

W.P.No. 11122 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 21.04.2025

Delivered on : 02.06.2025

**CORAM:
THE HONOURABLE MRS. JUSTICE N. MALA**

**W.P.No. 11122 of 2021
and
WMP.No. 11768 of 2021**

P.Karthikeyan

..Petitioner

Vs

1.The General Manager,
State Bank of India,
Central Recruitment & Promotion Department
Corporate Centre, Mumbai.

2.The General Manager,
State Bank of India,
HR Department,
Local Head Office, Circletop House,
5th Floor, 16, College Lane,
Numgambakkam, Chennai-600006.

3.The Assistant General Manager (HR)
State Bank of India,
HR Department,
Local Head Office, Circletop House,
5th Floor, 16, College Lane,
Numgambakkam, Chennai-600006.

..Respondents



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Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of writ of certiorarified mandamus, calling for the entire records of the 3rd respondent issued in his proceedings HR:RC:159:CBO:CAN:181 dated 09.04.2021 quash the same and consequently direct the respondents to allow the petitioner to join duty as Circle Based Officer as per advertisement No.CRPD/CBO/2020-21/20 dated 27.02.2020.

For Petitioner - Mr.V.Sidharth

For Respondents - Mr.C.Mohan, Ms.A.Rexy Josephine Mary
for M/s. King & Patridge.

ORDER

The petitioner, aggrieved by the impugned order dated 09.04.2021, passed by the 3rd respondent, cancelling the petitioner's appointment to the post of CBO, has filed the above writ petition.

Gist of facts are as follows:

2. The 1st respondent issued a notification on 27.07.2020 inviting online registration of application for the post of Circle Based Officer [CBO]. Since the petitioner possessed necessary qualification as per the notification, he applied for the said post under OBC category. The petitioner was successful in the examination and called for interview held on 16.02.2021. The petitioner, having cleared medical examination, certificate verification and CIBIL and other document verification, was issued appointment order dated 12.03.2021,



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on 16.03.2021. The CIBIL report of the petitioner was taken on 12.03.2021, the

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same was verified by the respondents on 16.03.2021, and as per instructions of the respondents, the petitioner resigned his job from HDFC Bank. The petitioner was thereafter asked to submit his explanation to the CIBIL report which was based on his past records of belated repayment of loans. The petitioner submitted his explanation on 01.04.2020, along with CIBIL report for all the accounts and requested the respondents to permit him to continue duty. However, despite petitioner's explanation, the 3rd respondent issued the impugned cancellation order, cancelling the petitioner's appointment on the ground of adverse credit history reflected in the CIBIL report. Aggrieved by the same, the petitioner filed the present writ petition for the above said relief.

3. The respondents filed a detailed counter and also additional counter. The respondents, in their counter, replicated the facts in so far as the adverse remarks, calling for application to the posts of CBO, and the procedures followed thereafter were concerned. The respondent submitted that in the recruitment notification dated 27.02.2020, for the post of CBO, abundant alerts were given cautioning the interested candidates to ensure their eligibility before applying for the post of CBO. The respondent relied on Clause 14 (ii) (General Information), Clause 16 (Disclaimer) and Clause 1(E) (Eligibility



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Criteria) and submitted that the petitioner had given false and untrue

declaration and hence his appointment was cancelled. According to the respondents, one of the eligibility criteria stipulated was that the candidates with records of default in repayment of loans, adverse report of CIBIL and other external agencies were not eligible for appointment. According to the respondent, the petitioner's CIBIL report revealed adverse credit history in repayment of loan, credit card usage and therefore, the petitioner was found ineligible under Clause 1(E) of the eligibility criteria.

4. The respondent relied on judgments of the Hon'ble Supreme Court and stated that candidates suppressing material information, had no right to claim continuance in service. The respondent further submitted that the petitioner's claim that, on the date of notification there was no default in repayment of loans and that, all the loans were cleared leaving no scope for declaring him as a defaulter by CIBIL or for any adverse report against him was untenable. According to the respondent the statements made by the petitioner were unequivocal lies, made with an attempt to mislead the Hon'ble Court.

5. The respondent relied on the CIBIL report dated 12.03.2021, and submitted that the CIBIL report clearly reflected the petitioner's financial



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indiscipline. The respondent submitted that the prescription of qualification for

a post is a matter of recruitment policy and the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility. The respondent further submitted that the scope of judicial review in the matter of recruitment counselling was very limited. The respondent prayed that the writ petition deserved to be dismissed as meritless.

