

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4823/2015

(KISHOR DEORAMJI GAHANE **VERSUS** THE INSTITUTE OF BANKING PERSONNEL
 SELECTION & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri S.G. Karmarkar, counsel for the petitioner.
 Shri C.S. Samudra, counsel for the R-1.
 Shri M.Y. Wadodkar, counsel for the R-2 & 3.

CORAM : SMT.VASANTI A. NAIK AND
A.S. CHANDURKAR, JJ.

DATE : FEBRUARY 9, 2016.

By this petition, the petitioner challenges the order of the respondent no.3, dated 03.06.2015 withdrawing the offer of appointment to the petitioner on the post of Agriculture Field Officer (Scale-I).

In pursuance of an advertisement issued by the respondent no.1, an agency authorized by the respondent nos.2 and 3 to conduct the selection process for recruitment of the employees in the branches of the respondent nos.2 and 3, the petitioner had applied for the post of Agriculture Field Officer (Scale-I). The petitioner appeared at the examination and was found to be successful. An offer of appointment was made to the petitioner on 12.05.2015 and the petitioner was to be appointed subject to the verification of his documents and educational qualifications. The offer of appointment was, however, cancelled by the respondent nos.2 and 3 by the order dated 03.06.2015 on the ground that the petitioner did not possess the requisite degree, i.e. B.Sc. Agro-

forestry. According to the respondents, the petitioner possessed a degree in B.Sc. Forestry and not B.Sc. Agro-forestry, as required by the advertisement. Since the candidature of the petitioner was rejected by the withdrawal of the offer of appointment, the petitioner has filed the writ petition.

Shri Karmarkar, the learned counsel for the petitioner, submitted that the offer of appointment could not have been withdrawn by the respondents solely on the ground that the petitioner did not possess a degree in B.Sc. Agro-forestry. It is submitted that the respondent no.1-Director-I.B.P.S. had issued a corrigendum on 16.01.2016 including the four years degree in Forestry, Agricultural Biotechnology, Food Science and Agricultural Business Management, as the educational qualification for appointment on the post of Agriculture Field Officer (Scale-I). It is submitted that by the corrigendum dated 16.01.2016, only the candidates, possessing a degree in either of the aforesaid four disciplines and who had registered themselves between 24.01.2016 and 31.01.2016, would be considered eligible for appointment on the post of Agriculture Field Officer (Scale-I) in pursuance of the recruitment process. It is stated that by the corrigendum dated 16.01.2016, the respondent no.1 could not have included the educational qualification of a Degree in Forestry, for participation in the recruitment process initiated in pursuance of an advertisement issued in the year 2015. It is stated that the action on the part of the respondent no.1 in mentioning the cut-off date in the corrigendum is arbitrary and violative of the provisions of Article 14 of the Constitution of India. It is submitted that the cancellation or withdrawal of the offer of appointment of the petitioner is bad in law and is liable to be set aside.

Shri Samudra, the learned counsel for the respondent no.1 and Shri Wadodkar, the learned counsel for the respondent nos.2 and 3, supported the impugned orders and submitted that at the relevant time when the petitioner applied in pursuance of an advertisement dated 17.11.2014, that related to recruitment process CRP-IV, a candidate possessing a degree in B.Sc. Forestry was not eligible for appointment on the post of Agriculture Field Officer (Scale-I). At the relevant time, a candidate desirous of seeking appointment to the post of Agriculture Field Officer (Scale-I) was required to possess a degree in B.Sc. Agro-forestry and admittedly, the petitioner did not possess the same. It is submitted that in respect of the recruitment process that was initiated in pursuance of an advertisement issued in the year 2015, a corrigendum dated 16.01.2016 was issued by the respondent no.1. It is submitted that the said development took place in view of the challenge to the advertisement issued by the respondent no.1 in the year 2015 before the Kerala High Court. It is stated that the Kerala High Court had asked the respondent no.1 to consider including the degrees in certain other disciplines as a requisite qualification for recruitment on the post of Agriculture Field Officer (Scale-I). It is submitted that in view of the direction of the Kerala High Court, the respondent no.1 reconsidered the matter and included four educational qualifications, i.e. a four years degree in Forestry, Agricultural Biotechnology, Food Science and Agricultural Business Management, as the requisite qualifications for appointment on the post of Agriculture Field Officer (Scale-I). It is submitted that this change was beneficial only to the candidates, that had applied in pursuance of the advertisement issued in the year 2015, i.e. Recruitment Process

