



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.3785 OF 2024

Vishal Kumar
Aged about 35 years,
S/o. Sh. Mritunjay Nath Lala,
R/o LIG Flat 2/1, Road No.04,
Adityapur-02, Jamshedpur-13,
Dist. Seraikela Kharsawan,
Jharkhand - 831013

...Petitioner

Versus

1. Union Bank of India,
Director having its office situated
at Central Office, Union Bank Bhawan,
239, Vidhan Bhawan Marg, Nariman Point,
P.O. Nariman Point, P.S. Mumbai,
Dist. Mumbai, PIN-400021
2. General Manager (Human Resources Deptt.)
Bank of India, Manpower Planning and
Recruitment Division, Central Office,
Union Bank Bhawan, 239, Vidhan Bhawan Marg,
Nariman Point, P.O. Nariman Point, P.S. Mumbai,
Dist. Mumbai, PIN-400021
3. Institute of Banking Personnel Selection,
IBPS-CRP SPL-VI-CWESPL-VI,
Recruitment of Specialist Officers 2017-18,
IPBS House, 90 Feet D.P. Road,
Near Thakur Polytechnic, Off Western Express
Highway, P.B. No.858, Kandivali (E), P.O.
and P.S. Mumbai, 4001, India
4. Asst. General Manager (Human Resource Dept.),
Union Bank of India, Manpower Planning and
Recruitment Division, Central Office,

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Union Bank Bhawan, 239, Vidhan Bhawan
Marg, Nariman Point, P.O. Nariman Point,
P.S. Mumbai, Dist. Mumbai, PIN-400021 ...Respondents

Ms. Priya Rombade, Advocate for the Petitioner.

Mr. Ashok D. Shetty a/w Ms. Rita K. Joshi, Mr. Rahul P. Shetty,
Advocate for Respondent Nos.1, 2 & 4/Bank.

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

RESERVED ON : 25th FEBRUARY, 2025

PRONOUNCED ON : 06th MARCH, 2025

JUDGMENT :- (PER : RAVINDRA V. GHUGE, J.)

1. Rule. Rule made returnable forth with and heard finally
by the consent of the parties.

2. The issue raised in this Petition is as regards the
Educational Qualifications of the Petitioner, as on 02.12.2016, in
relation to the post of Marketing Officer (Scale-I). The educational
qualification required for the said post is prescribed in the
advertisement, as under :-

*“Graduate and full-time MMS (Marketing)/MBA
(Marketing)/full-time two years PGDBA/PGDBM/
PGPM/PGDM with specialization in marketing.”*

3. The basis of the rejection of the Petitioner's selection, as well as, the cancellation of his appointment letter dated 27th April, 2017, by the impugned cancellation letter dated 12th December, 2017, is solely on the ground that the Petitioner's MBA Degree has been acquired through Distance Education from Sikkim Manipal University, Gangtok.

4. The facts of the Petitioner's case can be summarized as under :-

(a) The Petitioner was an Airman in the Indian Air Force, since 2006.

(b) He pursued his MBA Degree education from Sikkim Manipal University, Gangtok via Distance Education mode (2010-2012).

(c) He received the MBA Degree Certificate from the University on 14th March, 2013.

(d) The said Distance Degree Course was of two years.

(e) Sikkim Manipal University, Gangtok, is recognized by the UGC.

(f) The Distance Education MBA Degree Course of two years with the said University, was approved by the UGC vide Letter No.DEC/Recog/2009, dated 15.10.2009. This approval was continued by the UGC vide Memo No.UGC/DEBII/SMU/Recog./2015 Vol.V, dated 21st March, 2016 and Letter No. UGC vide Memo No.UGC/DEBII/SMU/Recog./2015 Vol.5, dated 19th May, 2016, issued by Joint Secretary, UGC, New Delhi.

(g) In 2016, the Petitioner applied for a Civil Post of Specialized Officer 2017-2018, through IBPS Notification (IBPS–CRP SPL-VI). His candidature was for the post of Marketing Officer (Scale-I).

