
(2017) 01 AHC CK 0315
In the Allahabad High Court
Case No : 898 of 2013

Prateek Srivastava

APPELLANT

Vs

Assistant General Manager P.N.B. And Others

RESPONDENT

Date of Decision : 05-01-2017

Acts Referred:

Citation : (2017) 01 AHC CK 0315

Hon'ble Judges : V.K. Shukla, Sangeeta Chandra

Bench : Division Bench

Advocate : Siddharth Khare, Sanjai Singh

Judgement

1. Prateek Srivastava is assailing the validity of the order dated 01.05.2013 passed by the learned Single Judge in Civil Misc. Writ Petition No. 22619 of 2013 (Prateek Srivastava Vs. A.G.M., P.N.B. and two others) wherein relief claimed by the petitioner-appellant for treating his candidature for being appointed as Class-IV (Peon) at Punjab National Bank, District Agra, has been turned down.

2. Brief background of the case is that Punjab National Bank circle office area Agra was under requirement to recruit Class-IV (Peon), accordingly a letter was sent to the Employment Officer of Employment Office, Agra mentioning therein the eligibility criteria of the candidates. In response to the said requisition that has been so made, list of candidates was received from the Employment Exchange, Agra along with covering letter bearing reference No. U-24/12/1277 dated 13.12.2012 wherein categorical mention was made that qualification, caste and age of the candidates is to be checked/verified by the respondent Bank himself.

3. Petitioner-appellant was one of the candidate whose name has been recommended by the Employment Exchange, Agra and it appears from the record that petitioner-appellant stood selected based on interview held on 14.01.2013 and appointment letter was issued on 07.02.2013. Petitioner-appellant as per the terms and conditions of appointment letter was

directed to submit entire documents relating to age etc. Thereafter in proceeding so undertaken, it was found that petitioner-appellant was over age and accordingly his candidature was cancelled. Aggrieved, petitioner-appellant preferred writ petition and said writ petition has been dismissed and thus impelling the petitioner-appellant to prefer the present Special Appeal before this Court.

4. On the presentation of the Special Appeal in question, this Court on 31.05.2013 has proceeded to pass following order, as follows:- "A requisition was sent by the Bank to the Employment Exchange calling suitable candidates for its office, in which upper age limit mentioned as 24 years was to be seen as on a date when the petitioner/appellant claims to have been within the age limit. It is well settled law that in case of conflict between the rule and advertisement as regards eligibility conditions, the rule will prevail and not the advertisement. Similar would prima facie be in case of conflict between the Rule and Requisition.

The respondent Bank will file Counter affidavit within one month annexing the Rule because of which candidature of the appellant has been rejected. List thereafter."

5. Pursuant to the order passed by this Court, counter affidavit has been filed and along with counter affidavit categorical mention has been made that on the date of joining i.e. on 13.02.2013 while going through original documents of the petitioner-appellant was found over age, as such the letter cancelling the appointment of the appellant was issued. It is submitted that as per circular letter No. 25/2008 of the respondent Bank the age of the candidate should be between 18 to 24 years as on 1st July if the vacancies are identified in 2nd half of the year. Accordingly on 1st July 2012 the petitioner-appellant has crossed the age of 24 years and cancellation of his appointment by the Bank is strictly as per rules relating to the appointment of peons in the Bank.

6. To the counter affidavit, rejoinder affidavit has been filed and thereafter, present Special Appeal has been taken up for final hearing/disposal with the consent of the parties.

7. Sri Siddharth Khare, learned counsel for the petitioner-appellant submitted with vehemence that in the present case as per requisition that has been sent to the Employment Exchange, Agra, eligibility of candidate was to be seen as on 1st July, 2011 and as per the same, petitioner-appellant was below 24 years and once no material fact in question has been concealed by the petitioner-appellant and appointment letter had been issued to him, then appointment could not have been cancelled as has been done in the present case, as such present Special Appeal deserves to be allowed.

8. Sri Sanjay Singh, learned counsel for the respondents-Bank on the other hand contended that action that has been taken against the petitioner-appellant is strictly in consonance with the policy in question that holds the field for making selection and appointment, and on its face value petitioner-appellant is over age

and as such no interference be made.