– CRP-V, with which the petitioner is not concerned. It is stated that even in respect of Recruitment Process – CRP-V, only the candidates possessing the degrees in the aforesaid four disciplines and registered between 24.01.2016 and 31.01.2016 could be considered. It is submitted that if the said benefit is given to the petitioner, it would affect several others, who also possess the same qualification as that of the petitioner but, were not able to compete in the selection process initiated in pursuance of the Recruitment Process – CRP-IV, dated 17.11.2014. It is submitted that in the circumstances of the case, the relief sought by the petitioner may not be granted. The learned counsel for the respondents relied on the order of this Court dated 09.12.2014 in Writ Petition No.3829 of 2014, where the case of the petitioner, who admittedly did not possess a B.Sc. Degree in Agriculture or Agriculture Engineering that was required but, possessed a B.Tech. Degree from Dr.Panjabrao Deshmukh Agriculture University in the subject of Food Science, was dismissed.

On hearing the learned counsel for the parties and on a perusal of the corrigendum issued by the respondent no.1 on 16.01.2016, it appears that the relief sought by the petitioner cannot be granted. Admittedly, as per the advertisement, a candidate was required to possess certain qualifications, which included a degree in B.Sc. Agro-forestry but, the petitioner possessed a B.Sc. Degree in Forestry and not Agro-Forestry. After the petitioner was declared successful in the tests conducted by the respondent no.1, the respondent nos.2 and 3 offered appointment to the petitioner by the communication dated 12.05.2015. The said offer of appointment was, however, conditional and was subject to further verification. In verification, the respondents found that the petitioner did not

possess a B.Sc. Degree in Agro-forestry but, possessed a B.Sc. Degree in Forestry. Since a degree in B.Sc. Forestry was not considered to be a qualification for appointment on the post of Agriculture Field Officer (Scale-I) as per the advertisement, or even otherwise, the offer of appointment to the petitioner, was withdrawn. In the admitted set of facts, the petitioner cannot effectively challenge the withdrawal of the offer of appointment, specially when the petitioner does not possess a B.Sc. Degree in Agroforestry and as per the advertisement, it was necessary for the candidate to possess a B.Sc. Degree in Agro-forestry and not a B.Sc. Degree in Forestry, alone. The petitioner was selected in pursuance of the recruitment process initiated in furtherance of an advertisement, dated 17.11.2014. In the next year, when the respondent no.1 again issued an advertisement for making appointments on the post of Agriculture Field Officer (Scale-I), certain aggrieved candidates approached the Kerala High Court and the Kerala High Court directed-requested the respondent no.1 to consider including the degrees in certain other disciplines as educational qualifications for appointment on the post of Agriculture Field Officer (Scale-I). In pursuance of the directions, the respondent no.1, after deliberations, by the corrigendum dated 16.01.2016, permitted the candidates holding degrees in the disciplines of Forestry, Agricultural Biotechnology, Food Science and Agricultural Business Management, to apply for appointment on the post of Agriculture Field Officer (Scale-I). The said corrigendum could not be beneficial to the petitioner, who had applied in pursuance of an advertisement issued in the year 2014 and not in the year 2015. Also, it appears from the corrigendum that even for the candidates that are desirous of applying in pursuance of the advertisement issued in the year 2015, only the candidates who

have registered themselves in the four disciplines mentioned hereinabove between 24.01.2016 and 31.01.2016, would be considered eligible for appointment on the post of Agriculture Field Officer (Scale-I). The said corrigendum is not helpful to the case of the petitioner. The submission made on behalf of the petitioner that the said corrigendum is bad in law as it deprives the persons like the petitioner from being appointed on the post of Agriculture Field Officer (Scale-I), is liable to be rejected. The corrigendum makes it clear that the corrigendum is issued in respect of the recruitment process initiated in the year 2015, i.e. CRP-V and is not referable to the advertisement of the year 2014, i.e. CRP-IV, in pursuance of which the petitioner had applied. There is no merit in the submission made on behalf of the petitioner in the set of facts mentioned hereinabove, the cut-off dates mentioned in the corrigendum are either arbitrary or discriminatory. We do not find any illegality in the action of the respondents of withdrawing the offer of appointment by the impugned communication dated 03.06.2015. The judgment reported in **AIR 1983 SC 130** (*D.S. Nakara & Others Versus Union of India*) and relied on by the counsel for the petitioner is not relevant for deciding the issues involved in this writ petition. The said judgment cannot be made applicable to the case in hand.

For the reasons aforesaid, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE