

Vikrant Singh Gangwar vs Punjab National Bank And Anr on 21 October, 2021

Author: V. Kameswar Rao

Bench: V. Kameswar Rao

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 11823/2021 & CM. Nos. 36552/2021 and 36553/

VIKRANT SINGH GANGWAR Pe

Through: Mr. Bilal Anwar Khan and M
Anshu Kapoor, Advs.

versus

PUNJAB NATIONAL BANK AND ANR Re

Through: Mr. Rajesh Kumar Gautam, M
Anant Gautam, Mr. Nipun Sh
and Mr. Ravi Solanki, Advs

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% 21.10.2021 This matter is being heard through video-conferencing. CM. Nos. 36552/2021 and 36553/2021 (for exemptions) Exemptions allowed subject to all just exceptions. Applications stand disposed of.

W.P.(C) 11823/2021

1. This petition has been filed by the petitioner with the following prayers:

"In view of the above, the Petitioner most humbly prays for this Hon ble Court may be pleased to:

(a) Pass appropriate writ, order or direction in the nature of mandamus to the Respondent to reinstate the Petitioner as a Manager (Risk) with its Bank;

(b) Pass appropriate writ, order or direction in the nature of mandamus to the Respondent to recall, rescind the emails dated 23.04.2021 and 22.09.2021 along with rejection letter dated 20.09.2021 sent by Respondents to agitate and reject the candidature of the Petitioner towards the position of Manager (Risk) with the Respondent Bank;

(c) Pass appropriate writ, order or direction in the nature of mandamus to the Respondent to pay the monetary compensation towards the mental agony and damages caused due to the Respondents acts to the Petitioner;

(d) Pass appropriate writ, order or direction in the nature of mandamus to the Respondent to pay the litigation expenses incurred by the Petitioner;

(e) Pass any other order deemed fit in the facts and circumstances of this case."

2. In substance, the challenge in this petition is to the communication dated September 20, 2021 whereby the respondent has cancelled the offer of appointment dated March 5, 2021 of the petitioner as Manager (Risk).

3. Some of the facts as noted from the petition are, the petitioner while working on contractual basis / management trainee in the State Bank of India, had applied against an advertisement issued by the respondent Bank dated September 7, 2020 for the post of Manager (Risk) in the Bank. The necessary qualifications and the experience sought by the Bank through the advertisement are the following: -

Post Post Age as on Educational Post Qualification Code 01/07/2020 Qualifications Work Experience & as on opening date of Other stipulations as Online on opening date of Registration Online Registration 01 Manager - Min - 25 years Essential:- Minimum 1 year of post Risk Max- 35 years Bachelor/Masters qualification experience in Math/ Statistics/ in Economics/ Banks/PSU/Corporate or FRM/ PRM/ DTIRM/ High Value Credit/ NBFC.

MBA (Finance)*/ CA/ ICWA/ CFA/PGPBF minimum of 60% in aggregate.

Desirable:-

1.Certificate Examination in Risk in Financial Service, IIBF

2.Certification Course in Risk Management, NIBM

4. That apart, Note 'A' at Page 51 reads as under:-

"(A) Experience wherever required is post qualification, in the relevant field. Full time & as a permanent employee (Experience below 06 months in any organization will not be reckoned)."

5. It is the submission of Mr. Bilal Anwar Khan, learned counsel for the petitioner that pursuant to the aforesaid advertisement, the petitioner had appeared in the written examination. On qualifying the written examination, the petitioner was called for the interview as well. On being selected, an offer of appointment dated March 5, 2021 was issued to the petitioner. He concedes to the fact that the appointment of the petitioner was provisional subject to the petitioner meeting the eligibility criteria as prescribed in the advertisement dated September 7, 2020.

6. It appears that on April 23, 2021, the respondent issued a communication to the petitioner with regard to the offer of appointment made as Manager (Risk) with respondent Bank whereby the respondent Bank has asked the petitioner to submit the necessary documents / certificates to satisfy that he possesses the necessary educational qualifications and work experience. In that regard, the petitioner has submitted his reply dated May 15, 2021. With regard to work experience, the petitioner has stated as under:

"2. Work experience: -

As the essential experience mentioned in the advertisement was minimum 1 year post qualification experience in Banks, I applied for the post since I didn't want to miss an opportunity to work for PNB in this role.

I have been working with the State Bank of India since 1 July, 2017 on contractual basis as a full-time employee in the Performance, Planning and Review (PPR) department reporting to General Manager (PPR). As per the policy of the State Bank of India (SBI), work experience certificate is issued at the time of relieving but they had issued me a No-Objection Certificate which I had submitted as a proof of association with SBI along with the copy of contract.