6. In the additional counter filed by the respondents, the aforesaid facts were reiterated, and the only additional submission made was the letter dated 20.03.2021, issued by CGM-HR, SBI on recruitment of Circle Based Officer, regarding adverse CIBIL report. The respondents after extracting the contents of the letter submitted that even if the petitioner was issued the appointment letter, it was subject to verification of CIBIL report at the time of joining duty in the Bank. The respondents on the allegation of discrimination raised by the petitioner with regard to certain candidates who were permitted to join duty, after repayment of loans, submitted that those candidates were allowed to join subject to satisfaction of the letter, dated 20.03.2021, and that the petitioner's case was different.



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7. According to the respondents, the petitioner's case was distinguishable from the others because the CIBIL report of the petitioner reflected overdue credit card and non payment of EMI for more than one installment. The respondents therefore stated that in view of Clause 16 of the notification and in view of poor CIBIL score of the petitioner, he was found ineligible and his appointment was rightly cancelled. The respondent, therefore, prayed for dismissal of the writ petition.

8. The learned counsel for the petitioner submitted that on the date of notification, the petitioner did not have dues or adverse report in repayment of loans/credit card as he had cleared all the loans. The learned counsel further submitted that the petitioner was not declared as defaulter by CIBIL report or by any other agency and therefore the impugned order cancelling the petitioner's appointment invoking Clause 1(E) (Eligibility Criteria) as defaulter was illegal and liable to be set aside. The learned counsel further submitted that the impugned order was liable to be set aside on the ground of discrimination as similarly placed candidates, who had committed default on the date of notification and cleared loans after the selection process were permitted to continue their services.



WEB COPY 9. Learned counsel for the respondent reiterated the submissions made in the counter and the additional counter.

10. Crux of the matter is whether the cancellation of appointment by the respondent-Bank is valid or not ?

11. Facts of the case are undisputed. The only issue is whether the respondents are justified in cancelling the petitioner's appointment on the ground that the petitioner had poor CIBIL score and had poor history of loan repayments. Whereas the petitioner claims that he had cleared all the loans/Credit Card dues and was not declared as defaulter and hence Clause 1(E) of the notification dated 27.07.2020, did not apply to him, the respondents on the other hand claim that the issue was not about the loans being cleared or CIBIL declaring the petitioner as defaulter, but it was also whether the petitioner had adverse credit history in repayment of loans including credit card dues.

12. To appreciate the rival submissions of the learned counsels appreciation of Clause 1(E) of the notification is relevant. The said clause



reads as follows:

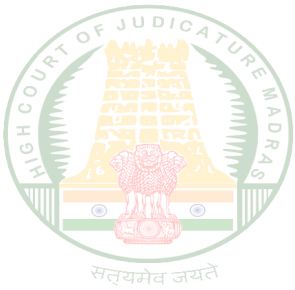
WEB COPY ELIGIBILITY CRITERIA

Clause -1(E) -Other :

- i. *Candidates with record of default in repayment of loans/credit card dues and/or against whose name adverse report of CIBIL or other external agencies are available are not eligible for appointment.*
- ii. *Candidates against whom there is/are adverse report regarding character & antecedents, moral turpitude are not eligible to apply for post.”*

13. On a reading of the above clause, it is crystal clear that what is required is not the repayment of the loans as on the date of notification but maintaining a clear record of repayment of loans, without any default and/or not having an adverse CIBIL report or of other external agencies. At this juncture, it would be relevant to refer to the letter dated 20.03.2021, issued by CGM-HR, SBI with regard to default /adverse remarks. The said letter is extracted below:

"2. The common date for joining of Circle Based Officer is 22.03.2021. In recruitment advertisement there is provision regarding default in repayment of loan/credit card due which is as under:



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Candidates with record of default in repayment of loan/credit card dues and/or against whose names adverse report of CIBIL or other external agencies are available will not be appointed in case of selection. The position in this regard will be verified before joining.

3. We are getting queries from the Circle regarding default/adverse remarks in CIBIL report. In this connection, we observed that in some cases the default in CIBIL report is due to overdue in staff loan account, overdue in SB Account due to levy of charges, write off in credit card dues due to disputes etc. Competent Authority has permitted joining in such cases where default/disputes are of the following nature and have been regularised/rectified prior to joining:

*- Overdue **credit card dues** due to dispute/litigation but the overdue amount is less than **Rs.5,000/-**.*

*- Overdue due to **non-payment of EMI/installment upto maximum one instalment**.*

14. In the said letter, the default disputes of the nature stated could be regularised/rectified prior to joining. It is the specific case of the respondents that the petitioner's CIBIL report was very poor and also it was found from the CIBIL report that the petitioner defaulted in repayment of his loans and was



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having a very poor track record of loan repayment. The respondent in the

