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

% *Date of Decision: 01st February, 2023*

+ W.P.(C) 1580/2020

SH. PRABHAKAR TIWARI Petitioner
Through: Mr. Kuldeep Sangwan,
Advocate.

versus

BANK OF INDIA AND ANR. Respondents
Through: Mr. Rajat Arora and Mr. Niraj
Kumar, Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present writ petition has been filed by the Petitioner seeking the following reliefs:-

“(a) Issue direction to the respondents to appoint the petitioner as Safai Karamchari-cum- Sepoy in the office of Respondent No. 1 Bank, in the interest of justice, with immediate effect;

(b) Pass any other and further order as this Hon’ble Court as this Hon’ble Court may deem fit, just and proper in the facts and circumstances of the case;”

2. The factual matrix of the present writ petition is that Petitioner while working in the office of Respondent No. 1 as a casual worker applied for the post of Safai Karaimchari-cum-Sepoy when the same was advertised. Petitioner was successful in the written examination as well as the interview and it is the case of the Petitioner that he was asked by the Chief Manager of Respondent No. 1 to produce all certificates pertaining to his education, date of birth, caste certificate on 05.11.2018 along with four passport size photographs.

3. Petitioner states that he produced all the requisite documents and was thereafter called for medical examination, however, the

Petitioner was not given an Appointment Letter, despite clearing the medical examination, which compelled the Petitioner to issue a legal notice on 22.10.2019, seeking appointment. In response to the notice, Petitioner received a reply dated 13.11.2019, wherein it was stated by the Respondents that the qualification required for appointment to the post of Safai Karaimchari-cum-Sepoy was matriculate, whereas the Petitioner had applied on the basis of Prathama Pariksha Certificate, claiming to be equivalent to matriculate, issued by Hindi Sahitya Sammelan, Allahabad and that the Bank had sought clarification on the equivalence from the Ministry of Human Resources Development ('MHRD'), Department of Secondary and Higher Education and as and when the clarification is received, Petitioner shall be informed. However, there was no response from the Respondents and the Petitioner has now approached this Court for redressal of his grievance.

4. Learned counsel appearing on behalf of the Petitioner submits that the Petitioner has duly qualified the written examination followed by an interview and the medical test and at this stage, it is not open to the Respondents to question his eligibility and the equivalence of the Prathama Pariksha Certificate with a matriculation certificate. It is also argued that Petitioner passed the requisite examination of Hindi Sahitya Sammelan, Allahabad in 2009, when it was considered equivalent to a matriculation examination, as per the Notification dated 26.07.2001 issued by MHRD. This Notification was further extended for a period of three year upto 27.07.2007 and finally upto 27.10.2010. It was only on 06.12.2012 that the Notification was withdrawn and therefore, at the relevant time when the Petitioner had passed the examination, the Notification was in operation and the Respondents are therefore, bound to treat the certificate furnished by

the Petitioner as equivalent to a matriculation certificate. In support of the proposition learned counsel for the Petitioner places reliance on a judgment of the Co-ordinate Bench of this Court in ***Yudhvir Singh v. Indian Oil Corporation Limited, 2013 SCC OnLine Del 2548.***

5. Learned counsel appearing on behalf of the Respondents, *per contra*, submits that the Notification dated 26.07.2001 on which reliance is placed by Petitioner was issued by the Central Government which was applicable only for filling up the posts under the Central Government and cannot *ipso facto* apply to the Banks. In any case, this issue is no longer *res integra* and stands decided by the Division Bench of this Court in ***Oriental Bank of Commerce v. Subash Chand, 2013 SCC OnLine Del 1574.***

6. I have heard the learned counsels for the parties and examined their contentions.

7. It is an undisputed position that Petitioner passed the examination of Hindi Sahitya Sammelan, Allahabad in the year 2009 and it is equally undisputed that he has applied for the post of Safai Karaimchari-cum-Sepoy, which is the subject matter of the present writ petition, based on the said certificate, claiming its equivalence with a matriculation certificate. The post in question was advertised by the Respondents i.e. Bank of India.

