



W.P. No. 25553 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 25553 of 2019

K.Poovarasam

... Petitioner

-VS-

1. General Manager (HR)
Appellate Authority
Syndicate Bank
Corporate Officer
Bengaluru.
2. Deputy Regional Manager & Disciplinary
Authority
Chennai Regional Office
Leelavathi Building, I Floor
No.69, Armenian Street
Chennai – 600001.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders in Ref. No.08/2019/ HRD: IRD(W)/DA-7 dated 25.03.2019 on the file of the first respondent and impugned order dated 30.10.2018 in ref. No. PRS/DGM/ROCH-I/006/2018 on the file of the second respondent and quash the same, consequentially direct the respondents to reinstate the petitioner with continuity of service; all back wages and all other attended benefits.



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For Petitioner : Mr.M.Vijayan for Mr.S.Sugendran

For Respondents : Mr.B.Raghavan for Mr.T.S.Gopalan & Co.

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ORDER

This writ petition has been filed to call for the records pertaining to the orders in Ref. No.08/2019/ HRD: IRD(W)/DA-7 dated 25.03.2019 on the file of the first respondent and impugned order dated 30.10.2018 in ref. No. PRS/DGM/ROCH-I/006/2018 on the file of the second respondent and quash the same, consequentially direct the respondents to reinstate the petitioner with continuity of service; all back wages and all other attendant benefits.

2. Heard Mr.M.Vijayan, learned counsel for the petitioner and Mr.B.Raghavan, learned counsel for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner, who has been appointed as Sub-staff in the respondent Syndicate Bank, has been issued with the charges that he has suppressed the material facts at the time of this appointment and that would amount to misconduct. After the enquiry was conducted, the charges against the petitioner



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are held to be proved and he was imposed with the punishment of dismissal

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from service. On the appeal filed by the petitioner, the appellate authority has modified the punishment of dismissal of service to discharge from service with superannuation benefits.

4. The learned counsel for the petitioner submitted that the petitioner did not file an application form for securing the appointment and there was no stipulation that the person who have got over qualification (i.e.) above X standard should not be considered for the post. As the petitioner has been sponsored through the employment exchange, he was not in a position to produce his all the certificates pertaining to his educational qualification. Even when he has produced all the certificates at the time of interview, he was told to retain all the certificates and only to show X standard certificate considering that it is the sufficient qualification for the post.

5. The learned counsel for the petitioner submitted that at any point of time the petitioner had not intentionally conceded his educational qualification and that the very charges issued against him is baseless and the punishment imposed should be set aside.



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WEB COPY 6. In support of his above contention, he relied on the judgment of the Hon'ble Supreme Court of India in *Life Insurance Corporation of India and Anothers vs. Triveni Sharan Mishra* reported in (2014) 10 SCC 346, wherein it has been held that when there is no criteria for maximum qualification for appointment of any post, it should not be a bar for the person who is over qualified to get appointment for the post, which requires lesser qualification.

7. The learned Standing Counsel for the respondents submitted that when the petitioner was asked to file a declaration form, he ought to have disclosed all his educational qualification, but he only stated that he is qualified in X standard only and he did not reveal the fact that he is holding a B.Com., degree. As the suppression of material facts is a serious misconduct, the petitioner was issued with the charges and thereafter, in the enquiry conducted, the charges were also proved.

8. It is further submitted that without filing an Industrial Dispute, the petitioner has filed this writ petition, which is not maintainable. It is true that if the petitioner comes under the definition of 'workman', he ought to have raised an industrial dispute under the relevant provisions of law without resorting to



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the course of filing the writ petition.

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9. However, it is too late on the part of the respondents also to wake up by allowing the petition pending for six years. When there is a fundamental flaw in the charges, which violates the right to employment of the petitioner, the petitioner cannot be prevented strictly from invoking the writ jurisdiction. However, it is applicable in accordance with the facts and circumstances of each case.