(h) The requisite qualification required for selection was graduate and full-time MMS (Marketing) or MBA (Marketing) or full-time two years PGDBA/PGDBM/PGPM/PGDM with specialization in marketing.

(i) After perusing the qualifications, the Petitioner raised a specific query on 28th November, 2016, through the query portal of IBPS, in order to verify the status of the MBA Degree acquired through Distance Education from a

recognized University. IBPS did not offer any clarification.

(j) A written examination was held on 29th January, 2017 by IBPS at Jamshedpur, State of Jharkhand.

(k) The Petitioner was shortlisted and the interview was held on 9th March, 2017 at Patna, Bihar.

(l) The Wing Commander Air Force Record Office, New Delhi issued 'No Objection Certificate' dated 1st March, 2017 for granting permission to appear for the interview.

(m) On 9th March, 2017, all the documents were verified by IBPS.

(n) The result sheet published by IBPS, post interviews, indicates that the Petitioner secured 68.40% and was provisionally allotted a vacancy from the unreserved category, in the Respondent No.1 Union Bank of India.

(o) The Petitioner was issued with an appointment order by Respondent No.2, dated 27th April, 2017.

(p) The Petitioner sought discharge from the Indian Air Force in view of the requirement of Respondent No.1 and he was discharged after completion of the formalities vide

Discharge Certificate dated 20th June, 2017.

(q) In early May, 2017, the Petitioner approached FGMO, Pune for joining duties as a Marketing Officer. He was informed by the DGN, Union Bank of India, that he is not eligible due to the Distance Education MBA Degree.

(r) Since the Petitioner had approached the Hon'ble Minister of State for Finance and the Hon'ble Prime Minister's Office, his representations were forwarded to the concerned office.

(s) The Petitioner kept on writing letters to various Authorities. He was finally informed by the Respondent/Bank on 12th December, 2017 and 6th April, 2018, that his candidature has been rejected.

5. The Bank has vehemently opposed this Petition in the light of the affidavit in reply, dated 30th January, 2025, filed through Shyam Sundar Rajpurohit, Chief Manager of the Respondent No.1, Bank. It is contended as under :-

- (a) The Petitioner is only an Applicant and has no entitlement.
- (b) He cannot dispute on the educational qualifications prescribed in the advertisement.
- (c) Mere selection gives no right to the Petitioner.
- (d) Though the appointment letter was issued, it was only an offer and subject to cancellation, if any disqualification was noticed subsequently.
- (e) The High Court cannot go into the disputed questions.
- (f) The Employer alone can decide the issue pertaining to the qualifications.
- (g) The Petitioner has no *locus standi* to challenge the cancellation of his appointment letter.
- (h) A candidate with two years full-time MBA Degree Course, is eligible.
- (i) A candidate with an MBA Degree acquired through Distance Education, is not qualified.

(j) The Petitioner has tendered an undertaking that, if any information is found to be incorrect, his appointment would be cancelled.

(k) Once having participated in the selection process, he is precluded from questioning the decision of the Employer.

(l) Though the words '*full time*' are not preceding the words MBA (Marketing), yet, it is presumed that the Bank required a candidate with full-time MBA Degree.

(m) A full-time MBA Degree Course has added advantages and such courses are vigorous and comprehensive because of the structured curriculum.

6. The Respondents have relied upon the following Judgments :-

i. Shankarsan Dash V/s. Union of India, 1991 AIR 1612.

ii. Indresh Kumar Mishra & Ors. V/s. The State of Jharkhand & Ors., passed in Civil Appeal Nos.2217-2218 of 2022 and group of matters, dated 12th April, 2022.

