

ANDHRA PRADESH HIGH COURT

P.S Geeta

Vs

Central Bank of India

(Madhava Reddy, J.)

09.03.1978

JUDGEMENT

Madhava Reddy, J.

(1.) THESE two writ petitions are for the the issue of a writ of mandamus or any other appropriate writ, direction or order against the Central Bank of India and its Divisional Manager to consider the applications of the petitioners for appointment to the post of clerks and other subordinate staff in the Central Bank of India on the basis of the written test held on 19th October, 1975 and as per circular dated 6th May, 1968.

(2.) THE petitioners are the children of the employees in the Central Bank of India which is a banking company acquired under the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. In exercise of the power vested in the said bank, among others, circular dated 6th May, 1968 was issued to govern recruitment to the posts of clerks and other subordinate staff. By virtue of section 19 (3) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the said circular continues to be in force and govern the recruitment to the posts. In accordance with that circular applications were called for in the prescribed form from all those who fulfil the prescribed age and educational qualifications. In the case of the children of the employees of the bank, these qualifications were relaxed and certain percentage of posts were also reserved. THE Rules regarding recruitment of staff in so far as they are relevant for our purpose read as follows :- "7. Mode of selection: (A) Clerical staff: (i) Minimum age: Age of the candidate to clerical cadre will not be less than 18 years and more than 25 years. Maximum age will be relaxable by 5 years in the case of sons/daughters of employees. THE age restriction may be suitably relaxed in the case of those who have had previous banking experience or possess special qualifications; (ii) Educational qualifications. For recruitment to clerical cadre, in Accounts Typing, Cash, Godowns Sections etc., minimum qualifications will be Degree from a Recognised University. However, the bank may also permit candidates not exceeding 25% from amongst non-graduates to sit for written test. Such non-graduates should have passed matriculation examination or its equivalent with English and Mathematics and should have obtained minimum of 50% marks in aggregate. Note:-For sons/daughters of employees the minimum qualifications will be matriculation with English and Mathematics, (iii) Mode of selection: Interview:-Graduate candidates who have secured 45% marks and non-graduate 40% marks may be called for interview in order of marks obtained in written test.

Interview should be taken by a Committee of three senior Officers of whom two must be from outside the group where the appointments are to be made. Total Marks set apart for interview should not be more than 20% of the total marks for written and oral tests i.e., 100 marks for written test and 25 marks for interview. In addition to the written test, candidates for the posts of typists and stenographers will be required to undergo a typing and shorthand test. However, unless the post of stenographer is specifically sanctioned by the Head Office, no applications be invited for the purpose. All appointments of typists must be for combined post of typist-cum-clerk. THE minimum requirement of speed for typists is 40 words of typing per minute and for a stenographer in addition a speed of taking dictation at 110 words per minute. In the case of sons of employees who are selected they should not be posted at the office where the father or any relation of theirs is employed but may be given a posting order in the same city in another office or in any other Branch where there (a) Selected candidates numbering not more than 5 times the vacancies to be filled up are to be called for written test. (b) Such test should be held preferably after the university and matriculation results are out simultaneously all over India; (c) Local residents should get preference in recruitment; (d) Examination papers to be set and marked at Head Office and valuation made by them; (e) All examination papers should contain Code Numbers and should not contain candidates' names and roll numbers and should be sent by insured post to Head Office. is vacancy. In this connection, attention is drawn to the conditions mentioned in the application form whereby candidates will have already consented to be posted or transferred to any office of the Bank in India. (iv) Special rules recruitment to clerical cadre governing sons/daughters of employees. (a) 25% of vacancies will be reserved for sons of employees. However in the case of employees who do not have sons, their daughters applications may be considered by the bank under this category to a limited extent at its sole discretion If sufficient number of candidates are not available from amongst sons and daughters of employees in this special reserved category the bank will fill the vacancies from the open list. (b) To be qualified to be considered for appointment in the specifically reserved category the parent concerned should have put in 15 yrs of uninterrupted service, and in order of preference to sons of employees who may have died while in service, retired, nearing retirement and those serving the bank. (c) THE parent concerned will have to give a declaration that he has no other son or daughter already employed in the bank. However, this clause will not debar any candidate whose parent may be working in the bank form appearing in the open test and being selected on merits. (d) Every candidate in the reserved category will have to appear in the written test and interview. (e) A candidate in the reserved category, who secures 35% in the in the written test will be considered for clerical appointment and one who has secured 25% marks in the written test will be considered for appointment to Godown and Cash section if selected at the interview. (B) Subordinate staff: THE first 3 clauses will be the same as for clerical staff. (a) Application forms: - All candidates will have to apply in the Regional language or English in their own handwriting. Incomplete forms will be rejected. (b) Application Files: On receipt of applications from candidates in response to the advertisements, these should be serially numbered according to the date of receipt at the Group Office and placed on special files, separate files being maintained for each category of staff as also for sons of employees and outsiders. (c) Mode of selection : (i) Qualifications : Knowledge of regional language, both reading and writing except for Armed Guards and Sweepers, Matriculates, will not be considered for appointment to Sub- staff Cadre. THE maximum educational qualifications for being considered for appointment will be upto 7th Class pass, which should at least be 3 years below the qualification for Matriculation and he

