

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C).No. 21260 of 2015 (F)

PETITIONER:

**REVATHY L.R., AGED 25 YEARS
ARAMAM, SURYA NAGAR, VLANGAMURI
NEYYATTINKARA P.O., THIRUVANANTHAPURAM-695 121**

**BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN**

RESPONDENTS:

**1. INSTITUTE OF BANKING PERSONNEL SELECTION (IBPS)
REPRESENTED BY ITS CHAIRMABN, IBPS HOUSE
90 FT. D.P. ROAD, NEAR THAKUR POLYTECHNIC
OPPOSITE TO WESTERN EXPRESS HIGHWAY, P.B. NO 8587
KANDIVALI EAST, MUMBAI-400 101**

**2. THE GENERAL MANAGER
INDIAN OVERSEAS BANK, 3RD FLOOR
IOB CENTRAL OFFICE BUILDING, 763, ANNA SALAI
CHENNAI-600 002**

**BY SRI.SUNIL SHANKAR, SC, INDIAN OVERSEAS BANK
BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

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|---------|---|---|
| EXT.P1 | - | COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER TO THE FIRST RESPONDENT DATED 22/8/14 |
| EXT.P2 | - | COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE ISSUED BY THE SECRETARY, BOARD OF PUBLIC EXAMINATIONS, KERALA |
| EXT.P3 | - | COPY OF THE RESULT OF THE WRITTEN EXAMINATION AND THE MARKS OBTAINED BY THE PETITIONER PUBLISHED BY THE 1ST RESPONDENT |
| EXT.P4 | - | COPY OF THE BIRTH CERTIFICATE ISSUED BY THE THIRUVANANTHAPURAM CORPORATION DATED 5/8/13 |
| EXT.P5 | - | COPY OF THE PROCEEDINGS OF THE JOINT COMMISSIONER FOR GOVERNMENT EXAMINATIONS, PAREEKSHA BHAVAN, THIRUVANANTHAPURAM DATED 31/12/14 |
| EXT.P6 | - | COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE SHOWING THE DATE OF BIRTH OF THE PETITIONER AS 5/11/1989 |
| EXT.P7 | - | COPY OF THE INFORMATION GIVEN TO THE PETITIONER THROUGH EMAIL DATED 23/1/2015 |
| EXT.P8 | - | COPY OF THE COMBINED RESULT FOR COMMON WRITTEN EXAMINATION AND INTERVIEW FOR RECRUITMENT IN CLERICAL CADRE IN PARTICIPATING ORGANIZATIONS PUBLISHED BY THE 1ST RESPONDENT |
| EXT.P9 | - | COPY OF THE COMMUNICATION RECEIVED BY THE PETITIONER FROM THE 2ND RESPONDENT DATED 11/6/15 |
| EXT.P10 | - | COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 17/6/15 |

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

K. VINOD CHANDRAN, J.

W.P(C). No.21260 of 2015

Dated this the 9th day of September, 2015.

JUDGMENT

The petitioner is aggrieved with the fact that, the petitioner's selection by the first respondent for a Clerical post, has been rejected for reason of the change in date of birth. The petitioner admittedly effected a change in the date of birth after the provisional selection made by the Institute of Banking Personnel Selection (for brevity, IBPS).

2. In Ext.P1 application, the petitioner had shown the date of birth as 05.04.1990. The petitioner had produced the Secondary School Leaving Certificate issued by the Government of Kerala as proof of date of birth, which also indicated the date of birth as 05.04.1990. The petitioner got good marks as is indicated by Ext.P3. However, subsequently, it is submitted that the petitioner came to know that the Birth Certificate of the

petitioner had shown the date of birth of the petitioner as 05.11.1989. Relying on Ext.P4 Birth Certificate, the petitioner approached the Joint Commissioner for Government Examinations, who corrected the date of birth in the Secondary School Leaving Certificate also as per Ext.P5. The corrected Secondary School Leaving Certificate is also produced at Ext.P6.

3. The petitioner as per Ext.P8, was advised by the IBPS, the first respondent, who conducts the selection on behalf of the scheduled Banks. The petitioner was issued an appointment letter by the Indian Overseas Bank, the second respondent, which was later cancelled by Ext.P9 for reason of the change in the date of birth as asserted in the application.

4. The learned Senior Counsel for the petitioner submits that, in fact the petitioner could have suppressed the details and it was only on the bonafide act on the part of the petitioner, for having produced a Birth Certificate and the correction made subsequently in tune with the Birth Certificate, that the petitioner has now been found ineligible for the post.