I was advised to clarify the contractual nature of employment, I request you to consider following points in this regard:- My contract with SBI is not a third party contract like other PSBs where third party contracts are signed for the work force mainly to sell non-banking financial products.

As such, I am a regular employee of State Bank of India (SBI Identity Card attached for your reference) without any lien to any other organization (not even subsidiaries of SBI) and my salary is being paid by SBI from the „Head Staff expenses (Salary slips attached for your reference) and not Operating Expense.

I can only be allotted the work profile of a Banker like other officers of SBI recruited through SBI PO and governed by similar terms & conditions. My engagement with SBI is not like that of Call Centre Employees / Collection agents whose performance is governed by SLA (Service Level Agreement) / recovery targets. In fact, I am privy to the Price Sensitive Financial information of the State Bank of India much before it is disclosed in public and have to sign non-disclosure documents for SEBI like any other employees.

My appraisal is done by the General Manager (PPR) and approved by Chief General Manager of SBI based on my performance and not governed by any SLA.

SBI has recruited fresh students from premier institutes to bring in efficiency in the specialized departments besides reducing staff expenses and recruits have been given profiles at par with any officer (Scale-2-5).

Brief profile: - I have worked in Investor Relations (Maintain external credit rating with proper communication with Rating Agencies, meeting Investors etc.), assisted Capital Desk (Capital Planning at SBI (solo) & SBI (Consolidated) as per Basel Pillar I) and coordinating the implementing of EASE Reforms of IBA in SBI and giving inputs to Top Management including Chairman (as a part of department) In view of the above-mentioned points, I wish to state that my experience in SBI is at par with any other regular employee in any PSBs or Pvt. Sector Banks and hence request you to consider my candidature for the post."

7. Mr. Khan would also submit that the petitioner has the necessary work experience having worked in the State Bank of India as Assistant Vice-President and was involved in performance planning in the Bank which includes duties concerning credit facility being granted and the risk connected therewith. In other words, he stated that it is not a case where the petitioner does not have the necessary work experience. That apart, he states that having issued an offer of appointment, the respondent could not have withdrawn the same by invoking the principle of estoppel. He states that as the petitioner is meeting all the eligibility conditions, the impugned order needs to be set aside and the petitioner be continued as Manager (Risk) in the respondent Bank.

8. On the other hand, learned counsel appearing for the respondent Bank has drawn my attention to Page 51 of the paper book to highlight Note 'A' which I have already reproduced above to contend that the experience in the relevant field should be as a full time and as a permanent employee, whereas as seen from the job profile of the petitioner in the State Bank of India, he was only a contractual employee. Even on that ground, the petitioner would be ineligible for the appointment in the respondent Bank.

9. Having heard the learned counsel for the parties, the only issue which arises for consideration is whether the withdrawal of the offer of appointment dated March 5, 2021 of the petitioner as Manager (Risk) in the respondent Bank in terms of communication dated September 20, 2021 is justified.

10. The advertisement issued by the respondent Bank on September 7, 2020, the relevant clauses which have been highlighted above, more specifically Note 'A', clearly reveals that the experience for the Manager (Risk) post must be qualifications in the "relevant field" and he should be a full time and a permanent employee. The offer of appointment dated March 5, 2021 issued to the petitioner clearly reveals that the same is subject to the petitioner meeting the eligibility conditions for the post in question. The respondent Bank before taking the impugned action had called upon the petitioner to submit the copies of the necessary documents / certificates to satisfy the Bank that he possesses the necessary educational qualifications and post qualification work experience. In response thereto, the petitioner had submitted his response vide letter dated May 15, 2021. The work experience, which I have already reproduced above do throw light that his experience in the State Bank of India was primarily in the performance, planning and review department reporting to the General Manager (PPR).

Surely, the performance planning review department is not similar to the Risk department for which the petitioner has submitted the application. Though a submission is made by Mr. Khan that while performing his duties in the PPR Department, petitioner was performing duties related to Risk Management, I am unable to agree with the said submission. It is the satisfaction of the Bank which is important and this Court cannot substitute the decision of the Bank with its own decision until and unless the decision is palpably perverse without any basis. Though a submission is made by the learned counsel for the respondent that the petitioner was also not a full-time permanent employee of the State Bank of India, I need not dilate on the said submission for the simple reason that the said issue is not the ground on which respondent Bank had decided to cancel the offer of appointment dated March 5, 2021. In other words, the sole ground on which the offer of appointment was withdrawn is the one which I have reproduced above.

11. In the given facts, the decision of the Bank based on the documents submitted by the petitioner cannot be said to be illegal. I do not see any reason to entertain the present petition.

The same is dismissed.

V. KAMESWAR RAO, J OCTOBER 21, 2021/jg