

(1997) 10 DEL CK 0062

In the Delhi High Court

Case No : Civil Writ Appeal No. 2388 of 1995

Sanjay Gulati

APPELLANT

Vs

State Bank of India and Another

RESPONDENT

Date of Decision : 01-10-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 71 DLT 251 : (1998) 44 DRJ 538

Hon'ble Judges : K. Ramamoorthy, J;Devinder Gupta, J

Bench : Division Bench

Advocate : A.K. Sikri and Jagat Arora, for the Appellant;

Judgement

Devinder Gupta, J.

(1) The petitioner is seeking direction against the respondent for regularisation of his service as Assistant Engineer (Civil) with all benefits of seniority. Provident Fund, Employees' Family Pension, fixation of pay etc. interims of Circular letter dated 14.3.1995 with further direction to respondent-Bank to pay to him salary at par with the regularly deployed Assistant Engineer (Civil) and restraining it from terminating his service.

(2) The petitioner holds a degree in B.E. (Civil) with 63.4% marks and claims that earlier he had joined service with M/s. Allied Architects in July, 1989 where he worked till September, 1993 and was drawing a salary of Rs. 4,200.00 p.m. On 2.6.1991 respondent-Bank through advertisement Annexure P-1 invited applications for appointment of Site Engineers in the grade of Rs. 1750-2250 with consolidated monthly salary. It is the petitioner's case that 259 applications were received. The petitioner was one of the candidates, who also received call letter for interview and was duly selected and consequently was given appointment through letter Annexure P-3 dated 7.9.1993 for a period of six months. On 16.9.1993 he joined the duties and was posted at Agra. Service agreement was also executed on 16.9.1993. Keeping in view the performance

and in the interview he was given an initial consolidated salary of Rs. 2,250.00 p.m., at the maximum of the grade. Though he was getting salary of Rs. 4,200.00p.m. from his earlier employer, the petitioner states that he accepted the appointment at a lower salary because of bright prospects and future and security of a regular appointment, which was assured to him at the time of interview. He was transferred from Agra to Delhi and was not paid T.A., which is given to other regular employees. On 24.8.1994 respondent-Bank issued an advertisement for various posts, including 17 posts of Assistant Engineer (Civil) in the pay scale of Rs. 2100-4020. The petitioner represented for regularisation of his service as Assistant Engineer (Civil). Instead of regularisation he was advised to -submit an application for the post and was assured of selection. The petitioner accordingly submitted his application. Despite various assurances held out to him neither his service was regularised, nor he was called for interview. No call letter was received by him. As such he was left with no other option except to approach this Court with the aforementioned reliefs. It is claimed by him that he was appointed on the basis of a proper selection by a Selection Board after due consideration. Having undergone selection process earlier he could not be made to appear in interview again for the purpose of regularisation. Having worked continuously with the respondent-Bank, he was entitled for being regularised for which assurances were also held out to him.

(3) The petitioner's claim is resisted by the respondent. In reply filed on the affidavit of K. Sampath, Assistant General Manager (Premises), State Bank of India, Local Head Office, New Delhi it is specifically denied that any assurance, as alleged, was ever held out to the petitioner. It is stated that in the advertisement Annexure P-I dated 2.6.1991, inviting applications for Site Engineers it was clearly stated that the post was purely on temporary basis. The petitioner was paid only consolidated salary and was initially engaged only for a period of six months or till completion of the project, whichever was earlier. The petitioner accepted his status as Temporary Site Engineer, for which purpose he also executed an agreement. It is also stated that for recruitment of Assistant Engineer (Civil) to be appointed in J.M.G. Scale I, are permanent posts, an advertisement was issued. Recruitment was done by the Central Recruitment Board, which is an independent body. Advertisement was open to general public who were eligible, as per the eligibility criteria laid down in advertisement, Annexure P-8. There were 19 vacancies, out of which 5 were in General Category. In all 1929 applications were received out of which 1317 were from General Category candidates. The petitioner was also one of the candidates in the General Category, A Screening Committee was constituted for short-listing candidates, to be called for interview. 51 candidates were short listed in the General Category for the purpose of interview. In view of the criteria adopted by the Screening Committee, name of the petitioner could not find place in the short-listing candidates, Therefore, he was not called for interview. Respondents have stated that since the petitioner was appointed, pursuant to the advertisement Annexure P-I, purely on temporary basis for particular project

and was continued thereafter on the basis of the specific agreement, he has no right for being regularised. We have heard Counsel for the parties. Considering the submissions made at the bar we do not find that any ground has been made out for issuing any directions prayed for against the respondent.

(4) Through advertisement Annexure P-I applications were invited for appointment as Site Engineers, purely on temporary basis pursuant to which letter of appointment was issued to the petitioner, which stated :

"Wearer pleased to inform you that you have been appointed by the Bank as Temporary Site Engineer w.e.f. 6.9.93 to supervise the project of pile foundation for our proposed Zonal Office building at Sanjay Place, Agra on a consolidated salary of Rs. 2,250.00 p.m. for a period of 6 months or completion of the project whichever is earlier on the following terms and conditions: (i) Your appointment with Bank will be purely temporary and on contractual basis on a fixed lump sum salary of Rs. 2250.00 p.m. No other allowances/gratis will be paid."

(5) Petitioner thereafter was continued to be engaged for short durations and lastly as per the appointment letter dated 15.3.1995 the petitioner was engaged as Temporary Site Engineer with effect from 23.3.1995 on a consolidated salary of Rs.2,250.00 p.m. for a particular project. The terms of appointment were also apprised to the petitioner that it was purely temporary and on contractual basis. The petitioner also executed an agreement on 23.3.1995 which is at page 145 of the paperbook and states:

"The services of the Site Engineer with the Bank as mentioned in paragraph(1) above is purely on a temporary basis and will terminate automatically on the completion of the construction of the Building. The Bank shall having regard to the progress of the building may engage the services of the Site Engineer for further such period as deemed necessary by executing a similar agreement."

(6) No material has been brought on record to suggest that any assurance was ever held out for regularisation of the petitioner or that who gave such an assurance. Pursuant to the advertisement, Annexure P-8, which was issued for regular appointment, the petitioner, as stated in reply, was one of the candidates. He was duly considered but could not make it out for being placed in the list of short-listed. This has names of 51 persons, all of whom are having better experience as compared to the petitioner. From the material brought on record we find no arbitrariness in the respondent's action in not calling the petitioner for interview. Petitioner has also no right to be regularised to the post of Assistant Engineer (Civil) de hors Service Regulations. The post of Assistant Engineer (Civil) which is a post for which appointments are made according to the procedure set forth in the All India Officers Rule under the petitioner was never appointed.