should have studied English for at least two years. (ii) Age: Minimum of 18 years and maximum of 23 years, subject to relaxation of 3 years for sons of employees, NOTE :-THE age will be verified from school leaving certificate. In case of sweepers and Perrash, horoscope coupled with medical check up to determine the age will be kept in the file for final record. For Watch and Ward Staff maximum age limit for ex-servicemen will be 45 years who should know the use of fire-arms. (iii) Selection: All candidates will have to appear in a written test to answer simple papers translated in vernacular on the line of sample papers prepared by Head Office. Papers will be marked by senior officers. A candidate will have to obtain a minimum of 40% marks in the open category and 30% marks in the reserved category. Ex-Servicemen will not be required to appear for the written test. (iv) Special rules for recruitment to subordinate cadre governing sons of employees : (a) 25% vacancies will be reserved for sons of employees. If sufficient number of candidates are not available from amongst sons of employees to this special reserved category the bank will fill the vacancies from the open list. (b) To be qualified to be considered for appointment in the special reserved category the parent concerned should have put in 19 years of uninterrupted service and in order of preference to sons of employees who may have died while in service, retired, nearing retirement and those serving the bank. (c) THE parent concerned will have to give a declaration that he has no other son already in the bank." The petitioners herein claiming to be entitled to the concessions afforded under the above said Rules, applied for the posts and took the written test on 19th January, 1975. It is the case of the petitioners that the 1st respondent called for interviews of candidates belonging to Scheduled Castes, Scheduled Tribes, Ex-Servicemen and dependants of those killed in action, and after making the selection from amongst them, appointed them in the permanent vacancies. But so far as the petitioners herein and other candidates who belong to the category of children of the employees of the bank are concerned, they were not called for interview and none of them were appointed to any post. The petitioners who are already working on a temporary basis have all worked for not less than 240 days during a period of 12 months. While so, the respondents have published an advertisement in the daily newspapers on 5th May, 1977 calling for applications for appointment to the posts of clerks and other subordinate staff and for this purpose, written test was also being conducted on 3rd July, 1977. From the Rules of recruitment advertised it would appear that no posts have been reserved in favour of the children of the employees of the bank which is contrary to the circular referred to above and also the existing practice. The petitioners state that while they were within the age limit when they applied for the posts sought to be filled up in pursuance of the circular dated 6th May, 1968 they are now above the age limit and are not qualified to apply for the posts now advertised. It is contended that without declaring the result of the previous test, the respondents are not entitled to call for fresh applications and take appointments. The petitioners claim that as per the Rules governing the appointment to the posts of clerks and subordinate staff in force on the date of the circular, 6th May, 1968, they are entitled to be appointed on the basis of the results of the written test and interview that are to be held in accordance With that circular. They therefore seek a writ of mandamus as stated above. In the counter-affidavit filed on behalf of the bank, while admitting all the facts stated by the petitioners, it was averred that while all the applicants for the general seats were asked to sit in separate rooms and take their written test, all the children of the employees of the bank were asked to sit in a different room and take their test. Similarly all the candidates belonging to Scheduled Castes and Schedules Tribes and candidates who were children of Ex-servicemen or servicemen who were killed in action were asked to sit in another room and take their written test. After the written test, it came to the notice of the bank

