

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No. 8470/2016**

% **20th December, 2016**

SWADEEP KUMAR Petitioner

Through: Mr. Subhasish Mohanty, Advocate.

versus

ALLAHABAD BANK & ANR Respondents

Through: Mr. Rajesh Kumar, Advocate for R-1.
Mr. Jagat Arora, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition under Article 226 of the Constitution of India the petitioner challenges the action of the respondents in denying employment to the petitioner to the post of SWO-A (Clerical Cadre) – IV in the respondent no. 1/Allahabad Bank. Respondent no. 2 is the Institute of Banking Personnel Selection and which conducts examination with respect to employments in public sector banks such as respondent no. 1/Allahabad Bank.

2. There is a very limited issue which is called for decision in this writ petition as to whether petitioner who was considered for employment under Ex-servicemen category is or is not bound by paragraph 'V' of the advertisement and the relevant recruitment Rules which provide that a

candidate besides obtaining minimum total score must also have a minimum score in each test papers. This paragraph 'V' pertaining to the subject recruitment process reads as under:-

“V. Cut Off Score

Each candidate will be required to obtain a minimum score in each test and also a minimum total score to be considered to be shortlisted for interview. Depending on member of the State/UT wise vacancies available cutoffs will be decided and candidates will be shortlisted for interview. Prior to the completion of the interview process, scores obtained in the online examination will not be shared with the candidates shortlisted for interview.”

3. So far as the petitioner is concerned, his marks chart is given as Annexure R-1 to the counter affidavit filed by the respondent no. 2 and the same reads as under:-

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FIELD NAME		CUT - OFFS
REGISTRATION NO	1350522509	
ROLL NO	1561339683	
NAME	SWADEEP KUMAR	
STATE _ APPLIED	DELHI	DELHI
CATEGORY	OBC – EXS	GENERAL
T1 _ NA	17	13
T2 _ CK	20	18
T3 _ EL	8	10
T4 _ RE	21	16
T5 _ GA	21	10
TOTAL _ 200	87	125
COMBINED _SCORE_OUT_OF _100	44.80	70.60
ALLOTTED CATEGORY	OBC-EXS	

T1_NA = NUMERICAL ABILITY.

T2_CK = COMPUTER KNOWLEDGE.

T3_EL = ENGLISH LANGUAGE.

T4_RE = REASONING.

T5_GA = GENERAL AWARENESS WITH SPECIAL REFERENCE
TO THE BANKING INDUSTRY.”

4. It is seen from the aforesaid chart that there were a total of five test papers, i.e., T-1 to T-5, and though petitioner has obtained the necessary minimum marks for passing in papers T-1, T-2, T-4 and T-5, the petitioner however could not obtain the minimum marks for the paper T-3 which were 10, inasmuch as, petitioner had obtained lower marks being '8'. Therefore, once the petitioner has failed to clear the examination process by failing to obtain minimum marks for all and each of the tests, inasmuch as, petitioner has not obtained minimum marks of 10 for the T-3 paper, petitioner hence cannot claim that he has cleared the selection process and therefore should not be appointed.

5. Learned counsel for the petitioner has argued that respondents are bound by Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979, however, nothing has been pointed out to this Court as to how these Rules would be binding on public sector banks such as the respondent no. 1 herein.

6. Counsel for the petitioner then sought to draw the attention of this Court to the subject advertisement as per which some of the provisions of the Ex-Servicemen Rules were applicable, and accordingly it is claimed that the Rules as a whole must apply. However I cannot agree to this argument because the advertisement limits the application of the Ex-Servicemen Rules only with respect to certain aspects pertaining to relaxation of age, etc and this becomes clear from the following portion of the advertisement issued for subject recruitment process:-

“(iv) The following rules applicable to Ex-Servicemen re-employed under the Central government would apply to Ex-Servicemen candidates appearing for the CWE:

- (i) Ex-Servicemen candidates who have already secured employment under the Central Government in Group 'C' and 'D' will be

permitted the benefit of age relaxation as prescribed for Ex-Servicemen for securing another employment in a higher grade or cadre in Group 'C'/ 'D' under the Central Government. However, such candidates will not be eligible for the benefit of reservation for Ex-Servicemen in Central Government jobs.

- (ii) An ex-Servicemen who has once joined a Government job on civil side after availing of the benefits given to him/her as an Ex-Servicemen for his/her re-employment his/her Ex-Servicemen status for the purpose of the re-employment in Government jobs ceases.
- (iii) Candidates who are still in the Armed Forces and desirous of applying under Ex-Servicemen category whose date of completion of specific period of engagement (SPE) is completed only year from the last date for receipt of online application i.e. on or before 31.08.2015 are eligible to apply.”

7. It is therefore seen that as per the advertisement there is no benefit to be given to an Ex-serviceman that such an Ex-serviceman even if he fails to obtain less than the minimum score for one of the papers/tests, yet, such a person should be appointed. Therefore, I cannot agree with the argument urged on behalf of the petitioner that since the petitioner is an Ex-serviceman he need not obtain the minimum marks for all the papers and which admittedly was a condition for recruitment.

8. The present writ petition is dismissed accordingly.

DECEMBER 20, 2016

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VALMIKI J. MEHTA, J