held that as these employees are not under control of the State Bank of India their appointments were never governed by the rules framed

by the State bank of India. Therefore, this is a matter which is squarely covered by the aforementioned decision and it is not possible to grant any

relief on this matter. The net result is this petition is found to be without merit and is dismissed.