

State Bank of Travancore Vs. Ajayakumar E.P.

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Court : Kerala

Decided On : Nov-17-2014

Judge : Honourable the Ag.Chief Justice Mr.Ashok Bhushan

Appellant : State Bank of Travancore

Respondent : Ajayakumar E.P.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN & THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE MONDAY,THE17H DAY OF NOVEMBER201426TH KARTHIKA, 1936 WA.No. 1211 of 2014 ()
----- (AGAINST THE

JUDGMENT

IN WP(C).NO. 13678/2014 DATED3007-2014) -----
APPELLANT(S)/RESPONDENTS2TO5

----- 1. STATE BANK OF TRAVANCORE, REPRESENTED BY ITS GENERAL MANAGER, HEAD OFFICE, POOJAPPURA, THIRUVANANTHAPURAM-695 012.

2. DEPUTY GENERAL MANAGER (P & HR), STATE BANK OF TRAVANCORE, HEAD OFFICE, THIRUVANANTHAPURAM-695 012.

3. THE MANAGER, STATE BANK OF TRAVANCORE, ZONAL OFFICE, GEETHANJALI, 4TH FLOOR, PARAMAKKAVU DEVASWOM BUILDING, ROUND EAST.P.O., THRISSUR-680 001.

4. THE MANAGER, STATE BANK OF TRAVANCORE, ZONAL OFFICE, KERALA STATE HOUSING BUILDING COMPLEX, SANTHI NAGAR, THIRUVANANTHAPURAM-695 001. BY ADV. SRI.P.RAMAKRISHNAN
RESPONDENT(S)/PETITIONERS & 1ST RESPONDENT:

----- 1. AJAYAKUMAR E.P., ILLIKKAL HOUSE, THALIYAKONAM, MADAYIKONAM P.O., THRISSUR - 680 712.

2. ROY.S., ODINJALKALAM, VAKKODE, PAYYALUR P.O., PALAKKAD - 678 506.

3. PRADEEP KUMAR.M.N., THIMMANOOR HOUSE, NEAR BODHI COLLEGE, VELUR P.O., THRISSUR - 680 601.

4. RAJASEKHARAN NAIR.H., TC1717, JAGATHY, THYCAUD, THIRUVANANTHAPURAM - 695 014. sts 2/- -2- W.A.NO.1211/2014 5. VIJAYAKUMAR.C., 11/403, NEAR MILK SOCIETY, PATTIKULAM, NANNIOD P.O., CHITTOOR TALUK, PALAKKAD- 678 534.

6. BALASUBRAMANIAN.P., NARAYANANKUTTY GUPTAN, PALIYANDE HOUSE, 'SANTHI BHAVAN', KATAMPAZHUPURAM P.O., PALAKKAD - 678 633.

7. SOMASUNDARAN.C., CHUNDALLY PATHAYAPURA, MELOOR P.O., PANAMANNA VIA, PALAKKAD - 679 501.

8. JACOB.P.T., PULLOKKARAN HOUSE, PERAMBRA P.O., THRISSUR - 680 689.

9. RAJENDRAN.V., MADAVA GEETHAM HOUSE, SIVANKUNNU, MANNARKKAD P.O., PALAKKAD - 678 582.

10. CHANDRA KUMAR.K.S., 'CHANDRA BHAVAN', KULAKUDIYOORKONAM, NEMOM, THIRUVANANTHAPURAM - 695 020.

11. KARUNAKARAN.U., UODIL HOUSE, CHAZHIYATTIRY P.O., PRINGODE, PALAKKAD - 679 535.

12. RAJEEV.R., CHALLACKAL HOUSE, PALLASSANA P.O., PALAKKAD - 678 505.

13. UNION OF INDIA, REPRESENTED BY ITS DIRECTOR, DIRECTORATE OF SAINIK WELFARE, VIKAS BHAVAN, THIRUVANANTHAPURAM-695 033. R1 TO R12 BY ADV. SRI.M.R.ANISON R13 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 27/10-2014, THE COURT ON 17/11-2014 DELIVERED THE FOLLOWING: sts ASHOK BHUSHAN, Ag.CJ & A.M.SHAFFIQUE, J.

