
(2013) 09 DEL CK 0120

In the Delhi High Court

Case No : Writ Petition (C) No. 2034 of 2013

Rajesh Kumar

APPELLANT

Vs

State Bank of India and Others

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0120

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

**Advocate : Kripa Shankar Pd. and Dr. Brahmeo Dev Prasad, for the Appellant;
Rajiv Kapur and Ms. Vatsala Rai, for the Respondent**

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—Rejoinder was not taken on record by the registry as it is on A-4 size paper. So that the case is not delayed further, I take the rejoinder on record on being filed in Court today. Let the matter be heard. By this writ petition, petitioner challenges the order of termination of his probationary services by the respondent no. 1. Petitioner's services were terminated in terms of the letter dated 31.5.2012.

2. The case of the petitioner is that petitioner joined the services in terms of those probationary terms which entitled a third test being given i.e. even if the petitioner fails in the first two tests for confirmation after probation period, he would be given one more opportunity i.e. a third opportunity.

3. A reference to Annexure P-6 shows that for the Probationary Officers 2009-2010 batch, a third test was provided, however, respondent no. 1 contends that when petitioner's probationary period was extended by the letter dated 13.5.2011, it was made clear that this was in supersession of all earlier directions and pursuant to the directions in this letter of extension of probation dated 13.5.2011 only one more test would be granted. This letter dated 13.5.2011 reads as under:-

HR/L&D/451

13/05/11

Mr. Rajesh Kumar,

PF No. 5968739

Probationary Officer-2009-10 batch

State Bank of India

Mainpuri Main Branch

Mainpuri

Dear Sir

PERIOD OF PROBATION/TRAINING

In terms of our letter No. HR/RC/23/30 dated 28.04.2009 you were offered appointment in the Bank as a Probationary Officer and placed on probation/training with effect from 15.5.2009. During the period of probation you were provided intensive on the job and classroom training. For the purpose of considering your case for confirmation in JMGS-I on completion of the probation/training period of two years, a confirmation test were administered on the 27th February 2011 to evaluate the extent to which you have been able to equip yourself for functioning as a junior officer of the Bank and whether you can be confirmed in the JMGS-I in terms of the offer of appointment letter.

2. We regret to note that you have not performed satisfactorily in the confirmation test and have not even secured the minimum qualifying marks for confirmation in JMGS-I. You have scored only 81.50 marks out of maximum score of 200 in the confirmation test. You have thus not found suitable for confirmation in Bank's service as an officer in JMGS-I.

3. As such, it has been decided to extend your probation for 6 months and to give you another chance to write a confirmation re-test. You have to appear for confirmation re-test, which will be scheduled in due course but within period of next 6 months.

In the said re-test you will have to score a minimum of 50% (45% for SC/ST/PWD) in order that you may be considered for confirmation on completion of extended period of probation. In case you fail to score 50% (45% for SC/ST/PWD) or more marks in the re-test, the Bank will be constrained to terminate your services from the Bank, without any further notice, in terms of the said offer of appointment letter dated 28.04.2009, which may please be noted.

4. Please take the forthcoming re-test for confirmation on the Bank service seriously and in the mean time arrange to equip yourself with the job knowledge required to rectify the deficiencies. In order that you may have an idea as to

where you need to lay special focus, we advise you to go through mark sheet of confirmation test.

5. This letter supersedes all the earlier communications except the offer of appointment letter.

6. Please sign on the duplicate of this letter as a token of acknowledgement and having noted its contents.

Yours faithfully,

General Manager (NW-II)

(Appointing Authority)

4. Therefore, the issue to be decided by this Court is whether petitioner should ordinarily ought to have got a third attempt for confirmation of his services (though at a lesser grade of JMGS-I and not higher grade of MMGS-II), whether the letter of the respondent no. 1 dated 13.5.2011 brings about a binding change in this position.

5. In my opinion, respondent no. 1 is justified in arguing on the basis of the principle of estoppel relying on the letter dated 13.5.2011 inasmuch as, admittedly the petitioner pursuant to this letter dated 13.5.2011, took benefit of the extended period of probation. Once the petitioner has taken the benefit of the letter dated 13.5.2011 by getting an extended period of probation, petitioner is bound by the conditions stated in the letter dated 13.5.2011 that no further test i.e. a further third test would not be given to the petitioner. Therefore, petitioner is not justified in contending that he should have been given the third test. I may state that if what the petitioner argued for the third test was on the basis of statutory provisions with respect to the respondent no. 1, then position may have been different, however, the original appointment terms are contractual, and therefore, I do not find any illegality in the respondent no. 1 in not granting a third test in terms of the letter dated 13.5.2011 and which has been acted upon by both the parties. I may also note that it is not the case of the petitioner that there is any discrimination against him on the ground that some other persons have been granted the third opportunity but the petitioner has not been granted the third opportunity. In view of the above, I do not find any merit in the petition, and the same is therefore dismissed, leaving the parties to bear their own costs.