10. On facts, it is seen from the records that the petitioner has been appointed as a Sub-staff by issuing the appointment order dated 10.08.2012. Prior to that, the petitioner was sent with the interview letter dated 20.09.2010. As the petitioner's name was sponsored through the employment exchange, he did not have an occasion to file any application form for seeking employment. In fact, he was asked to fill up the attestation form, which is called as declaration form, only after the appointment order was issued. So it is not within the knowledge of the petitioner that he is over qualified and that his qualification of securing a degree can be a bar for his appointment. It is neither the stand of the respondent that any qualification beyond X standard is over qualification and there is no maximum qualification prescribed for the post.

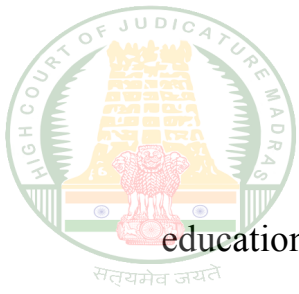


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11. The argument on the side of the respondents is that the petitioner did not disclose all material facts about himself when he was asked to fill up the attestation form and he only disclosed limited facts about his educational qualification that he had passed X standard. The petitioner was given with the confirmation order also on 17.11.2012 based upon the attestation form submitted by him his performance only. There is no allegation of reluctance against the petitioner in performing his role as Sub-staff due to his higher qualification.

12. The petitioner could have in all fairness submitted the entire details of his educational qualification in the attestation form without limiting the production of X standard certificate alone. But he did not have any motive to suppress his additional qualification. He has already secured the appointment by getting the appointment order dated 10.08.2012 basing upon the sponsorship made through the employment exchange. It is seen from the report of the enquiry officer also that the person, who had been examined on the side of the respondents, did not know what had happened during the interview process and whether the petitioner was asked to submit his entire certificates pertaining to his



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educational qualification. So the statement of the petitioner that he was asked

not to worry about his degree qualification, as the appointment to the post of Sub-staff requires only X standard qualification has to be accepted. It may be natural on the part of the petitioner to supply the necessary details thinking that his qualification in B.Com degree is not necessary for the purpose of his personal details.

13. Even in the charges, it has not been stated that the petitioner has intentionally suppressed the factual information with any ulterior motive. It is only stated that according to Clause 5(m) of the Bi-partite settlement dated 10.04.2002, knowingly making false statement in connection with employment in the bank is misconduct. But in the instant case, the petitioner has not given any false statement and he has given limited statement about his qualification. In fact, the petitioner had challenged the show cause itself in W.P. No. 35020 of 2015 claiming that it is not maintainable, but that writ petition was dismissed with a direction to the petitioner to offer his explanation to the show cause notice. Even in the charge-sheet, it is submitted that the recruitment of the petitioner has been made based on his registration with the District Employment Exchange, Adyar and not by calling for any application. It is not the allegation that the petitioner had completed B.Com degree without



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obtaining any permission after he joined the post of Sub-staff. So, it is difficult

to understand that the petitioner has made a false statement about his educational qualification. Whatever particulars furnished by him about his educational qualification is not false, but it is limited information. The 'limited information' is different from 'false information'. The lack of information as to petitioner's educational qualification cannot be called as false statement, unless it is tainted with any motive or bad intention.

14. Had the terms of employment stated that persons possessing qualification higher than the X standard will not be considered for appointment and knowing that, the petitioner had suppressed his degree qualification by limiting his educational qualification as X standard pass, there can be some reason to state that the petitioner had suppressed the essential information from the employer. The petitioner who was given with the attestation form on 17.09.2012 might not know about the seriousness of the form as he was only the new appointee to the post. It is not known whether the rules of the Bank require the employee to file the declaration form at every specific interval during their service.

15. Had it been the case, the petitioner could have got the opportunity to furnish the additional information about his educational (higher) qualification.



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The petitioner's failure to furnish information about his degree qualification

does not appear to be motivated in the existing facts and circumstances. Even the respondents did not have any impression on the petitioner that he had underplayed his qualification with any ulterior motive and his performance so far in the bank was not appropriate to the post for which he was appointed, in view of his higher qualification.

