



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) No.17564 of 2021 and

W.M.P.(MD) Nos.14426 and 14429 of 2021

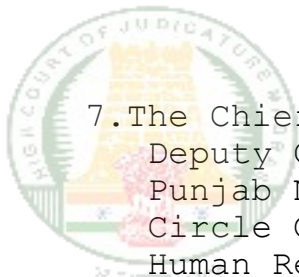
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A.T.Muthuvijayan

... Petitioner

vs.

- 1.The Union of India,
Represented by its Secretary to Government,
Ministry of Finance,
Department of Financial Services,
3rd Floor, Banking Division,
Sansad Marg, Jeevan Deep Building,
Parliament Street, New Delhi 110 001.
- 2.The Reserve Bank of India,
Represented by its General Manager,
Department of Banking Supervision,
Central Office, Centre-1,
Cuffe Parade, Colaba,
Mumbai - 400 005.
- 3.The Managing Director & Chief Executive Officer,
Punjab National Bank,
Corporate Office,
Banking Financial Services,
Plot No.4, Sector - 10,
DWARKA, New Delhi - 110 075.
- 4.The General Manager,
Punjab National Bank,
Human Resource Development Division,
Head Office, No.7, Bhikaji Cama Place,
New Delhi-110 066.
- 5.The Zonal Manager,
Punjab National Bank,
No.46-49, PNB Towers,
5th Floor, Royapettah High Road,
Royapettah, Chennai-600 014.
- 6.The Chief Manager,
Punjab National Bank,
Human Resource Development Division,
Circle Office, Khandha Enclave,
179 - Sarojini Street,
Ram Nagar, Coimbatore 641 009.



7.The Chief Manager,
Deputy Circle Head,
Punjab National Bank,
Circle Office,
Human Resource Development Division,
4th Floor, Aparna Towers, Bye Pass Road,
Madurai - 625 010. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned notification issued by the seventh respondent, dated 26.02.2021 calling for the applications for recruitment of persons in subordinate cadre-2020-21, for vacancies in Madurai circle and the same was published in Tamil daily "Dinamani" issue dated 28.02.2021 in respect of eligibility criteria fixed particularly in a portion of clause 2 and 3 of notification and quash the same and consequently, to direct the respondents to consider and select the petitioner to the post of Peon in subordinate cadre-2020-21 based on the application of the petitioner, dated 04.03.2021 without applying the said portion of clause 2 and 3 of the notification.

For Petitioner : Mr.A.Saravanan
For R1 : Mr.Narayana Ram
Central Government Standing Counsel

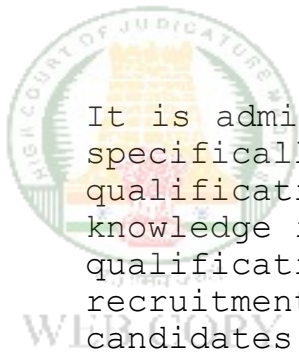
O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned notification issued by the seventh respondent, dated 26.02.2021, in respect of eligibility criteria fixed particularly in clause 2 and 3 of the notification and consequently, to direct the respondents to consider and select the petitioner to the post of Peon in subordinate cadre-2020-21 based on the application of the petitioner, dated 04.03.2021 without applying the said portion of clause 2 and 3 of the notification.

2.Heard Mr.A.Saravanan, learned Counsel for the petitioner and Mr.Narayana Ram, learned Counsel for the first respondent.

3.The petitioner states that he completed 10th examination in the year 2014 and plus two in the year 2016. The petitioner also completed B.E. in the year 2020 at KLN Engineering College, Pottapalayam, Madurai. He states that he belongs to DNC community.

4.The seventh respondent issued recruitment notification inviting application for the post of Peon in Subordinate Cadre 2020-21 to fill up the vacancies in Madurai and few other districts in Tamil Nadu. The petitioner also applied to the same on 04.03.2021.



It is admitted that in the impugned recruitment notification, it is specifically stated that the minimum and maximum educational qualification is 12th standard with basic reading and writing knowledge in English and that the candidates having completed higher qualification (Graduation and above) cannot apply. Clause 3 of the recruitment notification specifically stipulates that eligible candidates should be a domicile of district, for which vacancies have been notified. The above Writ Petition is filed challenging the Clause 2 and 3 in the recruitment notification, that was published on 28.02.2021.

5.The learned Counsel for the petitioner submitted that Clause 2 and 3 are against the constitutional guarantee meant to be given to every citizens and that both clauses should be declared unconstitutional. It is further stated that the disqualification for possessing higher qualification is against the constitutional principles. The learned Counsel for the petitioner relied upon a judgment of Honourable Supreme Court in the case of **Mohamed Riazul Usman Gani and others vs District and Sessions Judge, Nagpur and others** reported in **AIR 2000 SC 919**.