that copying was resorted to by the children of the employees of the bank who were sitting in a separate room. The matter was therefore referred for investigation. As the investigation revealed that there was copying in the room where the children of the employees took the written test, the bank referred the matter to the Central Bureau of Investigation, which has registered a case of 30th April, 1977. That report is still awaited. The report of the Investigating Officer prima facie revealed that there was copying and the petitioners were not given any further temporary appointment. However, as the investigation by the Central Bureau of Investigation is still pending, the final results of the written test have not been published. Since it was revealed that there was no copying in the rooms in which the candidates belonging to Scheduled Castes, Scheduled Tribes, and children of Ex-servicemen or Servicemen who were killed in action, took their test, they were appointed on the basis of the results of the written test and interview.

(3.) IN the counter-affidavit it was also averred that the candidates applying for the test have only a right to be considered for appointment and have no right to be appointed to the post irrespective of the result. The Board has considered the matter and decided that if as a result of the investigation by the Central Bureau of Investigation all or any of the candidates are exonerated from copying and other malpractices the results of such candidates should be published and appointments made in accordance with the Rules. It is however stated that the circular reserving 25% of the seats for the children of the employees of the bank was later withdrawn as it was discriminatory and violative of Articles 14 and 16 of the Constitution. It was denied that the petitioners fulfilled the requirements of section 25-B of the Industrial Disputes Act so as to be entitled to the benefit of section 25 (F) of the Industrial Disputes Act. There can be little doubt that once applications are called for recruitment to a particular post, that recruitment has to be completed in accordance with the Rules governing the appointment to such posts as on the date of calling for the application. If the petitioners fulfil the qualifications prescribed for the post and are eligible to be appointed on the basis of the results of the written test and interview, then they have a right to be appointed irrespective of whether the concession granted under the Rules then governing the post are in force or withdrawn subsequently. It is however stated in the counter-affidavit and not denied even by the petitioners that it was suspected that large scale copying was indulged in by the children of the employees of the bank who were made to sit in a separate room for taking their test, and that matter was referred for investigation to an Officer. That officer reported that there was copying. The bank however did not choose to take any action on that report. It referred the matter for investigation by the Central Bureau of Investigation. The Central Bureau of Investigation has not yet completed its investigation and submitted its report yet. Obviously candidates who have indulged in such malpractices and copying cannot be appointed to the post. The appointments, if any, have to be made on the basis of merit of the candidates who have not indulged in copying and subject to such valid reservation as may have been made under the Rules. We are not concerned in the writ petition about the reservation that has been made in favour of the Scheduled Castes and Scheduled Tribes and children of Ex-servicemen and the children of those who have died in action. The petition is by the children of the employees of the bank in whose favour 25% of the posts have been granted concession in the matter of age and also educational qualification. The petitioners seek a writ of mandamus to direct the respondents to publish the results after the investigation is completed to make the appointments. There can therefore be no objection to such a writ being issued. In fact the learned standing Counsel for the respondent bank Sri Subrahmanya

Reddy also fairly conceded that they have no objection to making appointments to the posts in accordance with the circular issued by them so long as any of the petitioners qualified for the post have not indulged in any malpractices or copying. favour of children of the employees of the bank and granting them concession in the matter of age and educational qualifications does not violate either Articles 14 or 16 of the Constitution and a writ ought to be issued. True, if there is no such violation the Court would undoubtedly issue the direction as prayed for, but we find it very difficult to uphold the contention of the petitioners that there is no violation of Articles 14 and 16 of the Constitution. The Rule which is already extracted above reserves 25% of the posts in favour of the sons, of employees and where the employees have no sons, this reservation is made in favour of their daughters. While the minimum age of every other candidate applying for the post is prescribed as 18 years and the maximum age as 25 years, in the case of children of employees it is relaxed by five years. So also in the matter of educational qualifications, while all others are required to possess a degree from a Recognised University, it is enough if the children of the employees of the bank pass matriculation examination with English and Mathematics. ;