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

+ W.P.(C) 6285/2016

ABHIJIT SARKAR

..... Petitioner

Through

Mr. Arup Banerjee and Mr. R.K. Dey,  
Advocates.

versus

M/S PUNJAB NATIONAL BANK AND ORS ..... Respondents

Through

Mr. Rajesh Gautam and Ms.Sakshi  
Gaur, Advocates for R-1 to R-7.  
Mr. Jagat Arora and Mr. Rajat Arora,  
Advocates for R-8.

**CORAM:**

**HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER**

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**11.02.2020**

By the instant petition, the petitioner, in effect, seeks issuance of a Writ of Mandamus for being appointed to the post of SWO-A, a clerical cadre w.e.f. 31.08.2015 instead of 19.09.2016.

Concisely, the facts relevant to the relief prayed for are that the petitioner, who was employed as Sargeant (Sgt.) with Air Force, made an application for being appointed to the subject post on an advertisement issued by the respondent no.8–Institute of Banking Personnel Selection in short ‘IBPS’. The stipulated eligibility criteria for the Ex-Servicemen was as under:

*“(viii) Ex-Servicemen candidates: (i) Candidates who are released/retired from Armed Forces are required to submit a certificate as per Proforma A. Such Ex-servicemen*

*candidates have to produce a copy of the discharge Certificate / pension payment order and documentary proof of rank last / presently held (substantive as well as acting) at the time of interview. (ii) Candidates who are still in Armed Forces and desirous of applying under Ex-Servicemen category should submit Proforma B from the Competent Authority showing his/her date of completion of specific period of engagement (SPE) along with the declaration in Proforma C. Such candidates whose SPE is completed on or before 31.08.2015 are eligible to apply. Such candidates have to submit a release letter and a self declaration from the candidate that he/she is entitled to benefits admissible to Ex-Servicemen as per Govt. of India rules. (iii) Those candidates who have completed their initial period of assignment and who are on extended assignment are required to submit the certificate as per Proforma D. (iv) Dependants of Servicemen killed in action or those who have been severely disabled have to produce satisfactory documentary proof showing that they are Dependents of Servicemen killed in action or severely disabled and an affidavit stating that the relaxation is availed by one dependent of Ex-Servicemen or not availed by any Dependent of Servicemen killed in action or severely disabled.”*

Since the issue revolves around the eligibility criterion, which the parties seek to be construed in their respective manner, the advertence to any other aspect is not called for.

Undisputedly, the petitioner was in service, when he applied for being appointed to the given post. In the submissions of Mr. Banerjee, ld. counsel for the petitioner, the petitioner having completed 20 years of the specific period of engagement–SPE, was eligible for being considered and appointed as an Ex-Serviceman to the subject post in terms of the foregoing Clause (iii) inasmuch as having completed the initial period of his assignment, he

was on the extended assignment and therefore, Proforma-D, which forms part of the paper book as Annexure P-8, having been submitted, the petitioner could not be denied appointment against the subject post.

Mr. Gautam, Id. counsel for respondents on his part however strenuously contends that the petitioner was not an Ex-Serviceman on the date he applied for the subject post, even though, he had completed 20 years of SPE and the relevant Clause attracted in his case was Clause (ii). Mr. Gautam also submits that the candidates who were still in service were *inter alia* required to submit a release letter, in other words, a discharge certificate on or before 31.08.2015, which, the petitioner failed to submit inasmuch as the petitioner submitted his discharge certificate only on 04.09.2015. In his submissions, therefore, the petitioner was not eligible for appointment to the subject post.

During the course of hearing it emerges, the petitioner was appointed on the fresh advertisement issued on 19.09.2016. Thus, the short controversy agitated in the instant petition revolves around the appointment of the petitioner to the subject post w.e.f. 31.08.2015 only.

A perusal of the eligibility criteria leaves no doubt as to the fact that the candidates applying under the said category and who were still in Armed Forces, in addition to having completed SPE on or before 31.08.2015, were required to submit a release letter, or to say, discharge certificate, which, the petitioner submitted only on 04.09.2015. Though, as per the sub-Clause (iii), the candidates who had completed their initial period of assignment and who were on extended assignment were required to submit the certificate as per Proforma-D and the Id. counsel for the petitioner asserts the case of the petitioner to be falling within the said category and for that purpose the

petitioner is said to have submitted Proforma-D, nothing however comes to be pointed out as to when was this submitted. May be, it was submitted within the time provided for the purpose and that is why it appears, the petitioner was invited for interview for the purposes of selection. The Court is however still not inclined to grant the petition taking note of the fact that the petitioner was appointed to the subject post w.e.f. 19.09.2016 on a fresh process of selection initiated and the issue of appointment to the subject post, in any case, does not survive. Mr. Banerjee on his part contends that the wrongful denial of appointment to the petitioner w.e.f. 31.08.2015 had the effect of taking away the seniority of the petitioner besides the fact that the petitioner had to resign pre-maturely and it had the effect of loss of financial benefits, thereby. It may be so. Fact remains, the petitioner did not submit his discharge certificate on or before 31.08.2015. Then, in the event, the petitioner was substantially agitating his rights vis-a-vis the seniority, the others, who would be affected by his claim, should have been impleaded, but, it is not so.

Taking into account the totality of facts and circumstances, the Court is not inclined to exercise its extra ordinary jurisdiction for the grant of relief prayed for. Writ petition stands disposed off, accordingly.

**A. K. CHAWLA, J**

**FEBRUARY 11, 2020**

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