6.From the portion of the judgment of the Honourable Supreme Court relied upon by the learned Counsel for the petitioner, it is seen that the Honourable Supreme Court has observed that a criterion, which has the effect of denying a candidate his right to be considered for the post on the principle that he is having higher qualification than prescribed cannot be rational. It was further observed that a candidate possessing higher qualification in the same line cannot be excluded from consideration for selection and that denying consideration to a candidate having better and higher qualification in the same line would definitely violative of Articles of 14 and 16 of Constitution of India.

7.The learned Counsel for the petitioner also relied upon a judgment of Allahabad High Court in Writ A.No.69034 of 2009, in the case of **Pankaj Kumar Dubey vs Punjab National Bank and others**. The Allahabad High Court held as follows:

21. Before parting, it is noteworthy to mention that now the respondents themselves have prescribed standard XII as the minimum qualification for the post of peon, as is evident from letter by the Bank dated 6/7/2011 (Annexure 1 to the amendment application). The respondents have filed their counter affidavit in reply to the amendment application but have not denied the said fact. Sri D. Vaish admits that now the minimum qualification for the post of peon is intermediate. This is clear recognition by the Bank that higher education of intermediate is infact a necessity for due performance of duties attached to the post of peon, in a bank.

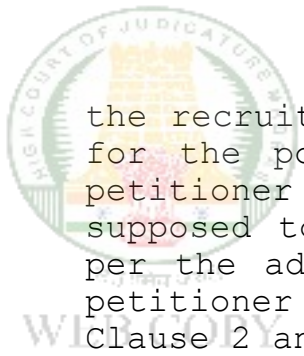


22. Thus, higher education if not a magic wand, but surely a jewel on one's crown; if not a hero but can never be a villain. A fortiori, the denial of appointment to the petitioner cannot be sustained. Impugned order dated 17/4/2008 is quashed. Respondents are directed to forthwith permit the petitioner to join his duties in pursuance to the offer of appointment dated 29/3/2008 and he shall be paid his regular salary, in accordance with law.

8. However, the two judgments relied upon by the petitioner cannot be applied strictly in the present case. In the judgment of Allahabad High Court, this Court noticed that the minimum qualification was not notified to the petitioner. Similarly, from the extracted portion of the judgment of the Honourable Supreme Court in the affidavit filed in support of the Writ Petition, this Court is able to see that the judgment of Honourable Supreme Court can be distinguished on facts. In the present case, the minimum and maximum educational qualification required for the candidate to apply for the post of Peon is specifically prescribed. Once 12th standard is the minimum and maximum educational qualification as per the recruitment notification and there is a specific clause that candidates having higher qualification cannot apply, this Court is not in a position to appreciate the arguments of the learned Counsel for the petitioner relying upon the judgment of the Allahabad High Court and the extracted portion of the judgment of Honourable Supreme Court referred to in the affidavit.

9. The seventh respondent, as the authorized Officer under HR Department of the respondent Bank, is competent to issue any notification as per the decision of the Bank. While prescribing educational qualification for the candidates, the Court will not interfere with the educational qualification, as the respondent bank has an independent right to prescribe the minimum and maximum educational qualification for the candidates to fill up the posts of Peon. The petitioner, who participated in the selection process, has now filed the Writ Petition challenging two clauses in the recruitment notification on the ground that it violates Article 14 of the Constitution of India. The eligibility criteria prescribed by the respondents is the prerogative of respondents and this Court normally will not entertain this Writ Petition.

10. This Court is unable to entertain the Writ Petition, as a *bona fide* litigation, as seen from the factual averments made in the affidavit filed in support of the Writ Petition. The recruitment notification was issued on 28.02.2021 and the petitioner has also applied for the post of Peon pursuant to the advertisement. While submitting the application on 04.03.2021, the petitioner has not raised any issue. The petitioner knowing fully well that the minimum and maximum educational qualification has been prescribed in



the recruitment notification as a pass in 12th standard, had applied for the post. It is stated by the petitioner himself that the petitioner is waiting to get interview call, even though he is supposed to know that he is not qualified or eligible to apply as per the advertisement. After a period of about seven months, the petitioner has approached this Court with a direction to quash Clause 2 and 3 of the recruitment notification.

11.The notification is for filling up the post of Peon in several districts in this State and the Writ Petition is filed with an intention to stall the selection process. If the Writ Petition challenging eligibility norms is entertained at this stage, the whole process of selection will be in jeopardy. Rights of prospective candidates will be affected. The petitioner has approached this Court with a delay of more than seven months and the Writ Petition is also liable to be dismissed on the ground of laches. Clause 2 and 3 in the advertisement cannot be challenged, as the employer is the best person to decide, especially when they are supposed to have strong reasons in selecting suitable persons for the post. This Court find no merit in the Writ Petition.

12.Hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

+1 CC to M/s.A.SARAVANAN, Advocate (SR-30441[F] dated 28/09/2021)

+2 CC to M/s.A.SARAVANAN, Advocate (SR-30632[F] dated 29/09/2021)

W.P.(MD) No.17564 of 2021
28.09.2021

RD(22.10.2021) 5P 4C