***** W.A.No.1211 of 2014 ----- Dated this the 17th day of November 2014

JUDGMENT

Shaffique,J Respondents 2 to 5 in the writ petition are the appellants. Respondents 1 to 12 herein, as writ petitioners sought for a direction to appoint them as Peons in the second respondent bank against vacancies reserved for Ex-servicemen category. The writ petitioners are referred as petitioners and the appellants are referred to as respondents.

2. The petitioners, who are Ex-servicemen applied for the post of Peon in the second respondent bank, on the basis of application invited by them as per Ext.P1 notification. The qualification prescribed for the post was 10th standard pass, but should not have passed class XII or equivalent. As far as Ex-servicemen were concerned, those W.A.No.1211/2014 2 who have passed or obtained the Indian Army matriculation certificate or corresponding certificate equivalent to 10th standard in the Navy or Air Force, after having completed not less than 15 years of service in Armed Forces as on 01/01/2013 were also eligible for the post. However, it is stated that such candidates should pass the language test from the concerned States and the certificates should be dated on or before 01/01/2013.

3. Petitioners are persons who had applied for the said post on the basis that they have the educational qualification only up to 10th standard. They did not have any higher qualification. The petitioners participated in the written test, they appeared for interview and when final rank list was published, their names were not included in the list. When the petitioners enquired about the same, they were informed that they were overqualified for the post. Petitioners submit that when they were discharged from service, graduation equivalency certificate was issued to W.A.No.1211/2014 3 them in recognition of the long unblemished service and therefore such an equivalency certificate cannot be a bar for them to apply for the aforesaid post on the ground that they were overqualified.

4. The respondents controverted the aforesaid stand of the petitioners inter alia contending that the graduation equivalency certificate enables the petitioners to be appointed to a higher post namely Group C post where the essential qualification is graduation. Since the petitioners are overqualified having an equivalency certificate to that of graduation, they cannot be considered for the post when the maximum qualification prescribed is pass in 10th standard.

5. Learned Single Judge, having considered the aforesaid controversy, allowed the writ petition and directed the petitioners to be included in the rank list. It is, challenging the said judgment, that this appeal has been filed. W.A.No.1211/2014

4 6. Heard Sri.P.Ramakrishnan, the learned counsel for appellants and Smt.V.P.Seemanthini, learned senior counsel appearing on behalf of petitioners.

7. The main contention urged by the learned counsel for the appellants is based on equivalency certificate produced as Exts.R2(a) and R2(b). Ext.R2(a) is the matriculation certificate issued by Indian Army indicating that in respect of Group C and Group D posts, where the prescribed minimum educational qualification is Matriculation, the appointing authority may relax the minimum educational qualification in favour of an Ex-serviceman who has passed the Indian Army Class-I examination or equivalent examination in the Navy or the Air force and who has put in at least 15 years of service in the Armed Forces of the Indian Union and he is otherwise fit to hold the post. It is declared that the said candidate may be considered educationally qualified for reserved vacancy in Group C and D

where the prescribed minimum W.A.No.1211/2014 5 qualification is matriculation. Ext.R2(b) certifies that Ex- servicemen, who are matriculates and has put in not less than 15 years of service in the Armed Forces of the Indian Union, may be considered for appointment of any reserved vacancy in Group C posts for which the essential qualification is graduation. It is declared that such Ex- servicemen may be considered educationally qualified for Group C post where prescribed qualification is graduation. On this basis, it is contended that the petitioners, having equivalency in graduation is over qualified and therefore they cannot be considered for the said post.

