

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16870 of 2015

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Dara Shikoh Rabbani, son of Shri Salim Akhtar Rabbani, resident of House NO.47/F, Lane No.2, Zakaria Colony, Sadpura, P.O. Ramna, P.S. Kazi Mohammadpur, Muzaffarpur, District Muzaffarpur, Bihar

.... Petitioner/s

Versus

1. Vijaya Bank, (A Government of India Undertaking), Head Office at 41/2, M.G.Road, Bengaluru, Karnataka, through its Chairman & Managing Director
2. Deputy General Manager, Personnel-Human Resources Department, Vijaya Bank, 41/2, M.G.Road, Bengaluru, Karnataka
3. Chief Manager, Vijaya Bank, 41/2, M.G.Road, Bengaluru, Karnataka
4. Institute of Banking Personnel Selection, IBPS House, Near Thakur Polytechnic, 90 D.P.Road, Off Western Express Highway, P.B.No.8587, Kandivali (E), Mumbai- 400 101 through its Deputy Head Ministration
5. Tilka Manjhi, Bhagalpur University, Bhagalpur through its Registrar

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri
		Mr Santosh Kumar Mishra
For Vijaya Bank	:	Mr Anshay Bahadur Mathur
For IBPS	:	Mr Siddharth Prasad
For the University	:	Mr. Rajendra Kumar Giri

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

CAV JUDGMENT

Date: 5-05-2016

By virtue of Annexure-9, the provisional allotment of the petitioner as an Probationary Assistant Manager- IT Officer- Scale I has been cancelled or withdrawn on the ground that the educational qualification declared by the petitioner i.e. B.Sc. (Engineering) from Tilka Manjhi Bhagalpur University is not equivalent to B.E. or B.Tech, as per the qualification by Institute of Banking Personnel Selection (IBPS), does not satisfy the requirements.

2. There is no dispute that on the basis of declaration made

by the petitioner, he went through the process of selection, which was conducted by IBPS and he was allotted Vijaya Bank provisionally.

3. The whole case of the petitioner hinges on whether the so-called B.Sc. (Engineering) degree issued by Tilka Manjhi Bhagalpur University is at par with Bachelor of Engineering or B.Tech Degree. One of the main thrust of the argument of the counsel for the petitioner is based on letter dated 8.5.2007 issued by AICTE, which is Annexure- 2 to the writ application.

4. Annexure- 4 is the advertisement issued by IBPS. The educational qualification laid down in the advertisement with regard to IT Officer Scale I is as under:

*“a) 4 year Engineering Degree in Computer Science/ Computer Application/ Information Technology/ Electronics/ Electronics & Telecommunications/ Electronics / Communication/ Electronics & Instrumentation OR
b) Post Graduate Degree in Electronics/ Electronics & Telecommunication/ Electronics & Communication/ Electronics & Instrumentation/ Computer Science/ Information Technology/ Computer Applications OR
Graduate having passed DOEACC ‘B’ level”*

5. The line of argument adopted by the counsel representing the Bank as well as IBPS is that when an employer has issued an advertisement and indicated the specific qualification which they are looking, for recruitment to a post, they will not be swayed by any



argument as to equivalence of a degree, which may be pressed into service. The requirement in terms of the advertisement is to be adhered to and in the present case may be because of the mis-declaration of the petitioner in the application form, made online, he was allowed to participate in the examination. The online application clearly indicated only two columns as to the qualification, which was B.E. or B.Tech. There was no column for B.Sc. (Engineering) and it was because of this mis-declaration that the petitioner was allowed to participate in the examination.

6. Even otherwise, the selection and allotment is provisional as per clause E of the advertisement and to that extent no candidate can claim a right for appointment, if it is found that the candidate lacks one eligibility or the other or did not fulfill the eligibility due to failure to produce the necessary supporting documents and materials.

7. Counsel representing IBPS submits that there is plethora of decisions of many a courts, including Hon'ble Apex Court that fixation of eligibility criteria is within the domain of the employer and it is not at all for the courts to substitute their own view. An employer is the best judge to determine as to what particular qualification would be the best suited for the job for which hiring is being done. If the advertisement in question is unambiguous then the same cannot be stretched to bring within its ambit even such qualification which was



not even there in the mind of the employer. This Court is not required to reproduce each and every order which has been annexed with the counter affidavit of IBPS, including a recent decision rendered by Bombay High Court in the case of Pallavi versus Government of India and analogous cases, decided on 2.3.2016, a copy of which has also been handed over to the Court and is placed on record.

8. All the decisions brought on record have a consistent view that the courts cannot substitute their wisdom as to which degree will be equivalent to the qualification so advertised. This falls within the domain and discretion of the employer. If the qualification advertised does not match with the qualification of a candidate, the courts will not come to the rescue of such candidates by finding equivalence.

9. The Court would like to place on record that quite a few decisions seeking similar equivalence with regard to other posts related to recruitment by the Institute of Banking are, therefore, para material and support the case of the respondents.

10. Yet another objection was raised on behalf of IBPS that the writ application is not maintainable at Patna as the entire exercise has been done beyond the territorial jurisdiction of Patna. A mere communication of the final status at the permanent address of the petitioner by itself shall not give jurisdiction to the Patna High Court

to entertain such a writ application.

11. Even when such an objection was held out against the petitioner, the Court has considered the matter objectively on the merits looking at the qualification, which has been demanded for the post, reproduced in the earlier part of the order and absence of the same on behalf of the petitioner. Keeping in mind the consistent view of various judicial forums, across various States, in identical matters, this Court would not like to make any declaration that the so-called B.Sc. degree of the petitioner issued by Tilka Manjhi Bhagalpur University is in any manner equivalent to B.Tech or B.E. in IT so as to make the petitioner eligible to retain his selection and appointment or for quashing Annexure- 9, dated 2.6.2015 where the provisional allotment of the petitioner as a Probationary Assistant Manager IT Officer has been withdrawn by the Bank.

The writ application, therefore, is dismissed being devoid of merit.

(Ajay Kumar Tripathi, J)

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