

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4189 of 2013

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1. Sadanand Kumar S/O Shri Chandrachur Saw R/O Village And P.O.- Amarpur,
P.S.- Medni Chowk, Distt.- Lakhisarai, Bihar, At Present Residing At- Basgarha
P.O.- Basudeopur, P.S.- Kotwali, District- Munger

.... Petitioner/s

Versus

1. The Chairman-Cum-Managing Director, The Central Bank Of India, Corporate
Office- Chander Mukhi, Nariman Point, Mumbai- 400021
2. The Zonal Manager, The Central Bank Of India, Block- B, 2nd Floor, Maurya
Lok Complex, Dakbunglow Road, Patna- 800001
3. Mr. Yogendra Sah, Officer, The Central Bank Of India, Block- B, 2nd Floor,
Maurya Lok Complex, Dakbunglow Road, Patna- 800001

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Binay Kumar Singh,
Mr. Amit Singh, Advocates.

For the Respondent/s : Mr. Aditya Sharan,
Mr. Hemand Kumar Sharan
Mr. Prabhat Kumar Sharan, Advocates.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-01-2016

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. In the present writ petition, petitioner is seeking relief for
issuance of a writ in the nature of mandamus for a direction upon
the Zonal Manager, Central Bank of India, Patna (respondent
no.2) to hold personal interview for selection to the post of clerk
through Single Window Operator-A as he was refused the
opportunity of appearance in the interview on 19.2.2013 by the
Officer of the Central Bank of India, Patna (respondent no.3) on



the ground that the date of birth indicated in his Bio-data which was provided at the time of filling up the form does not match with the date of birth mentioned in the matriculation certificate and did not accept the affidavit that was sworn before the Executive Magistrate, Munger vide affidavit no.858 of 2012 about clerical mistake committed him while filling up the form.

3. From the record it appears that an advertisement for selection of Clerical cadre in 19 public sector Banks was notified and for that a Combined Written Examination was conducted by the Institute of Banking Personal Selection (hereinafter referred to as "IIBPS"). Accordingly petitioner was short listed for the interview, he was called for interview by Canara Bank on 31.7.2012. He appeared before the Interview Board without any objection. Similarly he appeared before the Interview Board of Bank of India and UCO Bank on 12.6.2012 and 7.8.2012 respectively that too without any demur. He also appeared before the Interview Board of Vijaya Bank. The management of the Central Bank of India called the petitioner for interview on 12.1.2013 but refused to take his interview on the ground of variation of date of birth which was provided in Bio-data while filling up the forms and did not produce certain documents as per the instruction. The documents which the petitioner did not carry

was the ground for refusing to allow him to appear in the interview has been mentioned in the letter dated 7.2.2013 (Annexure-7) are as follows:

“You are advised to bring a copy of the print out of the application registered ‘online’, along with the following certificates and testimonials in original and self attested copies of the same. Please also bring the proof of payment of fees (fee payment challan).

(i) Valid Common Written Examination (CWE-2011) Score Card issued by IBPS.

(ii) Date of Birth Certificate as entered in SSLC/Matric Certificate

(iii) Mark List from SSLC examination onwards to the highest examination passed including technical and professional examination of each year/Semester

(iv) Certificate(s) regarding degree/post-graduate/computer literacy/other examination passed.

(v) This Call letter with photograph affixed. Photograph should be the same as affixed on the call letter for Common Written Examination-2011 an application printout.

(vi) Character Certificate from two respectable persons not related to you, obtained on recent date.

(vii) Candidates serving in Government/Public Sector undertaking (including banks) should produce ‘No Objection Certificate from their employer at the time of interview.

(viii) If presently or previously employed, for each position held, please bring a detailed specific and explicit experience certificate including details of full name, full address and telephone numbers of employers, period of experience with exact dates, designation held, nature of duties handled, number of persons working under you, nature of projects handled etc.

(ix) Candidates belonging to SC/ST/OBC etc. must bring the respective Caste certificate

issued by the competent authority in the format prescribed by (Central) Government of India, Deptt. Of Personal & Training and Office Memo No.36012/6/88-Estt(SCT) (SRD III) dated 24.4.1990 & No.3603/8/98 Estt.(Res.) dated 16.3.1999 showing the Caste as notified by Govt. of India failing which the claim of the candidates for the respective category may not be tenable.

Please note that Caste mentioned in the Certificate produced by you should conform to the Caste appearing in the Central Government List/Notification. Caste Certificate even with the slightest discrepancy in the name spelling of the Caste, etc., shall not be acceptable.

(x) Persons With Disabilities (PWD) must bring Medical Certificate from Medical Board at the District Level

(xi) Ex-Servicemen (if already discharged) must produce Discharge Certificate issued by Defence Authorities.

(xii) All the other related certificates/marksheets/experience on which your eligibility is decided (not mentioned above)

(xiii) For the purpose of identification, please bring Passport/PAN card/Voter's Card/Driving Licence/Aadhar Card/Bank Passbook where photograph is affixed

(xiv) Printout of the online application submitted for CWE for Clerical Cadre-2011".