8. On the other hand, it is argued on behalf of the petitioners that the equivalency certificate granted by the Armed forces is only for the purpose of permitting such candidates to seek appointments to certain posts where a minimum qualification is prescribed. None of the petitioners have studied more than 10th standard. Obtaining an equivalency certificate for Group C posts, where graduation W.A.No.1211/2014 6 is the minimum qualification, does not mean that they have a qualification more than 10th standard. Equivalency certificate is granted for non matriculates as well as matriculates. As far as the petitioners are concerned, they have the qualification of pass in 10th standard. They are not seeking a job which is intended for graduates. In the said circumstances, when they are eligible as per clause 3(i) of Ext.P1 notification, they should also be included in the rank list. Petitioners also produced an additional document along with I.A.No.1031 of 2014 which is a communication dated 26/06/2014 issued by the Deputy Director (Emp-3) on behalf of Director General (R), Government of India, Ministry of Defence informing the Department of Financial Services and the General Manager, State Bank of Travancore that Ex-servicemen who have passed 10th standard and awarded graduation certificates in recognition of 15 years of service in the Armed service can be considered for the post of Peon against Ex-servicemen quota. W.A.No.1211/2014 7 9. The short question to be considered in this appeal is whether the equivalency certificates obtained by the petitioners for being considered for Group C posts where graduation is the minimum qualification, can be treated as a higher qualification in terms of Ext.P1 notification. Clause 3 of Ext.P1 notification which prescribes the qualification for the post reads as under: Educational qualification (as on 01.01.2013) (i) 10th Standard Pass. But should

not have passed Class XII or equivalent. (ii) Ex-serviceman, who have passed/obtained the Indian Army matriculation certificate or corresponding certificate equivalent to 10th standard in the Navy or Air Force, after having completed not less than 15 years of service in Armed forces as on 01/01/2013 of the Indian Union are also eligible for the post. Such candidates should pass the language test from the concerned States. Certificates should be dated on or before 01/01/2013.

10. The only question is whether the petitioners have passed class XII or equivalent. Apparently the answer will be in the negative. The higher qualification according to the appellants is the equivalency certificate for graduation which W.A.No.1211/2014 8 the petitioners have obtained, which will make them qualified for Group C post where graduation is the minimum qualification. The learned Single Judge held that when the alternate qualification which is permitted in the case of Ex-servicemen is not treated as an equivalent qualification of a pass in the 10th standard, but is viewed as a relaxation to the mandatory qualification of passing 10th standard, it reflects the policy of the second respondent bank. If the intention was to exclude persons having graduation equivalency, the intention should have been expressly provided.

11. Having regard to the nature of contentions urged, we are unable to agree with the learned counsel for the appellants. Though the petitioners are also eligible for applying for Group C posts where minimum qualification is graduation based on the equivalency certificate issued by Armed forces, that does not mean that they are graduates or having a higher qualification more than matriculation. Of W.A.No.1211/2014 9 course, they can be considered as having graduation for certain purposes namely for applying for a job but that does not apparently mean that they are graduates in the strict sense. As far as clause 3(i) is concerned, the minimum qualification prescribed is pass in 10th standard which apparently the petitioners have. They have not passed class XII or any examination equivalent to class XII.

12. Then the next question is whether clause 3(ii) would exclude any Ex-servicemen coming under clause 3(i). No such meaning can be assumed from the

notification. As rightly held by the learned Single Judge, clause 3(ii) applies in respect of Ex-servicemen who have not passed matriculation. The notification was not meant for Ex-servicemen only but it applies to all categories of persons. Clause 3(ii) only gives a benefit to Ex-servicemen who have obtained equivalency certificate to 10th standard. Therefore, even in respect of Ex-servicemen who had passed 10th standard and have not passed class XII or equivalent are W.A.No.1211/2014 10 eligible to apply. For those who have not passed 10th standard, certificate equivalent to 10th standard is required. A different meaning cannot be attributed to the aforesaid clauses, as contended by the learned counsel for appellants. Hence, we are of the view that no grounds are made out to interfere with the judgment of the learned Single Judge and accordingly the writ appeal is dismissed. (sd/-) (ASHOK BHUSHAN, ACTING CHIEF JUSTICE) (sd/-) (A.M.SHAFFIQUE, JUDGE) jsr W.A.No.1211/2014 11 W.A.No.1211/2014 12

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