9. After respective arguments have been advanced, at the very outset we proceed to take note of the Regulations holding the field for making selection and appointment of Subordinate Staff, same is as follows:- HRD DIVISION CIRCULAR LETTER NO. 25/2008

Reg:- RECRUITMENT OF SUBORDINATE STAFF

The specifications for recruitment of staff in subordinate cadre have been laid down in the Management Development Department Circular No. 2 dated 20.04.1972 and personal Division Circular Letter No. 46/79 dated 29.08.1979

The specifications with regard to the age and qualification for recruitment in subordinate cadre were revised vide P.D. Circular letter No. 18/87 dated 18.04.1987 and HRD Circular Letter No. 9/2004 dated 14.10.2004 respectively.

The educational qualification and age have since been revised by the board for recruitment in subordinate cadre and the same are mentioned as under.

A Educational Qualification (For all categories)

Pass in XIIth Standard or its equivalent, with basic reading/writing knowledge of English

B AGE Minimum 18 years and Maximum 24 years as on 1st January of the year if the vacancies are notified within 30th June and as on 1st July if the vacancies are notified in the second half of the calendar year.

C RELAXATION OF UPPER AGE LIMIT

1. SC/ST candidates
2. SC/ST Physically/ orthopaedically Handicapped person.
3. OBC
4. OBC Physically/ orthopaedically Handicapped person.
5. Physically orthopaedically Handicapped person.
6. Ex. Servicemen (with minimum of 6 months continuous service in armed forces)
7. For children/family members of those who died in the 1984 riots

By 5 years

By 15 years

By 3 years.

By 13 years

By 10 years

By 3 years in addition to the length of military service.

By 3 years.

Maximum age limit of all relaxations combined should not exceed 45 years unless it is so provided in Government directive. While making recruitment in subordinate cadre, these may be kept in view.

10. Perusal of Regulations quoted above would go to show that minimum age prescribed for being appointed has been prescribed as 18 years and maximum age has been prescribed as 24 years and same has to be in reference of 1st date of July of the calendar year, if the vacancies are notified in 2nd half of the calendar year. In the present case, accepted position is that vacancies have been notified in the 2nd half of the calendar year i.e. on 01.12.2012, and it may be true that due to inadvertence and over sight in the requisition for recruitment of peon, age has been prescribed minimum as 18 years and maximum as 24 years as on 01.07.2011, but the fact of the matter is that at the point of time when name of the candidates have been sponsored, categorical mention has been made in the covering letter of Employment Exchange dated 13.12.2012 i.e. in reference of educational qualification, caste and age related documents be verified by the Bank itself. This much is clear that candidature of candidate sponsored has been subject to verification proceeding at the level of Bank, specially is in reference of educational qualification, caste and age. This much is accepted position that petitioner-appellant had faced interview and had been selected thereafter, verification proceedings were to be carried out, then at the said point of time, when verification proceeding has been undertaken, then document relating to educational qualification, caste and age has been checked and then he has been found to be over age and his engagement has been found to be in breach of circular and accordingly his engagement made, has been cancelled.

11. Once Circular in question has been holding the field of selection and appointment of Subordinate staff contains in itself details about educational qualification and prescribed age, then merely because due to inadvertence and over sight in the requisition form it was mentioned as on 1.7.2011 same will in no way proceed to improve the the case of petitioner, inasmuch as in case there is any conflict in between Circular that holds the field and requisition that has been sent, then in the event of conflict being there, the policy holding the field for selection and appointment, will hold the field and not at all requisition in question.

12. Consequently, in the fact of the present case, once accepted position is that as per policy holding the field of selection and appointment of Subordinate staff in reference of vacancies that are notified in 2nd half of the calendar year, age has to be seen as on 01.07.2012, as here vacancies have been notified on 01.12.2012, then certainly appellant has crossed the age of 24 years. In view of this, once as on 01.07.2012 petitioner-appellant was over age then rightly

Punjab National Bank, Agra in its turn has proceeded to cancel the candidature of petitioner-appellant. In view of this, no case has been made out to interfere with the order passed by the learned Single Judge as well as Bank Authorities. With the above, present Special Appeal stands dismissed.