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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **Date of Decision: 16.08.2022**

% LPA 458/2021 and C.M. No.42944/2021

VIKRANT SINGH GANGWAR ..... Appellant

Through: Mr. Sharique Hussain, Advocate.

versus

PUNJANB NATIONAL BANK ..... Respondent

Through: Mr. Rajesh Kumar Gautam, Mr.Anant Gautam, Mr. Nipun Sharma, Mr.Sachin Singh & Mr. Vidur Ahluwalia, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SATISH CHANDRA SHARMA, CJ. (ORAL)

1. The present Letters Patent Appeal has been filed under Clause 10 of Letters Patent Appeal against the order dated 21.10.2021 passed in W.P.(C.) No. 11823/2021, titled ***Vikrant Singh Gangwar v. Punjab National Bank and Anr.***

2. The facts of the case reveal that the Punjab National Bank issued an advertisement on 07.09.2020 inviting applications for the post of Manager (Risk) in various disciplines and the post of Manager (Risk) was included in the advertisement. The appellant applied in response to the advertisement

and appeared in the written examination.

3. The appellant also qualified the written examination and was called for an interview and finally an offer of appointment was issued on 05.03.2021. The offer of appointment was provisional subject to the appellant meeting the eligibility criteria as provided under the advertisement dated 07.09.2020. The Respondent bank, on 23.04.2021 directed the petitioner to submit necessary documents/ certificates in order to establish that he holds the qualifications and work experience and the appellant did submit a reply on 15.05.2021. The Respondent bank has finally passed an order on 20.09.2021 communicating to the Appellant – by which the Offer of Appointment dated 05.03.2021 to the post of Manager (Risk) has been cancelled.

4. The Appellant by filing a Writ Petition did assail the order dated 20.09.2021 and prayed for appointment/ reinstatement as Manager (Risk) and the learned Single Judge has dismissed the writ petition.

5. The Order passed by the learned Single Judge, in paragraphs 9,10 and 11 reads as under:

"9. Having heard the learned counsel for the parties, the only issue which arises for consideration is whether the withdrawal of the offer of appointment dated March 5, 2021 of the petitioner as Manager (Risk) in the respondent Bank in terms of communication dated September 20, 2021 is justified.

10. The advertisement issued by the respondent Bank on September 7, 2020, the relevant clauses which have been highlighted above, more specifically Note 'A', clearly reveals *that the experience for the Manager (Risk) post must be qualifications in the "relevant field" and he should be a full time and a permanent employee. The offer of appointment dated March 5, 2021 issued to the petitioner clearly reveals that the same is subject to the petitioner meeting the eligibility conditions for the post in question. The respondent Bank before taking the impugned action had called upon the petitioner to submit the copies of the necessary documents / certificates to satisfy the Bank that he possesses the necessary educational qualifications and post qualification work experience. In response thereto, the petitioner had submitted his response vide letter dated May 15, 2021. The work experience, which I have already reproduced above do throw light that his experience in the State Bank of India was primarily in the performance, planning and review department reporting to the General Manager (PPR) Surely, the performance planning review department is not similar to the Risk department for which the petitioner has submitted the application. Though a submission is made by Mr. Khan that while performing his duties in the PPR Department, petitioner was performing duties related to Risk Management, I am unable to agree with the said submission. It is the satisfaction of the Bank which is important and this Court cannot substitute the decision of the Bank with its own decision until and unless the decision is palpably perverse without any basis. Though a submission is made by the learned counsel for the respondent that the petitioner was also not a full-time permanent employee of the State Bank of India, I need not dilate on the said submission for the simple reason that the said issue is not the ground on which respondent Bank had decided to cancel the offer of appointment dated March 5, 2021. In other words, the sole ground on which the offer of appointment was withdrawn is the one which I have reproduced above.*

11. In the given facts, the decision of the Bank based on the documents submitted by the petitioner cannot be said to be illegal. I do not see any reason to entertain the present petition. The same is dismissed."

6. This Court has heard learned counsel for the parties and perused the record. The undisputed facts of the case make it very clear that an advertisement was issued on 07.09.2020 and the appellant applied for the post of Manager (Risk). Clause 3.2 of the Advertisement deals with age, educational qualifications and post qualification work experience required for the post of Manager (Risk) and the same is reproduced as under:

Post Code	***Post***	***Age as on 01/07/2020***	***Educational Qualifications as on opening date of Online Registration***	***Post Qualification Work Experience & Other stipulations as on opening date of Online Registration***
01	*Manager - Risk*	*Min - 25 years Max- 35 years*	*Essential:- Bachelor/Masters in Math/ Statistics/ Economics/ or FRM/ PRM/ DTIRM/ MBA (Finance)*/ CA/ ICWA/ CFA/PGPBF minimum of 60% in aggregate. Desirable:-* *1.Certificate Examination in Risk in Financial Service, IIBF 2.Certification Course in Risk*	*Minimum 1 year of post qualification experience in Banks/PSU/Corporate High Value Credit/ NBFC.*