5. I have heard the learned Standing Counsel appearing for

the first respondent as also the second respondent. The learned Standing Counsel refer to the notification issued by the IBPS for the common recruitment process, to the Clerical cadre of the participating organisation. It is pointed out that, every State has a nodal agency and according to the preference of the candidate, the selected candidate is advised to a particular State, each of which State has a Nodal Bank for processing the applications. The provisional verification is done by the Nodal Bank and on the same being transmitted to the IBPS, the IBPS allots each candidates to the Banks in a State, according to the preference of the candidate as also the available vacancies.

6. The petitioner was allotted to the second respondent, Indian Overseas Bank, who was also the Nodal Bank for the State of Tamilnadu. But, however, by that time, the petitioner had produced Certificates showing a different date of birth, upon which, the petitioner was found to be ineligible, going by the specific terms in Ext.R1(a). It is also submitted that, a number of candidates have been found eligible for reason of the false/ incorrect declarations made, and any consideration made of the

petitioner's claim would lead to setting a wrong precedent.

7. The conditions in Ext.R1(a) to be noticed are the following:

"VE(iii) Proof of Date of Birth (Birth Certificate issued by the Competent Municipal Authorities or SSLC/Std.X Certificate with DOB).

Please note that all the particulars mentioned in the online application including Name of the Candidate, Category, Date of Birth, Address, Mobile Number, Email ID, Centre of Examination, registration of preferences for Participating Organisations etc. will be considered as final and no change/modifications will be allowed after submission of the online application form. Candidates are hence advised to fill in the online application form with the utmost care as no correspondence regarding change of details will be entertained. IBPS will not be responsible for any consequences arising out of furnishing of incorrect and incomplete details in the application or omission to provide the required details in the application form.

A candidate's admission to the examination/shortlisting for interview/and subsequent processes is strictly provisional. The mere fact that the call letter(s)/provisional allotment has been issued to the candidate does not imply that his/her candidature has been finally cleared by IBPS/Participating Organisation. IBPS/Participating Organisations would be free to reject any application, at any stage of the process, cancel the candidature of the candidate in case it is detected at any stage that a candidate does not fulfill the

eligibility norms and/or that he/she has furnished any incorrect/false information/certificate/documents or has suppressed any material fact(s). If any of these shortcomings is/are detected after appointment in a Participating Organisation, his/her services are liable to be summarily terminated."

8. As per the notification, a candidate was entitled to produce either the Birth Certificate issued by the competent Municipal Authority or the Secondary School Leaving Certificate as proof of date of birth. The petitioner had produced the Secondary School Leaving Certificate, showing the date of birth as 05.04.1990. The note extracted above obliges the candidates, to verify the details shown in the application, including the date of birth; which is deemed to be final. It was also clearly specified that, any consequence arising out of furnishing of incorrect or false information would be the responsibility of the candidate and not of the IBPS. It is to be emphasised that the general instructions also provided that at any stage, if it is detected that a candidate has furnished any incorrect/false information/certificate/document, then the candidature would be cancelled.

9. Going by the above conditions in the notification, it is to

be noticed that the prohibition was not in giving of a false declaration, but also an incorrect declaration. In such circumstance, the question of bonafides does not at all arise. Admittedly, an incorrect information was given in Ext.P1 application. Ext.P1 shows the date of birth as 05.04.1990. In this context, it is to be noticed that Ext.P4 Birth Certificate was not one issued later to the application. The petitioner was aware of the date of birth in the Birth Certificate, which was 05.11.1989, long prior to the said application. Ext.P4 Birth Certificate is seen to have been issued on 05.08.2013. There can be no dispute that the Birth Certificate issued by the local authority is a document, which has evidentiary value under Section 35 of the Evidence Act. The petitioner being aware of the correct date of birth even before the application cannot absolve from the obligation not to furnish incorrect details/information.

10. In such circumstances, the petitioner was responsible for having given a wrong date of birth, ie., 05.04.1990 in Ext.P1 application. The petitioner, for the purpose of date of birth, could have relied on the Birth Certificate and produced the same as an

evidence before the IBPS and then later sought for correction of the Secondary School Leaving Certificate. The petitioner, having been aware of the date of birth as disclosed in the Birth Certificate, had given an incorrect information in the application, which stands against the petitioner.

11. As submitted by the learned Standing Counsel appearing for respondents 1 and 2, any equitable consideration made would lead to a wrong precedent and especially since other candidates have been disentitled for reason of furnishing incorrect details.

In such circumstances, the writ petition is found to be devoid of any merit and the same is dismissed. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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