

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.10.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.21061 of 2017

Indian Overseas Bank,
763, Anna Salai,
Chennai - 600 002.
Rep by its General Manager.

...Petitioner

..Vs..

- 1.The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006.
 - 2.The President,
Indian Overseas Bank Employees'
Trade Union,
25, Rangoon Street,
Thousand Lights,
Chennai - 600 006.
 - 3.The General Secretary,
All India Overseas Bank Employees' Union,
763, Mount Road, Chennai - 600 002.
 - 4.The Assistant Commissioner of Labour (Central),
No.4, Haddows Road,
Shastri Bhavan, Chennai.
(Impleaded by Order of high court dated 08.02.2018
in Wmp.38349/17)
 - 5.S.Valaiyapathy
(Impleaded by Order of high court dated 18.10.2019
in wmp.7563/18)
- ...Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the first respondent in I.D.No.63 of 2015 and quash its award dated 14.03.2017.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

For Respondent : Mr.K.M.Ramesh (for R.2)
Mr.R.Jaya Prakash (for R.3)
Mr.Perumbulavel Radhakrishnan
(for R.5)

R1 : Tribunal

ORDER

The award dated 14.03.2017 in I.D.No.63 of 2015 is under challenge in the present writ petition.

2.In view of the fact that the writ petitioner themselves come forward with a letter dated 11.10.2019 stating that interview marks will not be fixed more than 20 marks in the next selection process, no detailed adjudication, with reference to the facts narrated in the present writ petition became unnecessary.

3.The letter dated 11.10.2019 addressed to the learned counsel appearing on behalf of the petitioner is extracted hereunder;

"HRMD/IR/184/7/2019-20 Date.11.10.2019
M/s.T.S.Gopalan & Co.,
Advocates & Notaries,
No.2, Old.No.17,
Lakshmanan Street,
T.Nagar, Chennai - 600 017.

Dear Sir,

Staff: Industrial Relations
W.P.No.21061/2017

Filed by the Bank-Before Madras High Court
(Against the Order of CGIT, Chennai modifying the
settlement dated 03.07.2017 regarding assignment of
Special Assistant Duties and temporary entrustment of
minor supervisory duties

We refer your e-mail dated 28.09.2019 appraising
the outcome of hearing dated 26.09.2019 in captioned
case.

Selection of SCA was done in our Bank based on

settlements reached since 1990 i.e., (settlement dated 13.09.1990). Initially the selection was based on interview only.

The above settlement was modified on 23.10.2002, with further modification that qualification will also be reckon addition to service period for arriving seniority list and in the ratio of 1:2 were called for interview. Here also selection is based on interview only.

The above settlement was further modified on 03.07.2014 and service + education + interview was the base for selection of SCA.

In view of High Court suggestion, we submit that interview marks will not be fixed more than 20 marks in the next selection process and request the Court to set-aside the award dated 03.07.2017.
Thanking you,
Yours faithfully,"

4.The learned counsel appearing on behalf of the respondents 2 & 3 reiterated that the excess prescription of interview marks would provide scope for favoritism and nepotism as well as the corrupt activities in the process of selection. Thus, the Union all along is adjudicating the issues, no excess marks must be provided by way of an interview marks. Now that the writ petitioner bank itself has made an assurance in letter dated 11.10.2019 that the interview marks will not be fixed more than 20 marks in the next selection process. The grievance of the respondents 2 & 3 are redressed. Thus, it is made clear that in all future recruitments, the interview marks should not exceed 20 marks, as assured in the letter cited supra.

5.In view of the said submission, now the Court has to examine the nature of the award passed. The relief granted in the award is undoubtedly excessive and beyond the jurisdiction of the first respondent/Industrial Tribunal. Prescription of education qualification, age and other criteria for recruitment, selection is the prerogative of the Authorities competent, the Courts are not empowered to prescribe the qualification for selection. Such criterias are fixed by the Expert Committee constituted by the Employer themselves and the Courts can interfere with such criteria only if it is established that the criteria fixed is unconstitutional or in violation of the statute or if it is unreasonable resulting denial of equal opportunities or violation of the established principles of law. Thus, the judicial review in respect of prescription of requisite qualifications and criteria is the prerogative of the Employer and the power of the

Courts are leveled in this area.

