



W.P.(MD).No.16523 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16523 of 2021

and

W.M.P(MD)Nos.13405 & 13406 of 2021

Benjamin Dany Raja

... Petitioner

Vs.

1.Reserve Bank of India,
Represented by its Chief General Manager,
Central Office, Shahib Bhagat Singh Road,
Reserve Bank of India,
Mumbai-400 001.

2.The Regional Director,
Reserve Bank of India – Chennai Region,
II Floor, 16 Rajaji Salai,
Fort Glacis (Next to State Secretariat),
Chennai-600 001.

3.The Human Resource Manager,
Human Resource Management,
Reserve Bank of India – Chennai Region,
II Floor, 16 Rajaji Salai,
Fort Glacis (Next to State Secretariat),
Chennai-600 001.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to permit the petitioner to participate in the recruitment process for appointment to the post of Office Attendants - 2020, by conducting the Language Proficiency Test (LPT) in terms of the 1st respondent RBI's Notification for Recruitment for the post of Office Attendants – 2020.

For Petitioner : Mr.K.Ragatheesh Kumar

For Respondents : Mr.K.R.Laxman
Standing Counsel

ORDER

The present writ petition has been filed for a Mandamus seeking a direction to the respondents to permit the petitioner to participate in the recruitment process for appointment to the post of Office Attendants - 2020, by conducting the Language Proficiency Test (LPT) in terms of the 1st respondent RBI's Notification for Recruitment for the post of Office Attendants – 2020.

2. The 1st respondent had issued notification for the recruitment for the post of Office Assistants – 2020 in the month of February 2021 calling for the application for 71 vacancies, out of which, 3 vacancies were notified for ex-servicemen-1 (disabled ex-servicemen/dependents of ex-servicemen killed in



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action) and 14 vacancies were reserved for ex-servicemen-2 [ex-servicemen(normal)]. The petitioner being an ex-serviceman who had joined as Sepoy in Indian Army on 23.12.1994 and further, retired voluntarily from service of the army on 01.01.2014, made his application pursuant to the said notification. The petitioner's father N.Daniel Thangam was also an ex-service man, who served the Indian Army from 1965-93. In view of the avocation of the petitioner's father, he completed his 10th standard under Central Board of Secondary Education (CBSE) in Kendriya Vidhyalaya, Pachmarhi, Madhya Pradesh. However, the petitioner pursued his XII in Chennai under the Tamil Nadu State Board. Appreciating the petitioner's application, the petitioner was issued with a call letter, on the basis of which, he attended the online examination, which was conducted for 120 marks on 09.04.2021 and 10.04.2021. After completion of the said examination, on 07.07.2021, the respondents have published the results of online test in the official website, in which the petitioner was declared successful. Thereafter, the petitioner's certificates were called for by the respondents and he submitted his certificates with self-attestation on 14.07.2021 through speed post. While the petitioner was hopefully waiting for invitation for the next stage of selection that was Language Proficiency Test (LPT). To his utter shock and dismay, though the



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other candidates were called for LPT on 07.09.2021, the petitioner was not invited and hence, this writ petition came to be filed.

3. The learned counsel for the petitioner drew my attention to the notification for the recruitment for the post of Office Assistant – 2020. Clause 4 (c) (i) mandates that, the candidates should have passed 10th standard (S.S.C/Matriculation) from the concerned State/Union Territory (UT) coming under the Regional Jurisdiction of the Recruiting Office, to which he is applying and that the qualification should be from a recognized board of that State/UT. Pointing out the scheme of selection, he further submitted that, on the basis of the online test, the candidates would be called for LPT and the same would be after qualifying nature. The candidates provisionally selected from the online test will have to undergo LPT and after the conduct of LPT, a candidate could be selected or rejected. The petitioner having qualified the online test, the respondents ought to have called him to attend the LPT and the attitude of the respondents defying the petitioner's candidature for attending LPT is bad in the eye of law and hence, he pressed for allowing the writ petition.