16. Sometimes, the persons who have acquired higher qualification, get appointed to the lower post for which the basic educational qualification is sufficient. After having selected to the said post, if the appointee is not adaptable to their job in view of their higher qualification, then it will cause a problem. The respondent did not make any allegations of that sort against the petitioner. Just because the petitioner failed to mention in the attestation form that he was over qualified after receiving his appointment order cannot be any way amount to intentional suppression of facts. The petitioner might know about his higher qualification. Again there is a difference between the knowledge of the petitioner knowing about his qualification and the knowledge of the petitioner as to revealing of his additional educational qualification will hinder his appointment prospects. In the instant case, the petitioner simply knows about his higher qualification and he did not have the knowledge that



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possession of higher qualification is adverse to the scope of his appointment. In

such case, the non-furnishing of the information about the additional qualification cannot be construed as intentional suppression of material facts.

17. In this regard, it would be useful to refer to the judgment of ***Life Insurance Corporation of India and Anothers vs. Triveni Sharan Mishra*** reported in (2014) 10 SCC 346

"12. In our opinion, in the present case the High Court has rightly relied on the law laid down by this Court in Mohd. Riazul Usman Gani v. District & Sessions Judge, Nagpur [(2000) 2 SCC 606 : 2000 SCC (L&S) 305] wherein it has deprecated the criterion of maximum qualification for the post of Peons. The relevant parts of paras 16 and 18 of the said judgment are quoted hereinbelow : (SCC pp. 613 & 614)

"16. In the present case we find that the candidates with higher education than Standard VII were completely shut out for being considered for the posts of Peons. The Recruitment Rules also provide for promotion. Rule 3(ii) we may quote:

'3. (ii) The District Judge may promote—



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(a) a peon, a watchman, a gardener, or a sweeper to the post of bailiff:

(b) a peon, a watchman, a gardener, a sweeper or a bailiff to the post of a regional (language) section writer, an English section writer or a clerk; and

(c) a peon, a watchman, a gardener, a sweeper, a bailiff, a regional (language) section writer and English section writer or a clerk to the post of stenographer.'

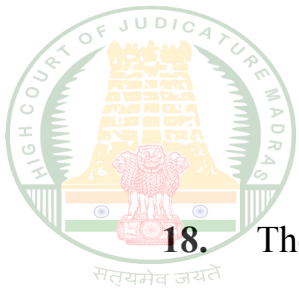
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18. If the appointment of a candidate to the post of Peon is restricted to his having qualified up to Standard VII he will have no chance of promotion to the post of regional language section writer or clerk."

In the absence of any condition that the post prescribed is applicable only for those persons who have lesser qualification, the petitioner cannot be found fault for possessing higher educational qualification or not revealing it in his attestation form/declaration form.



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18. The learned counsel for the respondents relied on the decision of the

WEB Division Bench of this Court in *P.Sudalaimuthur vs. Union Bank of India and Another* reported in 2016 SCC OnLine Mad 33353, wherein it has been held that when alternate remedy is available, jurisdiction under Article 226 of the Constitution shall not be invoked. Even in that judgment, it has been stated that such objection ought to be preliminary objection as to the maintainability and it cannot be raised at the time of final hearing after keeping the matter pending for nearly six years.

19. If the objection was made at the earliest instance, it would have been possible for the petitioner to go and file an industrial dispute before the Industrial Tribunal.

20. In the very same judgment, reference has been made to the judgment of the Supreme Court in *Kerala Solvent Extractions Ltd. vs. A.Unnikrishnan and Another* reported in (2006) 13 SCC 619. In the said case, it has been held that the workers were expected to give correct information about their qualification. In that case, the Supreme Court had an occasion to deal with the matter where the over qualification is barred for particular appointment. In the case on hand, there is no bar for higher qualification to the post. Hence, the



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above judgment is not applicable to the facts of the present case.

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21. In view of the above stated reasons, this writ petition is partly allowed and the impugned order is set aside and the respondents are directed to reinstate the petitioner without any backwages and other service benefits, but with continuity of service within a period of four weeks from the date of receipt of a copy of this order. No costs.

16.04.2025

Internet: Yes/No

Speaking /Non-speaking order

Neutral Case Citation : Yes/No

Maya

To

1. General Manager (HR)
Appellate Authority
Syndicate Bank
Corporate Officer
Bengaluru.
2. Deputy Regional Manager & Disciplinary
Authority
Chennai Regional Office
Leelavathi Building, I Floor
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R.N.MANJULA, J.

Maya

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