			Management, NIBM	

7. The note appended to Clause 3.2 further provides for clarification in respect of the educational qualification/ post qualification work experience and other stipulations and the same is reproduced as under:

> *"NOTE:*
>
> *(A) Experience wherever required is post qualification, in the relevant field. Full time & as a permanent employee (Experience below 06 months in any organisation will not be reckoned)*
>
> *(B) The level of educational qualifications prescribed for the posts is minimum. Candidates must possess above qualifications/ work experience as on opening date of registration i.e. 08.09.2020 and must produce Marks Sheet & Provisional Certificate/ Degree Certificate issued from the University if called for interview. The result of the qualification prescribed must have been declared on or before 08.09.2020. The exact date of declaration of result should be explicitly mentioned in the Degree certificate or any other certificate issued by the university. Otherwise, the date appearing on the marksheets / Provisional Certificate/Degree Certificate shall be reckoned for deciding eligibility. No correspondence shall be entertained in this matter.*
>
> *(C) Candidates must specifically indicate the class/division and percentage of marks obtained (calculated to the nearest two decimals) in the relevant column of the application. Where percentage of marks is not awarded by the University but only CGPA/OGPA is awarded, the same should be converted into percentage in terms of conversion norms of university in this regard, besides indicating the CGPA/OGPA in the application.*

Candidates will have to produce the certificate/document issued by university evidencing conversion formula of university, when called for interview.

(D) Calculation of Percentage : The percentage marks shall be arrived at by dividing the marks obtained by the candidate in all the subjects in all semester(s)/year(s) by aggregate maximum marks in all the subjects irrespective of honours I optional I additional optional subject, if any. This will be applicable for those Universities also where Class I Grade is decided on basis of Honours marks only.

(E) The fraction of percentage so arrived will be ignored i.e. 59.99% will be treated as less than 60% and 54.99% will be treated as less than 55%."

8. It is true that the appellant did appear in the written examination conducted by the bank and was called for interview and finally after being successful in the interview, an Appointment Order was issued on 05.03.2021.

9. The Appointment Order was provisional and subject to terms and conditions as reflected in the advertisement dated 07.09.2020.

10. Clause 9(f)(i), 9(f)(vi) and Clause 12 of the Appointment Order reads as under:

"9. FORMALITIES

(f) Your appointment is Provisional subject to:-

i) Meeting the eligibility criteria as prescribed under Bank's notification dated 07.09.2020.

vi) Submission of required valid educational and professional qualification certificates as specified in your *application and requisite experience certificate (wherever applicable) acceptable to the bank.*

12. This Offer of appointment is valid subject to your producing the original documents (with regard to your eligibility/ joining etc.), at the time of joining and those being in order."

11. The other terms and conditions of the appointment makes it very clear that the Appointment Order so issued was provisional in nature subject to verification of the certificates relating to educational qualification and work experience. The respondent bank issued another order on 23.04.2021 and the Appellant was directed to submit necessary documents in respect of qualifications and work experience. The letter dated 23.04.2021 reads as follows:

Human Resources Management Department

(Under Human Resource Division)

Plot No.4, Sec-10 Dwarka, New Delhi-110075

Recruitmentho@pnb.co.in

Date:-23-04-2021

REGISTERED/SPEED POST

1931000612

MR. VIKRANT SINGH GANGWAR

S/0 MR. MUKESH KUMAR GANGWAR

MOH.CHAPATTI PATELPURAM

KAIMGANJ

FARRUKHABAD

UTTAR PRADESH - 209502

vikrantkmj@gmail.com

Sir/Madam,

Reg.: Your appointment for the post of Manager (Risk) in MMG Scale· II

This is in reference to our letter dated 05.03.2021 on the captioned subject, vide which you were informed about your provisional selection for the post of Manager (Risk) in our Bank in response to your application, subsequent written test and Interview on the terms and conditions mentioned therein.

It was mentioned in the offer letter dated 05.03.2021 that your appointment is provisional subject to meeting, inter alia, the following criterion apart from other terms and conditions mentioned therein:

a) Meeting the eligibility criteria as prescribed under Bank's notification dated 07.09.2020.

b) Submission of required valid educational and professional qualification certificates as specified in your application and require experience certificate (wherever applicable), acceptable to the Bank.

In this regard, it is observed that:

· Essential educational qualification for the post of Manager (Risk) was prescribed as Bachelor/Master in Math/Statistics/Economics/ or FRM/PRM/DTIRM/MBA (Finance)/CA/ICWA/CFA/PGPBF minimum of 60% in aggregate as per the advertisement/notification dated 07.09.2020.*

However, at the time of interview in support of minimum educational qualification, the following documents have been submitted:

> PGDM Degree Certificate (without specialization as Finance)

· Essential Post qualification work experience & other stipulations for the post of Manager (Risk) were prescribed as Minimum 1 year of post-

qualification experience in Banks/PSU/Corporate High Value Credit/ NBFC in relevant field as per the advertisement/notification dated 07.09.2020.