- iii. *Dipa Keda Aher V/s. Bank of Maharashtra, through its Assistant General Manager, passed in Writ Petition No.2034 of 2021, dated 20th January, 2023.*
- iv. *Chief Manager, Punjab National Bank & Anr. V/s. Anit Kumar Das, 2021 I CLR 285.*
- v. *Zahoor Ahmad Rather And Others V/s. Sheikh Imtiyaz Ahmad And Others, (2019) 2 SCC 404.*
- vi. *J. Ranga Swamy V/s. Government of Andhra Pradesh And Others, (1990) 1 SCC 288.*
- vii. *Vikrant Singh Gangwar V/s. Punjab National Bank, passed in LPA No.458 of 2021 & C.M. No.42944 of 2021, dated 16th August, 2022.*
- viii. *Vineet Kumar V/s. Union Bank of India & Ors., passed in Writ Petition (L) No.26020 of 2022, dated 13th December, 2023.*

7. In the above cited Judgments, the Hon'ble Court has held, as under :-

- (a) In the case of Shankarsan Dash (Supra), it is held that, even if vacancies are notified for appointment and adequate number of candidates are selected, the successful candidate

does not have a right to be appointed.

(b) In the case of *Indresh Kumar Mishra & Ors. (Supra)*, it was held that as per the settled proposition of law in the field of education, the Court of law cannot act as an expert.

(c) In the case of *Dipa Keda Aher (Supra)*, it was held that the Petitioner did not possess requisite eligibility criteria. The Respondent/Bank ought to have verified the eligibility criteria before issuance of the final appointment order. However, in the provisional offer of Employment, so also final appointment order, the Petitioner was made to understand that his candidature was liable to be cancelled as he did not fulfill the eligibility criteria. While the Court can sympathize with the Petitioner, the Court is unable to grant him any relief since he does not fulfill the basic required qualification for appointment.

(d) In the case of *Chief Manager, Punjab National Bank & Anr. (Supra)*, it was held that it is only for the employer to determine and decide the relevancy and suitability of the qualifications for any post and it is not for the Courts to consider.

(e) In the case of *Zahoor Ahmad Rather And Others (Supra)*, it was held that it is not a part of the role or function of judicial review to expand the ambit of the prescribed qualification. The prescription of qualifications for a post is a matter of recruitment policy. The Employer is entitled to prescribe qualifications as a condition of eligibility. Whether a particular qualification should or should not be regarded as equivalent, is a matter for the recruiting Authority to determine.

(f) In the case of *J. Ranga Swamy (Supra)*, it was held that it is not for the Court to consider the relevance of qualifications prescribed for various posts by the recruitment Authority.

(g) In the case of *Vikrant Singh Gangwar (Supra)*, it was held that since the Petitioner did not hold required qualifications and work experience for the post advertised by the Respondent, his candidature was liable to be cancelled by the Respondent.

(h) In the case of *Vineet Kumar (Supra)*, it was held that

the Respondent was correct in cancelling the provisional appointment of the Petitioner as the Petitioner was put to notice, at every stage of the selection process, that his appointment would be confirmed only if he furnishes requisite documents and work experience as required by the notification.

8. There is no dispute that the selection of a candidate does not give him a right to be appointed. However, in the present case, the Petitioner was selected and also appointed. What has happened is that the appointment order dated 27th April, 2017 is subsequently cancelled by the impugned cancellation letter dated 12th December, 2017, after 7 months, without notice or a hearing. This is one distinguishing feature in this case.

TWO ISSUES

9. It is undisputed that the Petitioner has a degree certificate of MBA. Question is, *firstly*, whether the Bank has specifically recorded that it required a full-time MBA Degree Certificate holder and *secondly*, whether the Distance Education Degree can be held to be equivalent to a full-time MBA Degree.

SECOND ISSUE

10. We would deal with the second issue first, in view of a judicial pronouncement by the Bombay High Court vide Order dated 30th May, 2023 in Writ Petition (L) No.14319 of 2023 (*Mr. Nihal Anandrao Tandekar V/s. The Nuclear Power Corporation of India and Ors.*). In the said case, the Petitioner claimed to have the MBA Degree, acquired under the Distance Education program, from the Madhya Pradesh Bhoj (Open) University, Bhopal. The Respondent declined to accept the said qualification of the Petitioner and held him to be disqualified only on the ground that the degree certificate was through Distance Education.