8. The neat legal nodus that arises in the present case is whether the Prathama Pariksha Certificate is equivalent to a matriculation certificate and in this regard, reliance is placed by the Petitioner on the Government of India Notification dated 26.07.2001, which was extended from time to time and was withdrawn in 2012. In my view, the Respondents are right in their contention that the issue is no longer *res integra* and is squarely covered by the judgment of the Division Bench in ***Oriental Bank of Commerce (supra)***. In the said case the

Appellant, a Public Sector Bank had prescribed matriculation qualification for appointment to certain posts. Writ petitioners were Daftaris working in the bank and were aspirants for promotion to the post of Clerk. The contention before the writ Court was that the Petitioners had qualified the Prathama Pariksha Examination conducted by Hindi Sahitya Sammelan, Allahabad and therefore, their qualification was equivalent to matriculation. The writ Court allowed the writ petition, relying on the Notification dated 26.07.2001 and held that the qualification possessed by the Petitioners was equivalent to matriculation and thus they were entitled to be considered for promotion as Clerk. On appeal by the bank, the Division Bench held as under:-

“4. Learned counsel for the respondents contends that in view of the letter dated 26.07.2001, which the Single Judge relied upon, the question of equivalence does not admit of any doubt. It is submitted that once the Central Government declared that the Prathama Examination qualifications were equivalent to matriculation, the banks were obliged to fall in and also treat it similarly. Any different approach adopted by the bank, a public sector unit would result in discrimination, according to learned counsel for the petitioner.

5. At the outset, it would be relevant to notice the letter dated 26.07.2001 issued by the HRD, Govt. of India. The same reads as follows:

*“Government of India
Ministry of Human Resource Development
(Department of Secondary & Higher Education)
New Delhi, the 26th July, 2001*

NOTIFICATION (63)

No. F.24-4/2001-TS.III. On the recommendation of the High Level Committee for recognition of Educational Qualifications, the Government of India have decided to recognize the Prathama Examination being conducted by Hindi Sahitaya Sammelen, Allahabad for the purpose of employment under the Central Government for the post for which the desired qualification is a pass in matriculation. The recognition is provisional for a period of 3 years after which the committee will review the recognition granted.

Sd/-

(V.S. PANDEY)

Joint Secretary (f) &

Member Secretary,

High Level Committee for Educational Qualifications."

6. *In this case, the bank has relied upon a letter dated 10.11.2001 issued by the Indian Banks' Association of which the appellant is a member. The relevant portion of the letter reads as follows:*

"Indian Banks' Association

Stadium House, 6th Floor, Block 3, Veer Nariman Road,

Mumbai 400 020

Phone: 2844999 (Stadium House)/2182288 (W.T.C.)

Gram: BANKSLINK Telex: 011-82373 Fax:

2835638/2184222

Website: 222.iba.org.in/www.indianbankassociation.org

No. PD/CIR/76/C1/1012

November 10, 2001

Designated Officers of

Public & Private Sector Banks

Dear Sirs,

Recognition of Hindi examination

Conducted by Voluntary Hindi Organisations

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Banks have been seeking our advise for dealing with cases of employees who acquire Hindi qualification and claim parity with regular SSLC/HSC/Graduation for purpose of promotion, increments, etc.

The matter was taken up with the Government of India for clarifications. In response to our request the Government of India, Central Hindi Directorate, Department of Secondary Education and Higher Education, New Delhi vide its letter dated 17th September 2001 has clarified that recognition given to the examinations conducted by Voluntary Hindi Organizations are only in regard to the standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as full fledged degree/diploma or certificate awarded by University or Educational Boards as the case may be.