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counter referred to the CIBIL report dated 12.03.2021, issued after the date of

notification. The following observations were made in the said report;

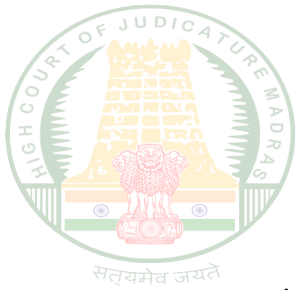
“ i. Personal loan obtained on 31.08.2018, for Rs. 1,30,000/- was irregular between the period November 2018 to July 2019. During this period he was gainfully employed in ICICI Bank as Deputy Manager. The loan was written off by the credit institution and Suit was filed against the candidate for recovery of the loan. This is a clear evidence of his financial indiscipline.

ii. Personal loan obtained on 27.06.2018, for Rs.90,000/-was irregular during the period Dec 2018 to April 2020. During this period, he was gainfully employed in ICICI Bank as Deputy Manager.

iii. Personal loan availed on 03.11.2017, for Rs. 1,50,000/- shows in CIBIL report as an overdue of Rs. 2,770/-

iv. The above personal loans availed by the candidate are sanctioned by the credit institutions based on his repaying capacity. Though he was able to repay, he was wilfully defaulted the loan repayment.

v. Credit Card facility availed by the candidate from HDFC Bank since 24.03.2017 was irregular over a period from Jan 2019 to October 2019 and later settled post Write-off during October 2019, making a loss of Rs.40,000/-.



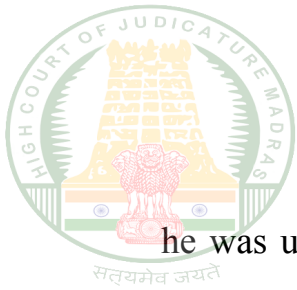
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vi. Another credit card facility availed by the candidate since 10.02.2017, with a credit limit of Rs.35,000/- remained irregular for 37 days during March 2019 to April 2019.

vii. Though the CIBIL report shows only 9 irregular credit facilities, there were more than 50 credit enquiries against the candidate, during the period 2016 to 2021, ranging between Rs.1000/- to Rs.30,00,000/-. Majority of the credit enquiries being personal loans. Bank considers the abnormal number of credit enquiries against the candidate as severe financial indiscipline.

Therefore, there is no significance to the contention raised by Petitioner.”

15. According to the respondents, the CIBIL report would establish that there were 9 irregular credit facilities and more than 10 credit enquiries against the petitioner during period 2016 to 2021, ranging from Rs.1000/- to Rs.30,00,000/-. It was further stated in the report that majority of the credit enquiries were personal loans and, therefore the Bank considered the abnormal number of credit enquiries against the petitioner as severe financial indiscipline. When the petitioner was asked to submit explanation to the CIBIL report dated 12.03.2021, the petitioner submitted his reply on 01.04.2021, admitting that he availed personal loans for the purpose of his brother's business. According to the petitioner due to the unforeseen situation of his brother meeting an accident,



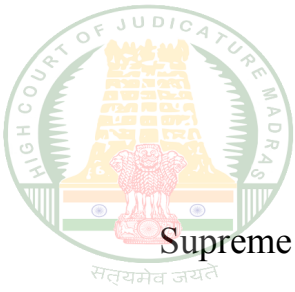
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he was unable to manage the loan repayment. The petitioner clearly admitted

his default in repaying the personal loans and therefore in my view, the respondent-bank cannot be faulted for invoking Clause 1 (E) of the Notification.

16. It is pertinent to mention here that the petitioner has not challenged Clause 1(E) of the Notification dated 27.07.2020. The petitioner's interpretation of Clause 1(E) of the Notification, in the absence of a challenge to the same, cannot be entertained. Moreso, when the said clause in unequivocal terms states that the candidates with adverse credit card dues and report of CIBIL or other external agencies were not eligible for appointment. The explanation now sought to be given by the petitioner that the said clause should be read to mean that, on the date of notification there were to be no dues or default in repayment of loans/credit card dues cannot be endorsed, as it goes against the letter of the clause.