It is well settled law that the Court does not have the expertise to decide the issue of equivalence. Hence, this Court concluded that it is the UGC, which can decide whether a two year Distance Education MBA Degree would be equivalent to a two years full-time MBA Degree

The UGC notification dated 14th October, 2013, issued to all Registrars/Directors of all Indian Universities (Deemed, State, Central Universities/Institutions of National Importance), was cited before the Court. The said notification refers to the position

recognized by the UGC vide its circular dated 5th May, 2004. The relevant portion of the notification reads as under :-

“2. A circular was earlier issued vide UGC letter F1 No-52/200 (CPP-II) dated May 05, 2004 (copy enclosed) mentioning that Degrees/Diplomas/Certificates/ awarded by the Open Universities in conformity with the UGC notification of degrees be treated as equivalent to corresponding awards of the traditional Universities in the Country.

...

6. Accordingly, the Degrees/Diplomas/Certificates/ awarded for programmes conducted by the ODL institutions, recognized by DEC (erstwhile) and UGC, in conformity with UGC Notification on specification of Degrees should be treated as equivalent to the corresponding awards of the Degree/Diploma/Certificate of the traditional Universities/institutions in the country.”

In the above backdrop, this Court concluded in Paragraph No.5, as under :-

“5. On the aforesaid backdrop, we are of the clear opinion that it is the UGC which is an expert body which has the authority to determine the equivalence of degrees. The conventional degrees awarded by universities conducting the full-time courses are now treated to be at par with the degrees being conferred by Open Universities under the Distance Education as notified by the UGC. Mr. Singh, learned counsel for respondent no.1 is not in a position to dispute such contention as urged by the petitioner relying on the said notification issued by the UGC.”

11. In the light of the conclusions drawn by this Court herein above, it is clear that the UGC recognized the Distance Education two years MBA Degree Course, to be equivalent to a full-time MBA Degree Course of traditional Universities. It is also noteworthy that the said post has been approved and recognized by the UGC in view of the 15th October, 2009 and 21st March, 2016, notifications. The Petitioner has acquired the said degree from the Sikkim Manipal University.

FIRST ISSUE

12. In view of the above legal position, in fact, nothing more is to be adjudicated upon in this matter. Nevertheless, we are dealing with the language used by the Bank in the advertisement published by the IBPS. The specific clause relevant to this case is as under :-

*“Graduate and **full-time** MMS (Marketing)/MBA (Marketing)/**full-time** two years PGDBA/PGDBM/PGPM/PGDM with specialization in marketing.”*

The word ‘full-time’ is specifically used prior to the words MMS (Marketing) and prior to the words ‘two years PGDBA’. In a subsequent advertisement published for filling in similar posts in December, 2022 – January, 2023, it is specifically mentioned as under :-

*“Graduate and two years **full-time** MMS (Marketing)/two years **full-time** MBA (Marketing)/two years **full-time** PGDBA/PGDBM/ PGPM/PGDM with specialization in marketing.”*

13. It is, thus, obvious that in the 2017 advertisement, the same Bank/Respondent has specially not written the words ‘full-time’ prior to the words ‘MBA (Marketing)’. In the subsequent advertisement in December 2022, the words two years ‘full-time’ are printed prior to the words ‘MBA(Marketing)’. This clearly indicates the intention of the Bank. There is no explanation forthcoming from the Bank, either, as to why the words ‘full-time’ have not been printed before the words MBA, in the 2017 advertisement, or as to why the said words are specifically printed in the December 2022 advertisement.

14. The contention of the Bank is that because the words full-time are printed prior to MMS (Marketing)/MBA (Marketing), it is presumed that the said words would also apply to MBA (Marketing). We may test this submission in the backdrop of the December 2022 advertisement. What we find is that these words are missing in the 2017 advertisement and are specifically printed in the December 2022 advertisement. This Petition has been filed on 29th

January, 2024, before the Jharkhand High Court as Writ Petition (S) No.6256 of 2017. With the observations of the said High Court, the Petition was disposed off by order dated 9th August, 2023, and the Petitioner was granted liberty to approach the Bombay High Court. Hence, this Petition.

15. It is trite that '*one must read what meets the eyes*'. In the 2017 advertisement at issue, the words 'full-time' before 'MBA' are missing. In the December 2022 advertisement, the words 'full-time' before 'MBA' have been printed. The intention of the Bank from the advertisement at issue could appear that it did not desire to insist on a two years full-time MBA Degree Course. The said intention is clear in the December 2022 advertisement.

