

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

119

CWP-9630-2023

Date of Decision : 28.07.2023

Deep Dangi

..... Petitioner

Versus

UCO Bank and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Ajay Kumar Gupta, Advocate
for the petitioner.

Mr.Shekhar Verma, Advocate and
Mr. Aneeshh Chopra, Advocate and
Mr. Maninee Lidoo, Advocate
for respondents No.1 to 5.

JAGMOHAN BANSAL, J. (Oral)

1. Additional affidavit dated 20.07.2023 filed on behalf of respondents No.1 to 5 is taken on record. Registry is directed to tag the same at appropriate place.

2. The petitioner through instant petition under Article 226/227 of Constitution of India is seeking direction to the respondents to allow the petitioner to join as Probationary Officer in UCO Bank in terms of appointment letter dated 22.04.2022 (Annexure P-8).

3. The brief facts of the case which are necessary for adjudication of the present petition are that the petitioner pursuant to an advertisement applied for the post of Probationary Officer. The petitioner appeared in the competitive examination and was declared successful candidate. The petitioner was called for interview. The petitioner successfully cleared the interview. The petitioner was issued appointment letter and he was asked to join at Chandigarh office on 23.05.2022. The petitioner on 23.05.2022

appeared in the office of respondent at Chandigarh. The petitioner completed all the formalities, however, could not join on account of pendency of criminal case. The petitioner vide letter dated 23.05.2022 sought extension on the ground that one criminal case is pending against him. On the same day i.e. 23.05.2022, criminal case against the petitioner was listed before the Trial Court which vide order dated 23.05.2022 dismissed the discharge application filed by the prosecution. The petitioner through Whatsapp on 24.05.2022 sent a copy of order dated 23.05.2022 passed by the Trial Court to the respondent. The respondent at this stage granted extension to the petitioner and vide communication dated 08.06.2022 asked the petitioner to join at Calcutta Office on 18.07.2022. The petitioner on 18.07.2022 appeared in the Calcutta Office of the respondent, however, could not join on account of pendency of criminal case. He further sought extension, however, respondent without any communication declined the request of the petitioner seeking extension on the ground that while granting extension on the earlier occasion, it was made clear to the petitioner that no further extension would be granted.

4. Learned counsel for the petitioner *inter alia* contends that an FIR was registered against the petitioner on 21.09.2019. The police investigated the matter and found him innocent, accordingly, police filed discharge application dated 16.01.2020 before the Trial Court. The petitioner was released on bail, however, discharge application was not adjudicated. Police conducted further investigation and filed its report under Section 173 Cr.P.C. on 02.03.2022 wherein petitioner was implicated. The petitioner entered into a compromise with the complainant on 13.08.2022 and thereafter, filed CRM-M-37526 of 2022 before this

Court seeking quashing of FIR on the basis of compromise. This Court vide order dated 07.12.2022 (Annexure P-16) allowed the aforesaid petition and accordingly, quashed the FIR. The petitioner has filed application seeking appointment on 07.11.2021 and on the said date, no case was pending against him because police had already prepared discharge application. The petitioner has made disclosure of this fact in his application dated 07.11.2021, thus, there was no concealment of fact on his part. The petitioner twice sought extension and thereafter, got the matter compromised, thus, there was no concealment of fact on the part of petitioner and he is entitled to join as Probationary Officer.

5. Mr. Verma, submits that petitioner appeared in the office of respondent-bank on 23.05.2022 at Chandigarh and thereafter, on 18.07.2022 at Calcutta Office, however, he sought extension as criminal case was pending against him. As per appointment letter, there is a specific condition which requires a candidate to declare whether there is any litigation pending against him. As criminal case was pending against the petitioner, he sought extension. The petitioner was granted extension on one occasion and while granting extension it was made clear that no further extension would be granted. By communication dated 16.07.2022, in reply to communication dated 05.07.2022 of the petitioner, it was made clear that no request for extension of time for joining will be entertained and in case he fails to join on 18.07.2022 it shall be construed that he is not interested to join the service and consequently offer of appointment shall stand withdrawn. The petitioner was aware of the fact that criminal case is pending against him and respondent-bank in its communication had made it very clear that no further extension would be granted thus, at this stage

petitioner cannot be permitted to join. The petitioner on 18.07.2022 though appeared in Calcutta Office of the respondent, however, sought extension which could not be granted as it was made very clear to him vide different communication.

