

(2015) 05 AHC CK 0280

In the Allahabad High Court

Case No : Writ A. Nos. 8829, 9498 and 8812 of 2015

Ritesh Kumar Mishra

APPELLANT

Vs

Union Bank of India and Others

RESPONDENT

Date of Decision : 22-05-2015

Acts Referred:

Citation : (2015) 147 FLR 184

Hon'ble Judges : B. Amit Sthalekar, J.

Bench : Single Bench

Advocate : Rituraj Singh, A.K. Dubey and R.K. Ojha, for the Appellant; Vivek Ratan Agrawal, S.C., for the Respondent

Final Decision : Dismissed

Judgement

B. Amit Sthalekar, J.—Heard Sri Radhakant Ojha, learned Senior Counsel assisted by Dr. Rituraj Singh for the petitioner and Sri Vivek Ratan Agrawal, learned Counsel for the respondents.

The petitioners in these writ petitions are seeking quashing of the order dated 6.1.2015 whereby the services of the petitioners as House-Keeper-cum-Peon have been terminated.

Since common questions of law and fact are involved in all the above writ petitions therefore, all the writ petitions are being taken up together and are being decided by a common order.

2. The case of the petitioners is that in pursuance of the advertisement dated 27.6.2013 they submitted applications for the post of House-Keeper-cum-Peon. The advertisement clearly provided under the Head Educational Qualification that the candidate must be 10th standard pass or equivalent examination but he should not have passed 10+2 Examination. In pursuance of the advertisement the applicants submitted their application forms which are on record and Item No. 11 in front of Educational Qualification it was mentioned "High School passed". Thereafter on verification of documents filed by the petitioners it came

to light that all of them had passed the 10+2 Examination also and in this view of the matter, they were held to be ineligible for applying for the post of House-Keeper-cum-Peon in terms of advertisement dated 27.6.2013. It was noticed that the petitioners had submitted their application forms for the post of House-Keeper-cum-Peon by concealment of fact, only disclosing that they were High School passed but concealing the fact that they were also 12th standard passed.

3. A show cause notice was issued and departmental proceedings were initiated against them and in the enquiry it has come on record that the petitioners have suppressed material fact that they had also passed 12th standard and this fact was deliberately concealed by them while submitting their application forms. When the petitioners were confronted with this fact they also submitted a letter, copy of which has been filed along with the counter affidavit stating categorically that they qualified High School but that they have not passed 12th standard.

4. Sri Radhakant Ojha, learned Senior Counsel at the outset submitted that higher qualification can never be treated as disqualification for any post and therefore mere fact that the petitioners had qualified 10+2 Examination would not be a ground for ousting the petitioners for the post of House-Keeper-cum-Peon or for terminating their services on that count.

5. Reliance has been placed on the judgments of the Supreme Court in the case of Mohd. Riazul Usman Gani and Others Vs. District and Sessions Judge, Nagpur and Others, , and Munna Roy Vs. Union of India (UOI) and Others, .

6. Sri Vivek Ratan Agrawal on the other hand rebutting the submissions of Counsel for the petitioners submitted that the petitioners had never challenged the advertisement where it was provided that a candidate should not be 10+2 passed and since they have appeared in the Examination therefore without challenging the advertisement they cannot raise this issue at this stage. His second submission was that the petitioners had deliberately concealed the material fact from the respondents by clearly stating in their application forms that they were High School passed without further disclosing that they had also passed the 12th standard.

7. It is also submitted by Sri Vivek Ratan Agrawal that the petitioners in their letter, which has been filed at page 39 of the counter affidavit, had clearly stated that they had not passed 12th standard examination and had again filed affidavit, which is at page 41 of the counter affidavit stating that they had passed High School but had not passed Intermediate Examination. This amounts to clear concealment of true facts from the respondents and irrespective of the fact that whether the petitioners would succeed in obtaining appointment even if they had actually passed 10+2, departmental proceedings were initiated against the petitioners on the ground of suppression of material fact.

8. During the course of arguments however when Sri Ojha was confronted with these facts regarding the statement given in writing by the petitioners as well as affidavit to that effect that they had not qualified Intermediate Examination,

could not dispute the fact that the petitioners were clearly guilty of concealment of material fact.

9. Respondents in their counter affidavits have also brought on record an affidavit filed by each of the petitioners stating categorically that they have passed High School but they have not passed Intermediate Examination. Even otherwise the judgments relied upon by the petitioners do not hold good since the petitioners had never challenged the Advertisement dated 27.6.2013 in which a condition was imposed that candidate for the post of House Keeper-cum-Peon should not pass 10+2.

In this view of the matter, I am of the view that the petitioners are not entitled to any relief in the writ petition. I find no illegality or infirmity in the impugned order dated 6.1.2015.

The writ petitions lack merit and are accordingly dismissed.