

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5359 of 2020**

1. Pankaj Kumar Pankaj S/o Shri Rambilas Prasad, Aged About 38 Years R/o Village And Post Office - Manikpur, Yadav Colony, Korba, District - Korba Chhattisgarh.
2. Sunil Kumar Tiwari, S/o Shri Santosh Tiwari, Aged About 35 Years R/o Village - Amora, Tehsil - Nawagarh, District - Janjgir - Champa Chhattisgarh.

---- Petitioners**Versus**

1. State Bank Of India, Through - Its Zonal Manager, Zonal Office, Arera Hills, Bhopal District - Bhopal, (M.P.)
2. The Chief Manager (Human Resources), State Bank Of India, Recruitment Cell, Human Resources Department, Local Head Office, Hoshangabad Road, Bhopal (M.P.)
3. The Manager Security, State Bank Of India, Administrative Office, Human Resources Section, Bayron Bazar, Raipur Chhattisgarh.
4. The Director, Department Of Sainik Welfare, Rajyasainik Board, Near Collectorate Parisar, Behind Home Guard Office, Raipur Chhattisgarh. 492001
5. The District Sainik Welfare Officer, District Sainikboard, Near Collectorate Office, Bilaspur District - Bilaspur Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Rajesh Kumar Kesharwani, Adv.
For State	:	Mr. Sudeep Verma, Deputy G.A.
For Respondents/Bank	:	Mr. P.R. Patankar, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

16/12/2020

1. The challenge in the present writ petition is to the advertisement dated 12.03.2020 issued by the respondent No.2 for filling up of the post of Security Guard.
2. The challenge to the advertisement is to the debarring of a graduate from participating in the recruitment process. According to

the counsel for the petitioners, the petitioners are Ex-service men and are all graduates and considering the fact that the nature of appointment is that of a Security Guard, it would be the petitioners who would be more suitable for the said post considering the experience that they have in the Armed Force. Counsel for the petitioners further submits that only because the petitioners happen to be graduate or more qualified should not be a ground for declaring them to be ineligible from participating. The petitioners are aggrieved by the decision of the respondents in the advertisement wherein they have prescribed passing of 8th standard or its equivalent as the educational qualification for the said post and specifically holding that candidate should not have passed graduation or its equivalent. It means that the graduates would stand barred from participating in the recruitment process. Counsel for the petitioners submits that very same respondents in the previous years recruitment had permitted graduates participating in the recruitment process and it is only this time the respondents have restricted the graduates. On this ground also the same deserves to be interfered.

3. Per contra, the learned counsel for the respondent-Bank submits that it was the conscious decision of the respondents-Bank to ensure that the Security Guard appointed by the respondents-Bank should not be more qualified and with that intention they had fixed the criteria for having the Security Guard with only class 8th passed as the qualification required for the post. The learned counsel for the respondents-Bank submits that the respondents-Bank is not averse in appointing Ex-service men in Security Guard as is

contended by the petitioners, but submits that the Ex-service men who are applying should not be graduates. Any Ex-service men, who are not graduate, are free to apply for the said post and who would be considered on their own merits and this would amount to reasonable classification that the respondents have made and thus prayed for the rejection of the present writ petition.

4. The counsel for the respondents-Bank also submits that the entire recruitment process have already been come to an end and the advertisement was published as early as on 12.03.2020 and the present writ petition has been filed after about 9 months time i.e. on 08.12.2020. On this ground also the counsel for the respondents-Bank has prayed for rejection of the writ petition.
5. Having heard the contentions put forth on either side and on perusal of record, at the first instance this Court is of the opinion that since the recruitment process itself has been concluded and the advertisement having being issued on 12.03.2020, the present writ petition seems to have been filed at a belated stage after more than 9 months and after the recruitment process was complete. The petitioner at the first instance on 12.03.2020, the date of advertisement itself were aware of the disqualification that they had in participating in the recruitment process. If at all, if they were aware about the same, they should challenge it at that appropriate point of time.
6. The Hon'ble Supreme Court recently in the case of **“Chief Manager, Punjab National Bank & Anr. v. Anit Kumar Das”** **2020 SCC Online SC 897** dealing with an issue of the minimum

qualification prescribed for recruitment has in very categorical terms held that it is not for the Court to consider the relevance of the qualification prescribed for various posts. According to the Hon'ble Supreme Court, once if there is a conscious decision taken by the employer fixing the minimum eligibility criteria or educational qualification, the scope of interference exercising the writ jurisdiction gets reduced to the minimal. In paragraph No. 21 of the said judgment the Hon'ble Supreme Court has held as under:

“21. Thus, as held by this Court in the aforesaid decisions, it is for the employer to determine and decide the relevancy and suitability of the qualifications for any post and it is not for the Courts to consider and assess. A greater latitude is permitted by the Courts for the employer to prescribe qualifications for any post. There is a rationale behind it. Qualifications are prescribed keeping in view the need and interest of an Institution or an Industry or an establishment as the case may be. The Courts are not fit instruments to assess expediency or advisability or utility of such prescription of qualifications. However, at the same time, the employer cannot act arbitrarily or fancifully in prescribing qualifications for posts. In the present case, prescribing the eligibility criteria/educational qualification that a graduate candidate shall not be eligible and the candidate must have passed 12th standard is justified and as observed hereinabove, it is a conscious decision taken by the Bank which is in force since 2008. Therefore, the High Court has clearly erred in directing the appellant Bank to allow the respondent original writ petitioner to discharge his duties as a Peon, though he as such was not eligible as per the eligibility criteria/ educational qualification mentioned in the advertisement.”

7. Moreover, what needs to be considered at this juncture is that from the advertisement itself it is evidently cleared that the Ex-service men who are not graduate are entitled and eligible for participating in the recruitment, which by itself would show that the respondents are not averse in appointing Ex-service men as Security Guard, but with a reasonable classification of the Ex-service man or for that matter anybody who is applying should not have passed graduation or its equivalent. The same therefore cannot be held to be either arbitrary or malafide. It is well within the domain of the

employer to decide the minimum qualification for a particular post considering the nature of duties to be discharged.

8. In the instant case, therefore, this Court does not find any strong case made out calling for an interference with the advertisement. The writ petition therefore being devoid of merits deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved