
(1980) 04 MAD CK 0034
In the Madras High Court
Case No : W.A. No. 165 of 1980

K. Palanikumar

APPELLANT

Vs

Indian Bank and Another

RESPONDENT

Date of Decision : 22-04-1980

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 16

Citation : (1982) 1 LLJ 4

Hon'ble Judges : M.M. Ismail, C.J;V. Ratnam, J

Bench : Division Bench

Judgement

M.M. Ismail, C.J.—This is an appeal against the order of Mohan, J., dated 6-3-1980 dismissing Writ Petition No. 2482 of 1979. [1980-I

L.L.J. 414] : K. Palanikumar Vs. Indian Bank and Another, .

2. An advertisement appeared some time in December, 1977 in ""The Hindu"" calling for applications from candidates for appointment as

Clerk/Shroff under the management of the Indian Bank. the appellant herein was one such applicant. Under column 6(h) of the application, the

candidate was required to furnish the names of relatives, if any, working in the Indian Bank and the nature if relationship together with the name of

the branch where they work. This column was left blank by the appellant in the application filed by him. The appellant, however, was appointed as

a clerk by an order dated 15-11-1978, and he was called upon to fill up column 11 of the service joining report. That column was also required

the appointee to give the name or names of relations, if any, in the service of the bank and the nature of his relationship with them. That column also

left blank by the appellant herein. Subsequently, the Bank found out that the appellant's brother by name K. Rajagopalan was employed at the

relevant time as an Officer in the Bank's Bombay Fort branch. In view of this, the Bank took the view that there was deliberate suppression of

particulars in the application form as well as in the service joining report and, therefore, the services of the appellant herein as probationer could be

terminated. Consequently, on 14-5-79 the Bank passed the following order :

As per clause 3 of the terms and conditions contained in the appointment order cited above, you are terminated from the services of our Bank

forthwith.

Though our services can be terminated at the sole discretion of the Bank without assigning any reasons therefore we have to inform you that you

secured appointment in our Bank by suppressing the fact that your brother Shri K. Rajagopalan is employed and is non working as an Officer in

our Bombay Fort Branch at the time of your applying for a post In our Bank as well as on the date of your joining the Bank.

You will be paid a month's salary in lieu of one month's notice by our Mount Road Branch.

It is this order that was challenged in the present writ petition.

3. We must in this context refer to clause 3 of the terms and conditions of appointment to which the order itself makes a reference. Clause 3 reads

as follows :

You will be on probation with salary for a period of six months from the date of joining. Notwithstanding anything contained in this letter; your

services are liable to be terminated at the sole discretion of the Bank even before the expiry of the probationary period without assigning any

reason therefor, but with one month's notice or on payment of a month's salary and allowances in lieu of notice.

Obviously and avowedly the order was passed pursuant to this clause 3. If so, the Bank had a right to terminate the services of a probationer

without assigning any reason whatever, but on payment of a month's salary which condition had been complied with in the present case. However,

the learned counsel for the appellants contends that so long as the Bank has referred to a reason, namely suppression of the fact that his brother

was in the service of the Bank at the relevant time, unless that reason can stand the test of reasonableness, the order of termination cannot be

sustained. We are unable to accept this argument. Admittedly the appellant did

not fill up the relevant columns at both the stages and thereby he suppressed the information. Learned counsel for the appellant contends that the appellant need supply the information only if he wanted to get the job on the strength of his brother being in the service of the Bank, but if he wanted to get the job on his own merit, he need not mention that particular fact. He failed to furnish information called for to be furnished by him both in the application and in the service joining report. We are unable to appreciate this argument for the reason that what is relevant is whether the appellant failed to fill up a particular column and which amounted to suppression or not, and not whether the appellant wanted to get the job on his own merit or on the strength of his brother being employed in the same Bank. Learned counsel for the appellant contended that the suppression cannot be said to be a material suppression and that question could be decided by this Court. We are unable to agree. Whether a suppression of fact is material or immaterial, it is only for the Bank to decide.

4. The next contention of the learned counsel for the appellant is that in certain other cases where the employees had suppressed certain material facts, they have been treated differently and this amounted to violation of Arts. 14 to 16 of the Constitution of India. In the affidavit, the appellant gave three instances wherein the three persons have been dealt with differently. The counter filed on behalf of the Bank has explained the circumstances under which those persons were dealt with. That will show clearly that the case of the appellant was not identical with that of the other three persons and, therefore, there cannot be any violation of the provisions of Arts. 14 to 16 of the Constitution.

5. Learned counsel contended that there has been violation of the principles of natural justice because the other persons were heard whereas the appellant was not heard. Here again, when the two columns referred to above had not been filled up on both the occasion and there was suppression of particulars and under the terms and conditions of appointment when the services of a probationer could be terminated without assigning any reason whatever on one month's notice or on payment of a month's salary and allowances, the question of violation of the principles of natural justice does not arise.

6. Lastly, the learned counsel contended that the order amounted to a punishment and, therefore, the punishment having been awarded without previously hearing the appellant, the order cannot be sustained. We are not able to accept this argument also because of two facts, namely, that clause 3 of the terms and conditions of appointment which constituted a contract between the parties provided for the termination of the services of the appellant without assigning any reason therefore. Even otherwise, as the order itself was made on the basis of suppression of material fact on two occasions, we are unable to say what further opportunity should have been given to the appellant herein when admittedly the relevant columns on both the occasions had not been filled up. Consequently, the appeal fails and the same is dismissed.