

**14.12.2021**  
**Sl. No.18**  
(PP)

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 19427 of 2021**

**Asim Nayak**  
**Vs.**  
**Punjab National Bank & Ors.**

Mr. Saibal Acharya,  
Mr. Kaushik Ch. Gupta,  
Mr. Pradip Paul

....for the petitioner.

Ms. Parna Roy Choudhury

....for the respondent nos.2 & 3.

The petitioner says that he has been working as a Badli Sweeper at Jhikuri Branch of United Bank of India since 14<sup>th</sup> October, 2014. Pursuant to the amalgamation of Oriental Bank of Commerce and United Bank of India (in short, UBI) with Punjab National Bank (in short, PNB) under the Scheme of 2020, there is no independent existence of UBI at present. The petitioner says that though the petitioner had been in continuous engagement as a Badli Sweeper is presently is on the verge of losing his job as PNB has a policy not to give appointment to any cadre, including subordinate cadre, on temporary basis and/or lump sum payment or on casual basis. Temporary appointments are strictly prohibited in PNB and such policy is to be implemented in UBI also. A circular bearing No.510 dated 17<sup>th</sup> July, 2020 and a further memo dated 6<sup>th</sup> April, 2021 have been

referred to by the petitioner. The petitioner further says that in terms of the information sought for by PNB, the Deputy General Manager has stated that the petitioner was in employment for 2368 days since 14<sup>th</sup> October, 2014 in the Kharagpur Division. The petitioner says that an advertisement for recruitment for the post of Part-time Sweeper under subordinate cadre in Kharagpur Circle has been published on 26<sup>th</sup> November, 2021 for filling up 28 vacancies in the post of Part-time Sweeper in subordinate cadre. The minimum age to apply under the said advertisement is 18 years while the maximum is 24 years with applicable relaxation as on 1<sup>st</sup> July, 2021. The relaxation in case of SC/ST candidates is 5 years, while for Physically/orthopedically handicapped candidates the same is 15 years. In case of OBC, the relaxation is 3 years. Similarly, Ex-servicemen candidates get an exemption of 3 years subject to maximum age limit of 45 years. The petitioner says that he has not been able to apply due to overage. The petitioner, therefor, seeks relaxation of age limit to allow him to appear in the recruitment process to be conducted in terms of the said advertisement.

The petitioner is a Badli Sweeper. As a Badli Sweeper, the petitioner has accrued no indefeasible right to seek employment even though he may have

worked for 2368 days on continuous basis since 14<sup>th</sup> October, 2014. The subject advertisement is a result of the policy decision of PNB to which UBI wherein the petitioner worked as a Badli Sweeper has merged in. The policy in vogue in PNB is now binding on UBI.

In the above facts and circumstances, the petitioner cannot be allowed to participate in the recruitment process by relaxing the age, particularly when the advertisement is very specific as to the minimum and maximum age and the relaxation of age allowable.

Judicial review in respect of a policy matter as also in conducting a recruitment process by relaxing age barrier is ordinarily uncalled for. This will amount to transgression into a administrative arena consciously left in the domain of the employer concerned. Looking into the matter from another angle, the relaxation of age, if permitted to the petitioner, will render the age limit with allowable relaxation fixed by the selection board otiose. There will be innumerable candidates who have not been able to apply due to age bar. Granting relaxation to the petitioner will change the essential condition of the advertisement which will not only deprive many others who have not been able to apply for the age barrier, but also invite applications in wave from

intending candidates who will also seek for similar relaxation. The entire recruitment process in such a case will be totally disrupted. The judicial interference for such reason is also not called for.

The petitioner has cited a judgment reported in 2013 (1) CHN 9 (Gobinda Chandra Mondal vs. Principal, Rabindra Mahavidyalaya). The factual basis in the said judgment is completely different from that of the case in hand. The said judgment was rendered in the facts of that case and as such, the ratio laid down therein has no manner of application to the instant case. No relaxation of age on the basis of the said judgement in Gobinda (supra) can be granted to the petitioner in the instant case. In another matter, an order was passed by this Bench on 11<sup>th</sup> August, 2021 in WPA 11642 of 2021, wherein I directed PNB to take a decision to the case of the petitioner in the said writ petition in the light of the office memo dated 6<sup>th</sup> April, 2021.

In the instant case, there is no scope of considering the representation as correctly submitted by the petitioner, the advertisement has already been published which was not the case in the other writ petition. The last date of applying thereunder is 15<sup>th</sup> December, 2021. Allowing the petitioner age relaxation will deprive the bank from receiving

application from similar candidates, which, in effect, will reduce the option, which would have been otherwise available to the Selection Committee.

Since I have already opined that the petitioner should not be given the age relaxation in the facts of the instant case, I dismiss the writ petition without, however, any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

**(Arindam Mukherjee, J.)**