6.This being the legal principles, the other criterias fixed by the Industrial Tribunal is bad in law and the Tribunal has no jurisdiction to prescribe any requisite qualification or criterias for selection.

7.Thus, the award Labour Tribunal in I.D.No.63 of 2015, dated 14.03.2017 is quashed. However, it is made clear that the writ petitioner should scrupulously follow the assurance given by them in letter cited supra in respect of the prescription of interview marks.

8.Thus, the writ petition stands partly allowed. No costs. Consequently, the connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mrm

To

1.The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006.

2.The President,
Indian Overseas Bank Employees'
Trade Union,
25, Rangoon Street,
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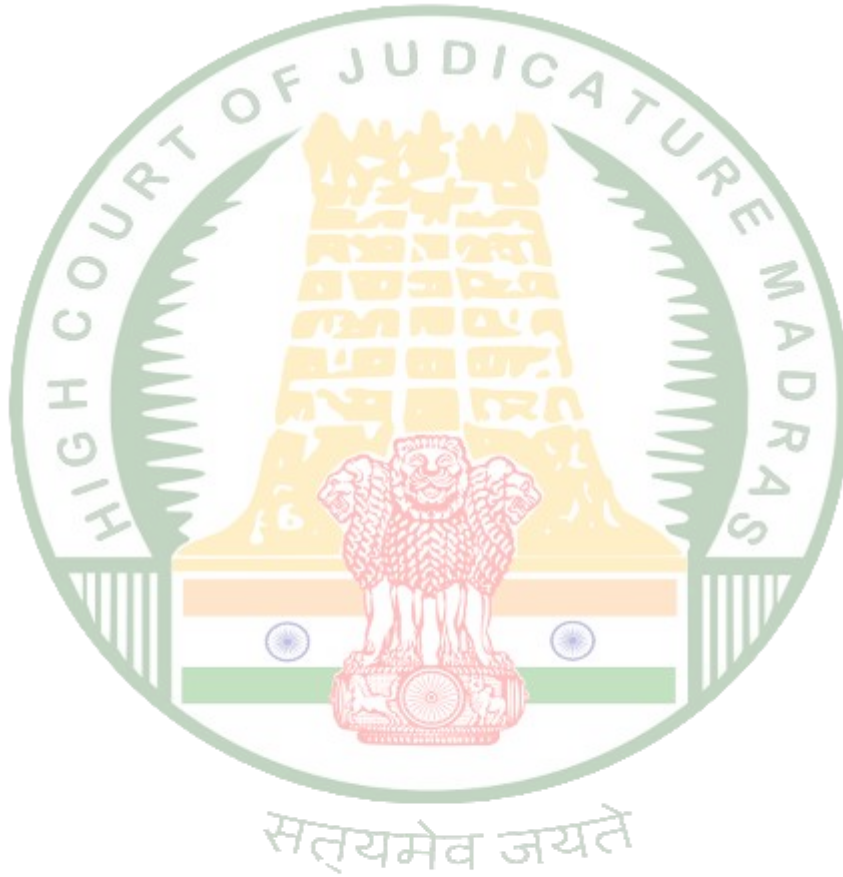
3.The General Secretary,
All India Overseas Bank Employees' Union,
763, Mount Road, Chennai - 600 002.

4.The Assistant Commissioner of Labour (Central),
No.4, Haddows Road,
Shastri Bhavan, Chennai.

+1cc to Mr.R.Jayaprakash, Advocate SR.87633/19
+1cc to Mr.Perumbulavel Radhakrishnan, Advocate SR.87547
+1cc to M/s.T.S.Gopalan & Co. Advocate SR.87478
+1cc to Mr.K.M.Ramesh, Advocate SR.87216

W.P.No.21061 of 2017

SV (CO)
CB (05/12/2019)



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