However, at the time of interview in support of minimum post qualification work experience, the following documents have been submitted:

> Certificate from SBI (Contractual employment)

On scrutiny of documents, it is observed that you have pursued PGDM (without specialization as Finance) which does not meet/support minimum desired educational qualification for the captioned post. Also the post qualification work experience does not meet/support the desired work experience in the relevant field.

As such you are advised to submit copies of aforesaid necessary documents/certificates to satisfy the Bank that you possess necessary essential educational qualifications and necessary post qualification work experience as notified for the post of Manager (Risk) as per advertisement within 15 days of receipt of this letter in order to consider your candidature.

You are advised to take note that if we do not receive the desired documents/certificates establishing your minimum educational qualification and post qualification work experience required for confirming your eligibility for the post Manager (Risk) within the stipulated time, we shall be constrained to cancel your candidature without any further notice to you.

Yours sincerely,

(R.K. BAJPAI)

DY. GENERAL MANAGER

12. The Appellant did submit a reply to the aforesaid communication and in respect of work experience, the Appellant's communication reveals that he has furnished the following details in respect of work experience:

"2. Work experience: -

As the essential experience mentioned in the advertisement was minimum 1 year post qualification experience in Banks, I applied for the post since I didn't want to miss an opportunity to work for PNB in this role.

I have been working with the State Bank of India since 1 July, 2017 on contractual basis as a full-time employee in the Performance, Planning and Review (PPR) department reporting to General Manager (PPR). As per the policy of the State Bank of India (SBI), work experience certificate is issued at the time of relieving but they had issued me a No-Objection Certificate which I had submitted as a proof of association with SBI along with the copy of contract.

I was advised to clarify the contractual nature of employment, I request you to consider following points in this regard:-

- ❖ *My contract with SBI is not a third party contract like other PSBs where third party contracts are signed for the work force mainly to sell non-banking financial products.*
- ❖ *As such, I am a regular employee of State Bank of India (SBI Identity Card attached for your reference) without any lien to any other organization (not even subsidiaries of SBI) and my salary is being paid by SBI from the 'Head' Staff expenses (Salary slips attached for your reference) and not Operating Expense.*
- ❖ *I can only be allotted the work profile of a Banker like other officers of SBI recruited through SBI PO and governed by similar terms & conditions. My engagement with SBI is not like that of Call Centre Employees / Collection agents whose performance is governed by SLA (Service Level Agreement) / recovery targets. In fact, I am privy to the Price Sensitive Financial information of the State Bank of India much before it is disclosed in public and have to sign non-disclosure documents for SEBI like any other employees.*
- ❖ *My appraisal is done by the General Manager (PPR) and approved by Chief General Manager of SBI based on my performance and not governed by any SLA.*

- *SBI has recruited fresh students from premier institutes to bring in efficiency in the specialized departments besides reducing staff expenses and recruits have been given profiles at par with any officer (Scale-2-5).*
- *Brief profile: - I have worked in Investor Relations (Maintain external credit rating with proper communication with Rating Agencies, meeting Investors etc.), assisted Capital Desk (Capital Planning at SBI (solo) & SBI (Consolidated) as per Besel Pillar I) and coordinating the implementing of EASE Reforms of IBA in SBI and giving inputs to Top Management including Chairman (as a part of department)*
- *In view of the above-mentioned points, I wish to state that my experience in SBI is at par with any other regular employee in any PSBs or Pvt. Sector Banks and hence request you to consider my candidature for the post."*

13. The Respondents have further taken into account the reply submitted by the Petitioner and withdrawn the provisional Offer of Appointment dated 05.03.2021 for the post of Manager (Risk) by issuing a communication dated 20.09.2021.

14. The undisputed facts of the case make it very clear that as per Note (A) which has been reproduced earlier, the work experience, past qualification in the relevant field as a full-time and permanent employee was required and it is mandatory qualification as per the advertisement issued for the post in question.

15. Meaning thereby, the experience required was as a full-time and permanent employee and the documents submitted by the Appellant make it very clear that he was not a permanent employee or a full-time employee of the State Bank of India.

16. In those circumstances, the bank has passed the order dated 20.09.2021 rightly holding that the Appellant does not fulfill the requisite post qualification work experience as prescribed in the advertisement dated 07.09.2020 and, therefore, the learned Single Judge was justified in dismissing the Writ petition. This Court also does not find any reason to interfere with the order passed by the learned Single Judge and the LPA is, accordingly, dismissed.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J.

AUGUST 16, 2022
N.Khanna