16. In the case of *Ashish Kumar V/s. State of Uttar Pradesh And Others, (2018) 3 SCC 55*, the Hon'ble Supreme Court has interpreted '/' (stroke /) in Paragraph Nos.15, 16, 17 and 21, as under :-

"15. The English translation of the advertisement at p. 6 of Annexure A-1 with regard to the post of Psychologist is as follows :

1.	Psychologist-03	118-35 years	4500-7000	Graduation in Psychology/LT/BT/BEd in the subject of Psychology. Preferential Qualification: 1. Diploma in Guidance Psychology from Bureau of Psychology, Allahabad or Government of India or from other recognised institutions, 2. Working experience in Hindi
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16. The careful reading of original advertisement which is in vernacular language indicates that what was prescribed was, “In Psychology subject graduate/LT/BT/BEd”. Use of stroke between graduate and LT/BT/BEd indicates that all were alternate qualifications. The advertisement cannot be read to mean providing for graduate in Psychology with LT/BT/BEd as has been read by the High Court and contended by the respondent.

17. The words “graduate/LT/BT/BEd” are all alternative qualifications which are prefixed with word “In subject of Psychology”. A harmonious reading may mean that a person graduate in subject of Psychology or LT/BT/BEd with Psychology is eligible. When the post is of Psychologist, both graduation with Psychology and training certification i.e. LT/BT/BEd have also to be with Psychology. The respondents have wrongly interpreted the advertisement to mean that the person should possess both graduate with Psychology as well as LT/BT/BEd which on the face of it does not appear to be corrected.

21. A perusal of the above qualifications clearly indicated that stroke (/) was used regarding qualifications, in the alternative i.e. one or either. In the above view of the matter, we are of the view that the use of stroke (/) between Graduate/LT/BT/BEd were in

the same line meaning thereby one or either. It is relevant to notice that before the aforesaid qualifications, the words “in Psychology subject” have been used as prefix, which clearly means that all the alternative qualifications were required to have with Psychology subject i.e. graduation with Psychology/LT/BT/BEd in the subject of Psychology. Hence, all the three i.e. graduation, LT/BT/BEd has to be in Psychology subject. Those persons who have done LT/BT/BEd with Psychology subject are eligible like person graduated with Psychology, which is the plain and simple meaning of the advertisement which has been missed by the State as well as the High Court.”

17. We called for the recruitment policy of the Union Bank of India. The said policy contains the Rules known as the ‘*Union Bank of India (Human Resource Department) revised w.e.f. 22nd April, 2016*’. Below Clause 17.2.2 EDUCATIONAL QUALIFICATIONS: (B)(vi), the requisite qualifications for Marketing Officer - Scale I, are set out as under :-

vi	Marketing Officer – Scale I	<p><i>Graduate from a University/ Institution /Board recognized by Govt. of India/ approved by Govt. regulatory bodies.</i></p> <p><i>And</i></p> <p><i>Full time MMS (Marketing)/ Full time 2 years PGDBA / PGDBM with specialization in Marketing from a University/Institution/Board recognized by Govt. of India/ approved by Govt. regulatory bodies.</i></p>
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It is, thus, apparent that the recruitment policy of the

Respondent/Bank does not require the Degree Course of MBA as a prerequisite qualification for the post of Marketing Officer - Scale I.

18. Be that as it may, keeping in view the conclusion of this Court in *Mr. Nihal Anandrao Tandekar (Supra)*, the Bank has not stated that a Distance Education two years MBA Degree Certificate holder will not be eligible, in any of these advertisements.

19. In view of the above, **this Writ Petition is allowed**. The impugned cancellation letter dated 12th December, 2017 is quashed and set aside. The appointment order dated 27th April, 2017, stands restored. We direct the Bank to permit the Petitioner to join duties within 30 days from today, as a fresh appointment at any place where there is a vacancy.

20. **Rule is made absolute** accordingly.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)