6. Mr. Verma, Advocate pointing out para 9 of additional affidavit submits that the petitioner applied for recruitment for the year 2021-22. The recruitment of 2021-22 stands concluded and recruitment for the year 2022-23 has commenced.

7. I have heard arguments of learned counsel for the parties and with their able assistance perused the record.

8. From the perusal of record, it is quite evident that the petitioner honestly in the application disclosed pendency of criminal proceedings against him. The relevant extracts of the form reads as:

“Whether any prosecution/detention/fine/conviction/
sentence against you has been awarded by any court of law
for any offence? : Yes
If yes, particulars of the same : GIVEN CLEAN CHIT BY
POLICE”

9. The petitioner in reply to afore-stated question has disclosed that prosecution is pending against him, however, police has already given clean chit to him. It is undisputed fact that on the date of application neither petitioner was detained nor arrested nor prosecuted, thus, there was no question of conviction or sentence, still petitioner bonafidely disclosed that prosecution is pending against him.

10. The Column No.21 of the appointment letter requires a candidate to declare in writing that there is/are no litigation/s pending against him. The Column No.21 of appointment letter reads as:

“You shall declare in writing that there is/are no litigation/s pending against you before any Court of law and you have never been convicted for any offence by any Court of law involving moral turpitude and you have not been a declared insolvent.”

11. The petitioner appeared in Chandigarh office to join and honestly disclosed that criminal proceedings are pending against him. He appeared to join on 23.05.2022 and on the same day, the matter was listed before criminal Court. An order dated 23.05.2022 came to be passed by criminal Court and petitioner on 24.05.2022 submitted copy of the said order.

12. From the perusal of order dated 23.05.2022 passed by trial Court, it comes out that police had initially found him innocent and has filed discharged application which came to be dismissed, however, police subsequently filed its report under Section 173 Cr.P.C. which came to be proceeded by trial Court. No charge was framed on the said date i.e. 23.05.2022. The petitioner on 18.07.2022 appeared in the Calcutta office of the respondents and again disclosed that criminal proceedings are pending against him.

13. From the perusal of appointment letter, it does not come out that a candidate is ineligible to post if criminal proceedings irrespective of stage are pending against him. Unless and until appointment letter enjoins that no appointment shall be granted if criminal proceedings are pending, irrespective of stage, the respondent cannot deny appointment. The respondents have failed to point out any circular, notification, rule, regulations enjoining that no candidate shall be given appointment if

criminal proceedings irrespective of stage are pending. The petitioner has

compromised the matter and this Court has quashed FIR on the basis of compromise.

14. The prime ground of denial of appointment is that the petitioner was specifically informed while granting first extension that he would not be granted second extension. The approach adopted by the respondents seems to be pedantic especially when FIR against the petitioner stands quashed and he at every stage disclosed his correct credentials.

15. Argument of the respondents that recruitment process of 2021-22 has already completed cannot be countenanced. It is well known fact that in our country, it is very difficult to get job especially Government job. The petitioner has cleared competitive exam and thereafter he was selected. The appointment is neither fundamental nor vested right of the petitioner, however, matter needs to be examined in totality. The denial of appointment to the petitioner ignoring that he was always *bonafide* and honest in disclosing his credentials would amount to indirect punishment for an offence which stands compromised and amicably settled.

16. In view of aforesaid facts and findings, the petition deserves to be allowed and accordingly allowed.

17. The respondents are directed to permit the petitioner to join. The date of joining shall be considered as date of appointment for all purposes.

(JAGMOHAN BANSAL)
JUDGE

28.07.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>