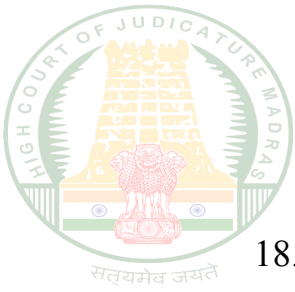
17. At this juncture it will be useful to refer to the judgment of the Hon'ble Supreme Court in the case of **Chief Manager, Punjab National Bank and Another Vs. Anik Kumar Das (Civil Appeal No., 3602 of 2020, dated 03.11.2020) reported in [(2021) 12 SCC 80]**. In the said judgment, the Hon'ble



Supreme Court in para 16 held as follows:

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“16. It is required to be noted that the eligibility criteria/educational qualification mentioned in the advertisement inviting the applications was as per Circular Letter No. 25 of 2008 dated 6-11-2008, the relevant portion of which is reproduced herein above. As stated in the counter to the writ petition, a conscious decision was taken by the Bank providing eligibility criteria/educational qualification that a graduate candidate shall not be eligible for the post of Peon/subordinate staff. The said decision was taken consciously looking to the nature of the post. At this stage, it is required to be noted that the original writ petitioner never challenged the eligibility criteria/educational qualification mentioned in the advertisement. He participated in the recruitment process on the basis of the advertisement, without challenging the eligibility criteria/educational qualification mentioned in the advertisement. Therefore, once having participated in the recruitment process as per the advertisement, thereafter it is not open for him to contend that acquisition of higher qualification cannot be a disqualification and that too when he never challenged the eligibility criteria/educational qualification mentioned in the advertisement”



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18. Applying the ratio laid down in the aforesaid judgment, the petitioner having participated in the recruitment process as per the notification, cannot now turn around and state that Clause 1(E) should be read to mean that no dues were outstanding on the date of the notification. Moreso, when the said clause is not challenged. One more aspect that needs mention here is that the bank took a prudent decision that the candidates with history of default in repayment of loans and adverse CIBIL and other external agencies report were ineligible. The probable rationale behind the said criteria may be that in banking business, the employees deal with public money and therefore financial discipline needs to be strictly maintained. Further there must be efficiency in handling public money and obviously a person with poor/ or no financial discipline cannot be trusted with public money. Therefore this Court under Article 226 of Constitution of India will not consider the relevancy of the eligibility criteria prescribed by the respondents. Useful reference in this regard may be made to the judgment of the Hon'ble Supreme Court in ***J.Ranga Swamy v. State of A.P. reported in (1990) 1 SCC 288.***

19. It is also relevant to refer here to the judgment of the Hon'ble Supreme Court in ***Yogesh Kumar (NCT Delhi) reported in (2003) 3 SCC 548,***



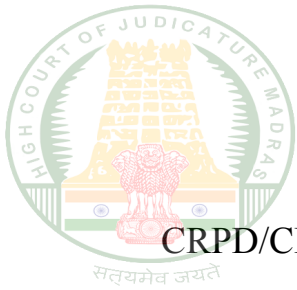
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wherein the Hon'ble Supreme Court held that recruitment to public service

should be strictly in accordance with the terms of advertisement and recruitment rules and deviation from the rules allows entry to ineligible persons and deprives many others who could have competed for the post.

20. In view of the petitioner's adverse CIBIL report and the legal position laid down by the Hon'ble Supreme Court, the contention of the learned counsel for the petitioner-that as on date of notification, the petitioner had no outstanding dues in respect of the loans availed-and, therefore the impugned order deserves be set aside, is found to be without merit and is accordingly rejected.

21. Learned counsel for the petitioner relying on the circular of the General Manager (RP & PM) dated 24.06.2022, submitted that impugned order should be set aside, as the petitioner repaid loans/dues before the date of issuance of appointment order and also produced NOC from the lender to the effect that there were no outstanding dues with respect to the accounts adversely reflected in the CIBIL report. As rightly pointed out by the learned counsel for the respondent, the said circular of the General Manager dated 24.06.2022 does not relate to the petitioner's advertisement, which is



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CRPD/CBU/2020-21, but relates to the advertisement in CRPD/CBU/2021-

WEB COPY 22/19. Therefore the reliance placed by the petitioner's counsel on the said circular is erroneous and untenable.

22. With regard to the contention of the petitioner on the ground of discrimination, it is seen that the respondents clearly stated that only those candidates who satisfied the requirement in the circular dated 20.03.2021, alone would be allowed to join duty. The petitioner having defaulted in making payments for more than one installment, in my view the petitioner cannot take advantage of the said circular and therefore the objection on the ground of discrimination has no legs to stand.

23. In view of the foregoing discussions, I find no merits in the writ petition and hence, the same is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes

Neutral Citation: Yes

Speaking Order/Non Speaking Order

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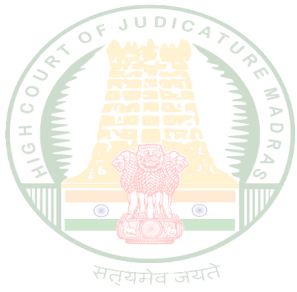
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To
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N. MALA, J

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