

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1.)

CWP No.24081 of 2015
Date of Decision:- 26.5.2016.

Ajay Deswal

.....Petitioner

Versus

Indian Bank, Corporate Office and others

.....Respondents

(2.)

CWP No.26653 of 2015

Ajay Deswal

.....Petitioner

Versus

Indian Bank, Corporate Office and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Ashok Gupta, Advocate and
Mr. Eklavya Gupta, Advocate for
the petitioner (in both cases).

Mr. Tribhawan Singla, Advocate for
respondent Nos.1 to 3 (in both cases).

Mr. Aayush Gupta, Advocate for respondent No.4 in
CWP No.26653 of 2015.

P.B. BAJANTHRI, J.

1.) By this order CWP Nos.24081 and 26653 of 2015 would be disposed of. In CWP No.24081 of 2015, the petitioner has sought for a direction to the respondents to permit the petitioner to complete training pursuant to the appointment letter dated 9.10.2015. In CWP No.26653 of 2015, the petitioner has questioned the cancellation of provisional offer of appointment as Clerk dated 12.11.2015 vide Annexure P-8. For the purpose of facts, CWP No.24081 of 2015 is taken into consideration.

2.) The respondents have advertised for the post of Clerks on 9.8.2014. The petitioner is one of the candidate for recruitment to the post of Clerk. He had submitted his application on 20.8.2014. In the application form, he has stated that he belongs to OBC category and insofar as question posed that "*Are you an Ex-Serviceman : YES*". His date of birth has been mentioned as 30.10.1971. As on 1.8.2014, he has a completed 42 years of age. In the advertisement, age prescribed for the post of Clerk is minimum 20 years and maximum 28 years. Relaxation with regard to age has been given to various reserved categories like for OBC – 3 years and Ex-Serviceman/Disabled Ex-serviceman three years and actual period of service rendered in the defence forces + 3 years (8 years for Disabled Ex-Serviceman belonging to SC/ST) subject to a maximum age limit of 50 years. In this background, petitioner was selected and appointed to the post of Clerk vide appointment letter dated

9.10.2015. Petitioner was directed to undergo training w.e.f.

2.11.2015. Accordingly, he has reported on 2.11.2015. On

4.11.2015, respondents have prevented the petitioner to undergo training verbally on the sole ground that with reference to the

decision of the Apex Court in **Ram Singh and others Vs. Union of**

India 2015(2) SCT 424 decided on 17.3.2015 wherein it was held

that OBC certificate issued to the Jat Community has been struck

down. The petitioner approached this Court in the above writ petition

seeking a *mandamus* to direct the respondents to permit petitioner to

complete training. By virtue of interim order, petitioner has

completed his training. During pendency of this petition, respondents

have cancelled the appointment offered to the petitioner to the post

of Clerk on 12.11.2015. Feeling aggrieved by the order of

cancellation dated 12.11.2015, the petitioner has presented CWP

No.26653 of 2015.

3.) Learned counsel for the petitioner submitted that

petitioner's name cannot be considered under OBC category on the

ground that he do not fulfill the age criteria, namely, maximum 28

years plus 3 years relaxation (OBC) which would be 31 years. As on

1.8.2014, the petitioner is aged about 42 years. Therefore, his

candidature is required to be considered only against Ex-Serviceman

category. The respondents have considered candidature of the

petitioner under Ex-Serviceman category by incorporating his name

in the Select List at Serial No.121 (Ex-Serviceman Select List) and

he has been allotted to Indian Bank and not under OBC Select List. Therefore, selection and appointment of the petitioner under Ex-Serviceman category is in order. The respondents' presumption that the petitioner has been selected under OBC category is incorrect and the action to cancel the appointment vide letter dated 12.11.2015 is issued without application of mind. No opportunity was given before refusal to participate in the training and cancelling appointment order.

4.) Per contra, learned counsel for respondents No.1 to 3 submitted that they have filed written statement on behalf of respondent Nos.1 to 3 (in CWP No.26653 of 2015) today which is taken on record. The reasons for not permitting petitioner to undergo for training is that his candidature was considered under OBC category and so also cancellation of his appointment. It is evident from the record that name of the petitioner cannot be considered under OBC category with reference to the age factor and subsequent action of the respondents that the petitioner's name has been incorporated in the Ex-Serviceman Select List at Serial No.121 and allotting him to the Indian Bank is in order. There is no infirmity in the interview call letter that petitioner was called under Ex-Servicemen Category (Annexure P-3 dated 11.3.2015), and appointment letter dated 9.10.2015 in 1st para it is stated that *"We are pleased to offer you provisional appointment in our Bank as Clerk under OBC -EXS category subject to your accepting the terms and conditions set out hereunder and also on satisfactory verification of your credentials"*

and in the bottom of letter it is indicated that petitioner's selection is under OBC category. Petitioner's candidature is to be considered only under EXS and the fact that his name is reflected in EXS Select List. In the appointment letter OBC is read down as EXS. In view of these facts and circumstances, Annexure P-8 dated 12.11.2015 is set aside. The petitioner is entitled to consequential service benefits from the date of appointment.

5.) Both the petitions are allowed.

(P.B. BAJANTHRI)
JUDGE

May 26, 2016.

sandeep sethi