

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1140 of 2014

IN

Civil Writ Jurisdiction Case No 16623 of 2012

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The Chief Manager, Punjab National Bank Division, Human Resources
Department, Regal Hotel, Ramana Maidan, Ara, District- Ara.

.... Appellant/s

Versus

1. Arun Kumar Tiwari son of Late Ram Adhar Tiwari, resident of village- Khanao,
P.S.- Bhabhua, District- Kaimur
2. The State of Bihar, through Zila Sainik Kalyan Office, Bhojpur-Ara, District-
Ara
3. The District Sainik Kalyan Officer, Bhojpur, Ara
4. The Secretary, Bihar Sanskrit Education Board Patna, District- Patna

.... Respondent/s

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For the Appellant/s : M/s Mahesh Narayan Parbat & Ved Prakash
Srivastava, Advocates

For Respondent No 1 : M/s Ajit Kr & Avinash Kr, Advocates

For the State : Mr Amit Bhushan, AC to GP 17

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 02-08-2016

The present appeal has been preferred by the Punjab
National Bank (for brevity, *the Bank*) against the judgment and order
dated 13.01.2014 passed by learned Single Judge of this Court in
CWJC No 16623 of 2012 (Arun Kumar Tiwari –Versus- State of
Bihar & Others).

2 As the pleadings are complete, with consent of parties,

we have heard this matter at this stage itself for its final disposal.

3 The writ petitioner, who is respondent No 1 herein, was a Sepoy in the Indian Army. Having completed 22 years of satisfactory service, he was retired. Still having lot of serviceable age on his side, through the Director General (Resettlement), Zila Sainik Board, Ara (Bhojpur), he applied to the Bank against its advertisement for recruitment of Armed Guard. The advertisement, as communicated to the Director General (Resettlement), Zila Sainik Board, Ara (Bhojpur), is contained in Annexure C to the supplementary counter affidavit of the Bank in the writ proceedings wherein the educational qualification for such appointment is stated in following terms:

“Educational Qualification: Pass in Xth standard or its equivalent and not studied beyond XIIth standard with basic reading/writing knowledge of English.”

4 Another thing noticeable is that the applicants had to be non-commissioned officers during their service career. We have noted this only to show that these vacancies were available only to ex-servicemen. Writ petitioner’s candidature was forwarded showing that he was a Matriculate. He was, accordingly, called for interview. At that stage, the Bank noticed that the writ petitioner had done and obtained “Madhyama” certificate from the Bihar Sanskrit Shiksha



Board (for brevity, *the Board*) of the State Government constituted under the Bihar Sanskrit Shiksha Board Act, 1981 (Act 31, 1982) and it is declared by the State Government as equivalent to Matriculation. The Bank, at this stage, rejected writ petitioner's candidature on the ground that it was not one of the Boards that was recognized by the Council of Boards of School Education in India, the list of which is annexed as Annexure B to the counter affidavit by the Bank in the writ proceedings. The case of the Bank further was that Ministry of Human Resources Development, Government of India also did not recognize this as an equivalent to Matriculation for recruitment purposes.

5 Let it be noticed here that this statement that it is not recognized is based on the fact that it does not figure in the list. There is no positive notification stating that it is not so recognized. It is absent from the list from which inference is being drawn that it is not recognized.

6 Upon being denied opportunity of employment as Armed Guard on this ground, the writ petition was filed and the learned Single Judge allowed the same. Hence, this intra-Court appeal by the Bank.

7 We may clear one thing. The writ petitioner has brought on record in these proceedings that he has passed the

examination, that is Madhyama, in the year 1985 in second division with History, Geography, English, Mathematics, Social Studies as his additional subjects apart from Sanskrit and Hindi Literature.

8 According to the Bank, unless Madhyama is recognized as equivalent to Matriculation, even though writ petitioner had served as Sepoy in the Army for 22 years, he cannot be recruited as an Armed Guard in the Bank. We are unable to persuade ourselves to accept the submission on behalf of the Bank. Firstly, the Bank does not dispute that the writ petitioner has genuinely and bona fide got the certificate of Madhyama issued by a statutory Board created under the Statute. It is not in dispute that the State Government has declared it to be equivalent to Matriculation. The subjects we have already noted above. In such an event, to say that the Bank, in absence of recognition of equivalence by the Central Government will not recognize it, would be travesty of justice. There may be many reasons for the same and simpliciter it would be that no one had earlier approached Central Government to grant the equivalence. As noticed above, nothing has been brought on record where the equivalence is proscribed or disallowed specifically. What is being argued is in absence of recognition, it will be deemed to be derecognized.

9 To be fair to the learned counsel for the Bank, we may refer to Annexure D to the supplementary counter affidavit filed in the



writ proceedings which is a communication from Ministry of Human Resources Development which again merely says that the Board has not yet been recognized for Government jobs. It does not say that it has been derecognized or is not recognized as such. In absence of any positive notification or decision of the Central Government not granting equivalence to the Board in respect of Madhyama certificate granted by it, a negative inference cannot be drawn. We may, at this juncture, note that a similar view came up for consideration before Division Bench of this Court presided over by Hon'ble the Chief Justice (Chief Justice R M Lodha as His Lordship then was) in *CWJC No 9832 of 2008* disposed of on 15.10.2008, (Union of India through the Chairman, Railway Board & Another –Versus- Sri Prakash) wherein, the Division Bench clearly held agreeing with the Central Administrative Tribunal, Patna Bench that Madhyama, granted by the Kameshwar Singh Darbhanga Sanskrit University is equivalent to Higher Secondary. The Division Bench also noticed that earlier Madhyama was granted by the University which later was now being granted by the Board. There also, it was noticed that the Board was a creature of a legislation and a statutory Board and degrees/certificates granted could not be refused recognition by either the Indian Railways or the Union of India. The reasoning of the Tribunal was fully accepted by the Division Bench of this Court and the writ petition by

the Railways was dismissed.

10 We are in respectful agreement with the aforesaid Division Bench judgment of this Court.

11 We may also note that recently we have also taken similar view in *LPA No 1500 of 2012* (Sita Kumari –Versus- The State of Bihar & Others) decided on 27.11.2015 wherein we have held that the Board is a governmental body and the Madhyama certificate granted by it is equivalent to Matriculation.

12 In fairness to learned counsel for the appellant-Bank, who draws our attention to several orders passed in different Letters Patent Appeals wherein it has been held that the Central Government did not recognize Madhyama certificate as equivalent to Matriculation certificate and, on that ground, refused to interfere. We may only reiterate that those observations, as noticed above, were made only on the ground that no equivalence having been granted, it would be deemed not to be equivalent. On the other hand, the judgment of this Court in the case of *Sri Prakash* (supra) deals with this aspect in particular and holds as we have also held in the case of *Sita Kumari* (supra) that the Board is a statutory Board created under a statute and unless its certificates are not derecognized by positive order of the Central Government, till that time, it would be deemed to be equivalent. That is the difference between the two lines of the

judgment.

13 In that view of the matter, we have no option but to hold that rejection of the writ petitioner’s candidature by the Bank cannot be sustained. The appeal merits no consideration. It is, accordingly, dismissed and the judgment and order of the learned Single Judge is upheld. Bank is, accordingly, directed to proceed expeditiously in the matter.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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