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4. The respondents 1,2 and 3 have filed a counter affidavit and the learned Standing Counsel submitted that the petitioner in his application has wrongly mentioned that he had passed SSLC/Matric from the State of Tamil Nadu. Only after the petitioner clearing the online test, his certificates were called for verification and on receipt of the same from the petitioner, the respondents came to understand that the petitioner had completed his SSLC from the State of Madhya Pradesh. When the selection process was conducted strictly adhering to the norms contemplated under the notification for the selection process and since the notification has mandated that the candidates for the said post ought to have cleared SSLC from the native State, the petitioner's attitude of suppressing the fact that he had completed SSLC from the State of Madhya Pradesh automatically debars him from qualifying to attend the LPT. Hence, there is no illegality in negating the petitioner's candidature for LPT and justified the rejection of the petitioner for attending LPT and pressed for dismissal of the writ petition.

5. For which, the learned counsel for the petitioner fairly conceded that though the petitioner had inadvertently applied the online application in the clause, which requires him to mention the State, from which he had passed



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SSLC/Matriculation as Tamil Nadu, it was not intentional but only a trivial error and he had been genuine in disclosing his details of his educational qualification under the clause in the said application form under the head “educational qualification” as on 01.02.2021, where he had clearly elaborated the name of the board along with the place of the Kendriya Vidhyalaya, from where he qualified SSLC as Kendriya Vidhyalaya, Pachmarhi. Hence, the trivial error committed by the petitioner cannot form a basis for the rejection of the petitioner's eligibility to attend the LPT and pressed for allowing the writ petition.

6. Heard the learned counsels on either side and perused the material records.

7. A careful perusal of the notification Clause 4 (c) (i) and (v) would throw more light on the status of the case and the same are extracted as follows:

“4.(c).(i). A candidate should have passed 10th standard (S.S.C/Matriculation) from the concerned State/UT coming under the Regional Jurisdiction of the Recruiting Office to which he/she is applying. Such qualification should be from a recognized board of that State/UT.



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(v) *A candidate belonging to Ex-servicemen category should have passed 10th standard (S.S.C/Matriculation) and rendered at least 15 years of defence service, provided they have not graduated outside the Armed Forces.”*

8. A reading of Clause 4 (c) (i) in conjunction with (v) would make it clear that as far as the candidates belonging to ex-servicemen category, it would suffice that they have passed 10th standard, but the other thing which would make them suitable for making an application is that they should have rendered atleast 15 years of defence service. It is pertinent to mention here that the particular words “from the concerned State/UT coming under the Regional Jurisdiction of the Recruiting Office to which he/she is applying” is conspicuously absent in Clause 4 (c) (v). That would give way in this case to presume that, the condition that the candidate should have qualified S.S.L.C from the native State do not apply to the candidates belonging to ex-servicemen category. That apart, the learned counsel for the petitioner relied upon the case of ***Vashist Narayan Kumar Vs. State of Bihar and Others*** reported in **2024 SCC Online SC 2** and the relevant portion of the same is extracted as follows:

“14. We are not impressed with the argument of the State that the error was so grave as to constitute wrong or mis-leading information. We say on the peculiar facts and circumstances of this



case. Even the State has not chosen to resort to any criminal action, clearly implying that even they did not consider this error as having fallen foul of the following clause in the advertisement:-

“Instructions to fill online application form are available on the website. It is recommended to all the candidates to carefully read the instructions before filling the online application form and kindly fill the appropriate response in the following tabs. In case, the information given by the candidates found wrong or misleading, the application form will get rejected and necessary criminal actions will also be taken against the candidate.”

15. Recently this Bench in *Divya vs. Union of India & Ors.*, 2023:INSC:900 = 2023 (13) Scale 730, while declining relief to candidates who acquired eligibility after the date mentioned in the notification carved out a narrow exception. There, the judgment in *Ajay Kumar Mishra vs. Union of India & Ors.*, [2016] SCC OnLine Del 6563, a case very similar to the facts of the present case, was noted. In *Ajai Kumar Mishra (supra)*, Indira Banerjee, J. (as Her Ladyship then was) speaking for the Division Bench of the Delhi High Court in para 9 stated as under:-

9. It is true that whenever any material discrepancy is noticed in the application form and/or when any suppression and/ or mis-representation is detected, the candidature might be cancelled even after the application has been processed and the candidate has been allowed to participate in the selection process. However, after a candidate has participated in the selection process and cleared all the stages successfully, his candidature can only be cancelled, after careful scrutiny of the gravity of the lapse, and not for trivial omissions or errors.”



