

(2009) 07 PAT CK 0118
In the Patna High Court

Sumit Verma

APPELLANT

Vs

General Manager, State Bank of India and Others

RESPONDENT

Date of Decision : 16-07-2009

Acts Referred:

Citation : (2009) 07 PAT CK 0118

Final Decision : Allowed

Judgement

Navaniti Prasad Singh, J.—The petitioner had applied to the State Bank of India for Customer Relationship Executive (P.B.), a post to be held on contractual basis. The total number of post in all India is 1200 with various reservations included therein. The petitioner holds a graduate degree in Computer Application (BCA) and then Post Graduate Degree in Management (MBA). There is no dispute that they are degrees, as envisaged under the University Grants Commission Act, they are not diplomas or certificate course. The petitioner having applied for the said course qualified in the written test and was called for interview. At the stage of interview, on scrutiny of his credentials, his candidature was rejected. He was verbally told that he lacked the educational qualification for eligibility, even though he was a graduate and holding Post Graduate Degree in Management. He filed this writ petition asserting that he had been verbally told that BCA, Bachelor Degree in Computer Application does not meet the basic requirement for the job in question.

2. A counter-affidavit has been filed by the State Bank of India in which it is not denied that the only ground on which his candidature has been rejected as non-eligible is that BCA does not qualify as the minimum educational requirement for the post concerned. The simple question is, whether the stand of the State Bank of India (hereinafter referred to as S.B.I.) is correct or not?

3. With consent of parties, the writ petition is being disposed of at this stage Itself.

4. In order to appreciate the contentions it is necessary to quote the educational

qualifications required as per the advertisement, which is contained in Annexure-3 to the writ petition and is quoted, hereunder:

Essential:

- (i) Graduation in Arts/Science/Commerce with 50% marks.
- (ii) Knowledge in Computers (MS-Office i.e. MS-Word, MS-Excel, ppt, use of Internet Surfing etc.) is essential.

Preferred: (1) Any Additional Degree or 2 years Post Graduate Diploma in Business Management with Marketing/Financial Management subject from recognized university.

Or

Certified Financial Analyst/Chartered Accountant/Certified Financial Planner from recognized bodies.

Or

- (i) Diploma in Management with Marketing/Financial Management subject.
- (ii) Candidates who possess AMFI and IRDA certificates, otherwise conditions laid down in para 2 of General Information (GI) Will be applicable.

5. A reference to the aforesaid educational qualification would show that a person has to be a graduate in Arts/Science/Commerce with 50% marks. It does not say that the candidate must have educational qualification such as B.A./B.Sc. or B.Com, later of which is the stand of the bank. We then have knowledge of computer as an essential qualification but here again in what manner the knowledge has to be established is left to anybody's guess. Then, again the third preferential requirement was degree or two years Post Graduate Diploma in Business Management, which admittedly the petitioner has as he has the degree of Master in Business Administration.

6. The stand of the bank is that only B.Sc. degree holders would be considered as eligible apart from B.A. or B.Com. To the question whether B.Sc. Computer, B.Sc. Agriculture, MBBS, B.Sc. Engineering, B.Sc. Information Technology would fall within B.Sc, as contemplated by the bank, the stand is totally non-committal leaving it to anybody's guess to be decided as and when occasion arises. Thus, the question is whether a person having the degree of Bachelor in Computer Application could be said to be a graduate in Science. In my view, the advertisement nowhere mentions B.Sc. It mentions graduate in Science. Bank is now trying to read B.Sc. to justify exclusion of the petitioner who has BCA.

7. In my view, a graduate in Computer Application is as much a graduate in Science as a graduate in pure sciences or graduate in Agriculture (B.Sc. Agriculture) or other such graduation degrees. My reasons are two fold. Firstly, if we see the qualification required, it is a graduate in Arts/Science/Commerce. The only thing common between the three courses specified therein is graduation.

There is nothing fanciful or special about Arts/Science/Commerce otherwise. Thus, seen the basic requirement is of graduate, which petitioner admittedly is. Secondly, as to whether a graduation course of Computer application is a graduation course in science, in my view, that is so. Graduation in Computer application is graduation in Science because science is generally understood to include pure or speculative science as well as Applied science. For this purpose, I may refer to the definition of science, as given in Advanced Law Lexicon edited by P. Ramanatha Aiyar 3rd Edition, which is quoted hereunder:

Science. The knowledge of many methodically digested and arranged, so as to be attainable by one; a body of principles and deductions to explain the nature of some matter. *Vredenburg v. Behan* 33 Wend. (N. Y.) 205

A branch of study that is concerned with observation and classification of facts and specially with the establishment or strictly with the quantitative formulation of verifiable general laws chiefly by induction and hypothesis. (Sections 45 and 57(13) Indian Evidence Act (1 of 1872) and Article 80 (3), Const.)

"Science", in its general meaning includes pure or speculative science as well as the applied sciences, (per *Ld. Macnaghten, Inl. Rev. v. Forrest* 15 App Cas 353, 354).

8. Looking to the said definition if there be any confusion in the bank that stands removed. Thus, in my considered view, petitioner cannot be said to be non-science, non-Arts and non-Commerce graduate. What surprises this Court further is two other qualifications that were required were not even seen by the Interview Board. They were knowledge of Computer, the petitioner was graduate in Computer Application, the second was candidates who had degree in Business Management would be preferred, the petitioner had a Post Graduate Degree and was Master in Business Administration, I do not want to speculate why the Interview Board chose not to look into this.

9. In that view of the matter, on this count alone, the writ petition must succeed. The rejection of petitioner's candidature on the ground of not being a graduate in science is not correct in fact or in law and cannot be sustained.

10. In fairness to the learned Counsel for the bank, I must note the decision as relied upon by him in the case of *Yogesh Kumar and Others Vs. Government of NTC, Delhi and Others*, In my view, the said decision is totally distinguishable and not applicable at all. There the Court was concerned with eligibility qualification of TTC that is Teachers Training Certificate as against B.Ed. The Court found that Teachers Training Certificate was granted after extensive specialized training for teaching small children, which was the job requirement. Keeping in view the said job requirement B.Ed, which was a post graduate degree in education generally could not be treated as equivalent because both the qualifications were different. The case has no application to the facts of the present case. Next submission of learned Counsel for the bank is that they have strictly gone as per advertisement. The stand is misconceived and wrong on the

face of it. The advertisement said graduate in Arts, Science and Commerce it does not even refer to B.Sc. B.A. or B.Com. Accepting what is submitted on behalf of the bank would be overwriting the educational qualification, as specified in the advertisement.

11. In fairness to the learned Counsel for the petitioner, I may note one additional argument. He draws my attention to the marking system, as disclosed in the advertisement, which allots 75% marks for interview. This, with some force was submitted by the learned Counsel for the petitioner is impermissible as it makes the entire selection process subjective and academic qualification and experience virtually meaningless. Such a selection criteria by a public undertaking, which is State within the meaning of Article-12 and to whom Articles 15 and 16 of the Constitution apply is not permissible, in view of series of decisions of the Apex Court in this regards. However, as no foundation for this plea was specifically laid in the writ petition and reluctance of the petitioner to join further issues with the bank does not call upon this Court to decide this issue apart from noticing it for whatever it may be.

12. In the result, the writ petition is allowed. The petitioner is deemed to be qualified and to be interviewed accordingly. The petitioner shall be assessed impartially without being prejudiced by the challenge to the order of the authority of the Bank.