XXXXXX XXXXXX XXXXXX

Sd/-

Himadri Dutta

Assistant Personnel

Adviser Encl: One” (emphasis supplied)

7. *It is evident from the letter dated 26.07.2001 that the Central Government declared equivalence and recognized the Prathama Examination conducted by the Hindi Sahitya Sammelan, Allahabad as a matriculation qualification “for the purpose of employment under the Central Government” for the post for which the desired qualification is “a pass in matriculation”. It is evident that the certificate for equivalence for the purpose of employment under the Central Government or the Union ought not, therefore, be applicable for the posts or services under the other employers. So far as equivalence of this qualification with matriculation, in banks, especially public sector banks, which are members of the Indian Banks' Association is concerned, reliance of appellant bank on the letter dated 10.11.2001 is decisive; the letter clarifies that the recognition given to the examination is only in regard to the standard of Hindi prescribed in the Hindi examination and cannot be treated as a full fledged degree or diploma by a University or Education Board.*

8. *This Court is also mindful of the principle that the question of equivalence is part of the conditions of service which the employer is entitled to prescribe when it frames its recruitment policies and rules. That the employer has considerable autonomy in this case and the Courts have little or no role to play has been emphasized by several judgments time and again of the Supreme Court. All of them were considered in the decision reported as State of Rajasthan v. Lata Arun AIR 2002 SC 2642. The Court had then observed as follows:*

“12. From the ratio of the decision noted above it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.”

9. *In view of the above discussion, it is evident that the circular/letter dated 26.07.2001 does not universally declare that the Prathama Examination qualification held by the petitioners is recognized or directed to be universally recognized by all public sector employers as is sought to be contended by the writ petitioners. In the light of this fact and the law declared by the Supreme Court in Lata Arun (supra), this Court is of the opinion that the impugned judgment and order has erroneously proceeded to declare the equivalence of the petitioner's qualification with a recognized matriculation qualification.”*

9. From a reading of the aforesaid judgment it is clear that the

Signature Not Verified Division Bench has laid down that the certificate for equivalence for

purpose of employment under the Central Government is not applicable for posts under other employers and more particularly, in the case of Public Sector Banks, which are members of the Indian Banks' Association and in whose case the letter dated 10.11.2001 is decisive, which clarifies that the recognition given to the examination referred to in the Government Notification is only with regard to the standard of Hindi prescribed in the Hindi Examination and cannot be treated as a full-fledged degree/diploma by a University or Education Board. Therefore, this Court cannot agree with the contention of the Petitioner that the qualification possessed by him should be treated as equivalent to the requisite qualification laid down by the Respondents for the recruitment to the post of Safai Karaimchari-cum-Sepoy advertised by the Bank.

10. The judgment in the case of ***Yudhvir Singh (supra)*** on which heavy reliance is placed by the Petitioner, in my view, will not aid the Petitioner in view of the judgment of the Division Bench, aforementioned. Moreover, while the judgment of the Division Bench deals with banks and is thus directly applicable to the present case, the judgment in ***Yudhvir Singh (supra)*** pertains to a different entity i.e. India Oil Corporation Limited and is clearly distinguishable for the reasons recorded by the Court in para 4 thereof, which is as follows:-

“4. In para-37 of the writ petition, petitioner has made a specific averment that this circular of the Ministry of Human Resource Development is binding on the respondent no. 1 and in reply to this all that respondent no.1 states is that this is a matter of record. Therefore, the respondent no. 1 does not dispute that the circulars issued by the Ministry of Human Resource Development dated 26.7.2001 and 21.11.2006 are binding on the respondent no. 1. I may note that in fact as per the endorsements made in the circular dated 21.11.2006, the said circular has been marked to various bodies including the UPSC, Staff Selection Commission, Chairman; AICTE, Chairman; UGC and Chairman of Central Board of Secondary Education thereby showing the acceptance of the Central Government for the purpose of giving employment of the certificate issued pursuant to the Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad and that the same will be treated as

equivalent to matriculation for the purpose of employment. Whether or not as per law the Prathama Examination of Hindi Sahitya Sammelan is or is not equal to a matriculation is not the issue and the issue is that for the purpose of employment this Prathama Examination certificate is theoretically taken as equivalent to matriculation.”

11. For all the aforesaid reasons, this Court finds no merit in the writ petition and the same is accordingly dismissed.

JYOTI SINGH, J

FEBRUARY 01, 2023/shivam/rk



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