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19. *The learned counsel for the State drew attention to the verification by the appellant, of the details in a printed form furnished by the selection board. He contended that the appellant signed the form which carried the date of birth. First of all, the form was a printed form which reflected the date of birth as given by the appellant and the appellant signed the printed form on 10.03.2018. We are inclined to accept the explanation of the appellant that since the appellant was unaware of his own mistake he had mechanically signed the printed form. It is only later, on 11.06.2018, on the publication of the result that the appellant realized the error. We do not think that the appellant could be penalised for this insignificant error which made no difference to the ultimate result. Errors of this kind, as noticed in the present case, which are inadvertent do not constitute misrepresentation or wilful suppression.*

20. *In this case, the appellant has participated in the selection process and cleared all the stages successfully. The error in the application is trivial which did not play any part in the selection process. The State was not justified in making a mountain out of this molehill. Perhaps the rarefied atmosphere of the cybercafe, got the better of the appellant. He omitted to notice the error and even failed to avail the corrective mechanism offered. In the instant case, we cannot turn a Nelson's eye to the ground realities that existed. In the order dated 22.11.2021 in C.A. No. 6983 of 2021 [Prince Jaibir Singh vs. Union of India & Ors.], this Court rightly observed that though technology is a great enabler, there is at the same time, a digital divide.*



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21. *In one of the cases cited as a precedent in the counter affidavit, before the High Court, Pankaj Paswan vs. State of Bihar Anr., 2015 SCC On Line Patna 8739, the State had taken a defence that many candidates applied in more than one place and hence there could be deliberate tweaking in the date of birth to take advantage of the selection process in more than one district or region. It is very important to notice that there is no such plea taken in the present case. If any such device or trick had been adopted, the State would have easily detected the same and placed the same before the Court. The fact that the same has not been done shows that there was no trick or device resorted to by the appellant. It is a trivial error which appears to be a genuine and bona fide mistake. It will be unjust to penalise the appellant for the same.*”

9. In the aforesaid judgment extracted supra, the petitioner therein had signed the application form by filling up wrong date of birth unintentionally. However, in the instant case, though the petitioner had stated that he had completed S.S.L.C in the State of Tamil Nadu, in page no.3 of the application form, he had duly elaborated the institution from which he cleared S.S.L.C which obviously throw light on the fact that he had completed the same from the State of Madhya Pradesh. Considering the same as a trivial error, I am of the view that the respondents ought not to have rejected the candidature of the



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petitioner from attending the LPT. This Court has already passed an order that entire selection process initiated by notification for recruitment for the post of Office Attendants – 2020, dated 24.02.2021 would be subject to the outcome of this writ petition. It is also brought to the notice of this Court that, the final list of candidates for the post of Office Assistants-2020 was issued on 18.02.2022.

Note clause of the said selections list is extracted as follows:

“This result is subject to the outcome of the Civil Writ Petition No.8886/2021, Smt.Bhagya Rekhamani Vs. Reserve Bank of India, before the High Court of Andhra Pradesh at Amaravati and Civil Writ Petition No.16523/2021, Shri Benjamin Dany Raja Vs. Reserve Bank of India, before the High Court of Madras Bench at Madurai”

10. The respondents have incorporated the petitioner's case for consideration in the aforesaid selection list and it is also brought to my notice by the learned counsel for the petitioner that of the total earmarked 14 vacancies, 5 posts are still vacant. In view of the same, the respondents are directed to call the petitioner for Language Proficiency Test and assess the petitioner's suitability to be accommodated in the post of Office Attendants for the year 2020 and if he is found suitable, the respondents shall pass appropriate orders in accordance with law offering him an order of appointment. The said



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exercise shall be completed within a period of eight (8) weeks from the date of receipt of copy of this order.

11. Accordingly, this Writ Petition stands allowed. No costs.
Consequently, connected Miscellaneous Petitions are closed.

19.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

1.The Chief General Manager,
Reserve Bank of India,
Central Office, Shahib Bhagat Singh Road,
Reserve Bank of India,
Mumbai-400 001.

2.The Regional Director,
Reserve Bank of India – Chennai Region,
II Floor, 16 Rajaji Salai,
Fort Glacis (Next to State Secretariat),
Chennai-600 001.

3.The Human Resource Manager,
Human Resource Management,
Reserve Bank of India – Chennai Region,
II Floor, 16 Rajaji Salai,
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L.VICTORIA GOWRI, J.

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