

158GAHC010206042022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Review.Pet./158/2022

GAJEN DAS AND 6 ORS .

S/O- KESHAB DAS, R/O- NORTH GUWAHATI, RAJADUWAR, DIST- KAMRUP,
ASSAM

2: AKHIL BORO

S/O- SRI GANGADHAR BORO

R/O- H NO. 16 ODALBAKRA

LALGANESH

GHY- 34

DIST- KAMRUP(M)

ASSAM

3: UTPAL BAISHYA

S/O- KAMESHWER BAISHYA

R/O- SAUKUCHI

DIST- KAMRUP(M)

ASSAM

4: MANJIIT RABHA

S/O- PARESH RABHA

R/O- JARAPARA

P.O- BOKO

DIST- KAMRUP

ASSAM

5: BRINDABAN DAS

S/O- SRI CHAN DAS

R/O- HAJO

PANIPARA

DIST- KAMRUP(M)

ASSAM

6: ATIKUR RAHAMAN

S/O- SRI JIYAUH RAHAMAN

R/O- DIMAPUR
HAJO
KAMRUP
ASSAM

7: KAMAL SHILL
S/O- KANU SHILL
R/O- DWARKUCHI
TAMULPUR
DIST- BAKSHA
ASSA

VERSUS

INDIAN BANK 2 ORS .
REPRESENTED BY THE MANAGING DIRECTOR AND CEO. CORPORATE
OFFICE, 254 -260, AVVAI SHANMUGHAMSALAI, ROYAPETTAH, CHENNAI
600014

2:THE GENERAL MANAGER(HR)
CORPORATE OFFICE
254 -260
AVVAI SHANMUGHAMSALAI
ROYAPETTAH
CHENNAI 600014

3:THE ZONAL MANAGER
INDIAN BANK
ZONAL OFFICE
SHARMA MARKET
2ND FLOOR
R.G.BARUAH ROAD
CHANDMARI
GUWAHhati 78100

Advocate for the Petitioner : MR S CHAKRABORTY

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 10.04.2023

Heard Mr. S. Chakraborty, learned counsel for the petitioners. None appears on call for the respondents.

2. At the outset, it may be mentioned that a photocopy of affidavit-in-opposition filed by the respondents, which was served by one Chandaneswar Goswami, Zonal Manager, Indian Bank was served on the petitioner on 02.01.2023. However, the Registry is reported that as per the Filing Section of the Registry, no such affidavit has been filed. The said statement is recorded in order dated 05.04.2023. Accordingly, the learned counsel for the petitioner was asked to make a photocopy of the affidavit-in-opposition served on him and provided to the Court Master. A copy of the said affidavit has been produced by the learned counsel for the petitioner. In the said context, the learned counsel for the petitioner has submitted that on receipt of the said photocopy, he has also filed an affidavit-in-reply in the matter. Affidavit-in-reply filed on 01.02.2023 is on record.

3. This review petition is directed against the order dated 03.06.2022 passed in WP(C) 3394/2018.

4. The case of the review petitioners is that this Court while disposing of the writ petition by order dated 03.06.2022, had accepted the statement made in the affidavit-in-opposition by the respondent i.e. Allahabad Bank now Indian Bank whereby they had denied that any interview had taken place as projected by the petitioners. Moreover, this Court had also accepted the statement made by the counsel for the respondents that the interview process was kept in abeyance on 13.01.2016 as per instruction dated 22.12.2015 issued by the Ministry of Finance, Govt. of India, by which the Ministry had recommended

discontinuation of interview in the recruitment process for public sector banks for junior level posts by the deadline of 31.12.2015.

5. The learned counsel for the review petitioners has submitted that the petitioners had applied for appointment to the post of part-time sweeper in erstwhile Allahabad Bank, which is now merged and is now known as Indian Bank w.e.f. 01.04.2020. It is submitted that as this Court was of the opinion that there was nothing on record to show that in violation of the policy decision for recruitment, the respondents have been engaging others without considering of the case of the petitioners, this Court had directed the respondent no.2 i.e. the General Manager (HR), Allahabad Bank to take appropriate decision and to convey to the petitioners about the status of their application, which was submitted pursuant to the appointment advertisement dated 30.11.2014.

6. The learned counsel for the petitioners has referred to Annexure-B to Annexure-F of this review petition to project that various branches of Allahabad Bank had conducted interview on various dates for recruitment of part-time sweeper. In this regard, referring to the affidavit-in-reply filed by the petitioners on 01.02.2023, it is projected that interviews were held in 17 branches and that in respect of two branches, no applications were received and therefore, no interview could be held.

7. In this regard, the relevant part of the stand taken in para 6 of the affidavit-in-opposition filed by the respondents, which is on record is as follows:

“The answering respondent states that the interview for the advertised posts was conducted in some branches, but not all on same day and not for all 19 branches. The Zonal office, Guwahati had to conduct the interview for all 19 branches as mentioned in the advertisement dated 30.11.2014 and result was to be published

after completion of interviews for all 19 branches.”

8. This matter was listed on 03.04.2023, and on the prayer made by learned counsel for the respondent, the matter was adjourned to 05.04.2023. On 05.04.2023, none appeared for the respondents and accordingly, the matter was adjourned for being listed today i.e. 10.04.2023. This matter was taken up for hearing at 4.00 PM, but the counsel for the respondents did not appear in the matter. Accordingly, the matter was heard in the absence of the learned counsel for the respondents.

9. In this case, the learned counsel for the petitioners has been able to demonstrate that although interviews were held in 17 out of 19 branches of erstwhile Allahabad Bank, now merged with Indian Bank, interviews were not held only in respect of two branches. This position which has emerged in course of this present review petition was withheld by the respondent when the connected writ petition was heard. Accordingly, the Court is satisfied on the point that despite due diligence, the petitioner could not produce documents to show that interviews were held for the post of part-time sweeper. It is projected by the learned counsel for the petitioners that the purported banning order came into effect from 22.12.2015, but the interviews were held prior to the date on which the banning order became effective. Accordingly, the case of the petitioners is that the purported banning order would have no effect on the interviews already held because such order could not be given retrospective effect.

10. Accordingly, on being satisfied that at the time when the connected writ petition was heard, the petitioners could not produce the relevant documents, despite due diligence, to show that the respondent bank had held

interviews for engagement of part-time sweeper, the Court finds that this is a fit and appropriate case to invoke the review jurisdiction of this Court and accordingly, the Court is inclined to recall the order dated 03.06.2022 passed in WP(C) 3394/2018.

11. As a consequence thereof, this review petition stands allowed, and the proceeding of WP(C) 3394/2018 is ordered to be restored to file.

12. The photocopy of the affidavit-in-opposition served on the learned counsel for the petitioner is retained as a part of record.

JUDGE

Comparing Assistant