

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.35020 of 2015
and
M.P.Nos.1 & 2 of 2015

K. Poovarasan

.. Petitioner

Vs.

Syndicate Bank
Rep., by its Deputy General Manager,
Chennai Regional Office,
Leelavathi Building, 1st Floor,
No.69, Armenian Street,
Chennai 600 001

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order dated 23.10.2015 in Ref.No.1994/ROCH/PC/2015 on the file of the Respondent.

For Petitioner : Mr.S.Sugendran

For Sole Respondent : Mr.Anand Gopalan

For M/s.T.S.Gopalan

ORDER

The relief sought for in this writ petition is for seeking to call for the records pertaining to the impugned order dated 23.10.2015 in Ref.No.1994/ROCH/PC/2015 on the file of the Respondent.

2. The show cause notice dated 23.10.2015 is under challenge in this writ petition. From the affidavit filed in support of the writ petitioner, the learned counsel appearing for the petitioner states that the petitioner was appointed in the service of the respondent Bank as temporary Attender. The Deputy General Manager of the respondent Bank in his letter Ref No.1917/ROCH/PC/2015 dated 13.10.2015 called upon the writ petitioner and asked him to clarify his actual educational qualifications as on date, within a period of three days.

3. Subsequently, the writ petitioner through a letter dated 15.10.2015 requested to grant extension of time, for a period of 15 days to submit his reply to the aforesaid letter of the Deputy General Manager of the respondent Bank. However, the respondent rejected the plea of the writ petitioner and asked to submit his reply without any further delay. Further, the petitioner submitted another request letter on 17.10.2015 seeking to grant extension of time for atleast one week and consequently, the respondent granted time till 20.10.2015 to submit his reply in this regard.

4. The writ petitioner states that he was called for the interview and at that time, he produced his SSLC mark sheet, assuming that the same would be sufficient for appointment. Later on, the respondent came to know that the petitioner has completed Twelfth Standard (+2) and under graduation in B.Com degree. Thus, the writ petitioner has not committed any misconduct and therefore, the impugned show cause notice issued by the respondent is unsustainable.

5. The petitioner is of the opinion that the non-submission of certificates of higher qualification by him was not willful nor intentional. Further, he informed at the time of interview, he produced the Twelfth Standard (+2) mark sheet and B.Com degree certificate, wherein the officials who conducted the interview stated that those certificates were not relevant at this stage, as it was only for the process of appointment of temporary staff and therefore, the learned counsel appearing for the petitioner submitted that no action shall be initiated against him.

6. The learned counsel appearing for the respondent opposed the contentions of the petitioner by stating that the writ petitioner has suppressed the fact that he has acquired the B.Com degree during the time of attending the interview and the respondent will have to initiate appropriate action in accordance with the rules in force. Accordingly, the respondent issued the impugned show-cause notice dated 23.10.2015 setting out the facts and circumstances of the case and directed the writ petitioner to submit his explanation within a period of 7 days from the date of receipt of a copy of the show-cause notice. Instead of submitting his explanations / objections to the respondent Bank, the writ petitioner has moved this Court by filing this present writ petition under Article 226 of the Constitution of India.

7. The Writ against the show-cause notice cannot be entertained in a routine manner. A writ can be issued against the show-cause notice only on exceptional circumstances. Judicial review in this regard is certainly limited. The show-cause notice can be challenged if the same is issued by an

Authority having no jurisdiction or allegation of malafides are raised or if the same is in violation of the statutory rules in force. Even in case of raising an allegation of malafides, the authority against whom such an allegation is raised has to be impleaded as party respondent to the writ proceedings. In the absence of the above, no writ can be entertained against the show-cause notice.

8. In the case on hand, no doubt, the writ petitioner was appointed as a temporary attender. The respondent found that, some of the material facts were suppressed at the time of process of selection. Thus, they have issued the impugned show cause notice to the petitioner, providing an opportunity to get his explanations in this regard. Thus, it is the duty of the writ petitioner to submit his explanations/objections in this regard of the allegation set out in the show-cause notice and prove his innocence in this regard.

9. In these circumstances, this Court is of the opinion that the writ petition filed by the petitioner is certainly premature and not maintainable. It is left open to the petitioner to submit his explanations/objections to the respondent and participate in the process of proceedings initiated against the petitioner in this regard. This Court cannot adjudicate the demerits and merits of the writ petition and it is upto the respondent to get the explanation from the writ petitioner and pass final orders, based on the materials available on record.

10. Thus, no further adjudication needs to be undertaken in this case on the grounds raised by the writ petitioner and hence the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

11. The petitioner is at liberty to submit his explanation / objections to the impugned show-cause notice within two weeks from the date of receipt of a copy of this order and thereafter, the respondent shall consider the materials available on record and take a decision on merits accordingly.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sts

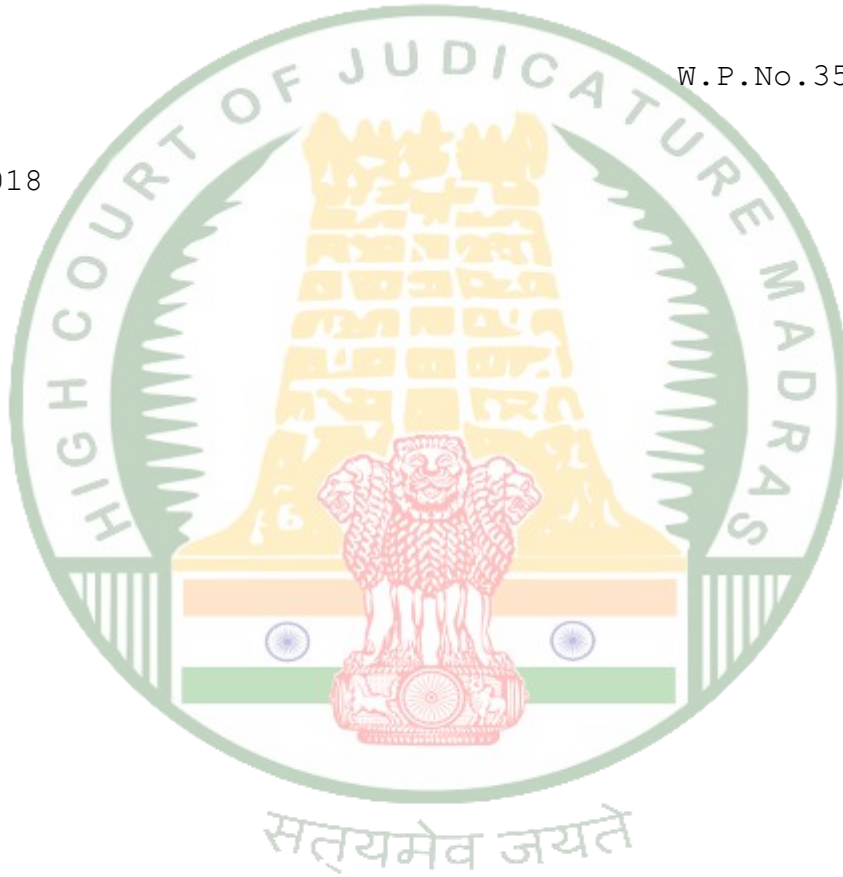
To:

Deputy General Manager,
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+1 cc to M/s.T.S.Gopalan & Co; Advocate sr 85636
+1 cc to M/s.S.Sugendran Advocate sr 86187

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