

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.938 of 2016
In
Civil Writ Jurisdiction Case No. 4189 of 2013**

- =====
1. The Chairman Cum Managing Director, The Central Bank Of India Corporate Office- Chandermukhi, Nariman Point, Mumbai- 400021
 2. The Zonal Manager, The Central Bank of India, Block -B, 2nd Floor, Maurya Lok Complex' Dak Bungalow Road, Patna -800001
 3. Md . Yogendra Sah, Officer the Central Bank of India, Block -B 2nd Floor, Maurya Lok Complex, Dak Bungalow Road, Patna- 800001

.... Respondents /Appellants

Versus

Sadanand Kumar, Son of Shri Chandrachur Saw, Resident of Village and PO Amarpur, PS Mednichawk, District Lakhisarai, District at Present residing at Basgarha, PO- Basudeopur, PS- Kotwali, District Munger.

.... Writ petitioner /Respondent

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Sinha
Mr. Neelanjan Chatterjee
For the Respondent/s : Dr. Vinay Kumar Singh
Mr. Arun Kumar Singh

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-11-2017

This appeal has been filed under Clause 10 of the Letters



Patent by the Bank in question seeking exception to an order dated 29.01.2016 passed in CWJC No. 4189 of 2013 passed by the learned Writ Court. By the order impugned the Bank has been directed to hold an interview with regard to appointment of the petitioner to the post in question.

The respondent-petitioner had participated in the process of selection for appointment on the post of Operator –A. He appeared in the interview which was held on 19.02.2013. But the officers of the Bank at Patna did not permit him to appear in the interview on the ground that the date of birth of the petitioner furnished in the online application and the document produced by him at the time of interview are different. The petitioner admitted the same and pointed out that while submitting the online application the date of birth reflects produced by him and in the document produced by him are different and he also said that he will file an appropriate application and establish that the date of birth in the certificate is real. However, the did not permit him to appear in the interview.

It is the case of the Bank that if an error has been committed in an online application form the candidate is not entitled to participate in the interview.

The learned Writ Court examined each and every aspect of the matter and found that merely because of some typographical



error in the date of birth in the present case should not be a ground for preventing a person from participating in the interview and in paragraphs -10, 11 and 12 of the impugned order dealt with the matter in the following manner:-

“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 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 merely 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 placed in the case of Manoj Kumar vs. 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 shows 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 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 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 circumstances 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.”

Even though the learned counsel vehemently argued that in this case once the interview was over now in the year 2013, no further indulgence can be made in the matter. We find on going through the record that the petitioner was refused permission to appear in the interview on 19.02.2013 and when his representation was also not considered within five days on 25.02.2013, he filed the writ petition and by a detailed interlocutory order passed on 27.02.2013 the learned Writ Court passed an interim order to keep one seat vacant. Thereafter, the matter was finally decided by the learned Writ Court on 29.01.2016 and the Bank filing this appeal claiming thereof that the appeal itself is pending in this Court for more than one year.

Taking note of all the facts and circumstances of the case and the reasons that weighed with the learned Writ Court has dealt with the fact that the petitioner immediately rushed to this Court within five days of occurrence of the cause of action. Merely on account of delay in disposal of the matter relief to the petitioner cannot be denied. This a reasonable relief allowing him to appear in



the interview granted to the petitioner by the learned Writ Court exercising its discretion under Articled 226 in the interest of justice and, therefore, we see no reason to make any indulgence in the matter.

The appeal is therefore dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mr1./-

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