4. As per the Bank, petitioner appeared before the Interview Board without the aforesaid documents as has been mentioned in paragraph 32 of the counter affidavit of the Bank which are as follows:

"32. That in reply to para 15, it is submitted that, the petitioner came to face interview, without all the documents and proof identification like;

(a) Print of registered online application, not brought

(b) Proof of payment of Challan, not brought
(c) For purpose of identification not brought

(d) Character certificate of two respected persons not brought

(e) Pan Card and other related documents in support of identification as mentioned in the advertisement not brought

(f) Further date of birth of candidate has been shown in online application is shown as 10.2.1987, whereas the actual date of birth is 10.2.1988, due to this mismatch and wrong information about date of birth and in absence of other papers, the identity of the candidate became doubtful and hence, the candidate was not allowed to participate in the interview on 19.2.2013. The Bank has right to reject an application in interview, because of the above. This discretion of the Authority is not justiceable.”

5. The main ground for the Bank to refuse the interview is difference in the date of birth added with further reason the documents which were required, were has been called was not produced. As per the Bank in terms of Clause 5 of the letter of interview the request for holding an interview at a different date will not be entertained.

6. In paragraph 21 of the reply to the counter affidavit the petitioner has stated that the Bank has given a wrong statement as per claim the petitioner he had gone along with all documents but with a view to justify its action in depriving from the interview, wrong statement has been made save and except there was certain variation in the date of birth recorded in the matriculation



certificate as well as Bio-data mentioned in his application is on account of typing mistake. .In support of his statement the petitioner has annexed all documents (Annexures 4 series) including with an affidavit before the Executive Magistrate swearing about typing mistake in the date of birth mentioned in the column of Bio-data.

7. Learned counsel for the Bank has submitted that once chance of interview is over now the Bank will not hold the separate interview for the petitioner as per the format which was issued by IBPS where it was specifically mentioned of giving a correct information with regard to his Bio-date and further time was extended for necessary correction up to 26.9.2011 but the petitioner failed to make any necessary correction in the Bio-data and as such there cannot be a separate interview for the petitioner.

8. Be that as it may, this Court does not want to enter into disputed question of fact whether the petitioner had gone along with the document or whether he had gone with empty hand but the fact is that the petitioner was in possession of all documents, it does not stand to reason to believe that a person would go to appear in the interview without any document. It does not satisfy the conscious of this Court.



9. So far variation in the date of birth mentioned in Bio-data vis-à-vis date of birth in the matriculation certificate has been shown to be 10.2.1988 but due to typographical error he has filled up in the Bio-date as 10.2.1987, for that he had gone to the Interview Board along with affidavit mentioning about typographical error committed by the petitioner in filling up the form.

10. Having considered the rival contentions of the parties, it is mere a chance that the petitioner has filled up wrong date of birth as 10.2.1987 but real date of birth has been recorded in the certificate as 10.2.1988 thereby he became more older by one year. Even if it is treated 10.2.1987 is the date of birth, it does not cross upper age limit as well as older by one year, it is the petitioner who is looser. Generally the Court should not interfere in selection and interview of the Bank but in certain circumstances where the justice demands that a person who is struggling for livelihood and when there is lot of commotion to have job depriving a person from interview on mere technical ground of typing error will lead to travesty of justice where there is no allegation of fraud and manipulation in record or suppression of material information would be basis to debar from securing employment. Reliance can be place in the case of Manoj

Kumar v. Government (NCT of Delhi). It will be relevant to quote paragraph 8 to 11 of the aforesaid judgment:

“8. There is no doubt that if any candidate furnishes false or incomplete information or withholds or conceals any material information in his application, he will be debarred from securing employment. It is also true that even if such an applicant is already appointed, his services are liable to be terminated for furnishing false information.

9. But the question here is whether the appellant had given false information or suppressed any relevant or material information.

10. The records of MAGSS School, Jind, Haryana where he studied in the sixth standard show his date of birth as 8-9-1988. Therefore, that date was not something that was created for the purpose of securing employment. Further, the matriculation certificate issued by the Board of School Education, Haryana, to the appellant's sister shows her date of birth as 23-11-1989. Obviously therefore the appellant's date of birth shown as 8-11-1989 in his matriculation certificate, was erroneous. He was pursuing his request for correction of the date of birth in the matriculation certificate and also filed a suit for correction of his date of birth. The civil court decreed the suit and the Board of School Education accepted the decision and corrected the date of birth.

11. If all the facts and circumstances are taken note of, it is evident that the appellant's date of birth was 8-9-1988 and not 8-11-1989. The appellant was all along making efforts to get the date of birth corrected and in fact, got it corrected. This is not a case where a wrong date was given to have a longer period of service and thereafter an attempt to justify it. There was obviously a mistake in the date of birth and the Haryana School Education Board corrected it.”

11. In the present case, there is no allegation of fraud,

manipulation and suppression, but it is case of typing error committed while filling up the form.

12. Looking to the entire facts and circumstance, the Central Bank of India is directed to conduct the interview of the petitioner by constituting a proper interview Board within a period of six weeks from the date of receipt/production of a copy of this order. If the petitioner is declared successful it goes without saying that the petitioner will be accommodated as this Court has already passed the order for keeping a seat reserved. It is also made clear that the Bank will give notice of the date of interview with sufficient gap.

13. With the aforesaid observation/direction this writ petition is allowed.

Vinay/-

(Shivaji Pandey, J)

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