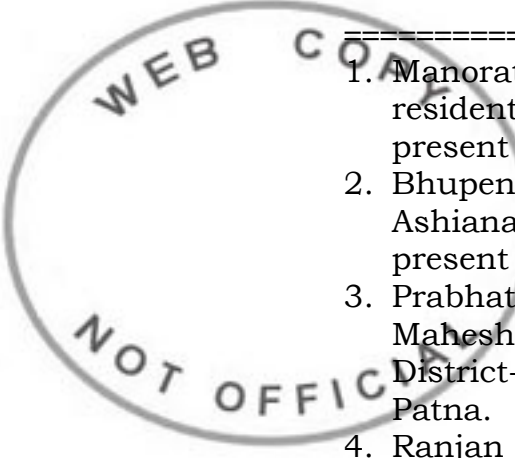


IN THE HIGH COURT OF JUDICATURE AT PATNA

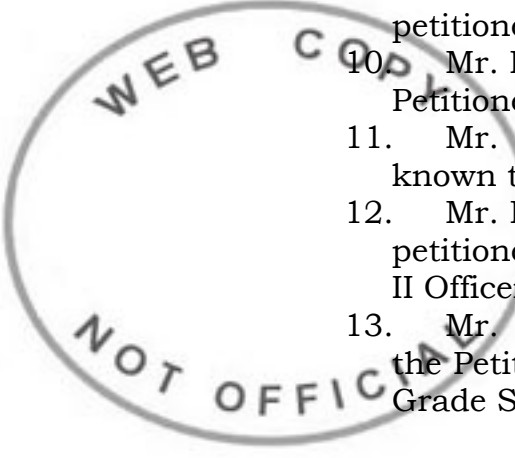
Civil Writ Jurisdiction Case No.14098 of 2001

- 
1. Manorath Nath Choudhary S/O Sri Gopi Nath Choudhary resident of village-Sabour, P.S.-Sabour, District- Bhagalpur, at present posted at UCO Bank, Sabour Branch, Bhagalpur.
 2. Bhupendra Kumar S/O Late Tarini Sahay, resident of Saroj Villa, Ashiana Road, Patna-14, P.S.-Shastri Nagar, District- Patna, at present posted at UCO Bank, Regional Office, Patna.
 3. Prabhat Kumar S/O Late Parmeshwari Prasad, resident of Mahesh Nagar, behind Rajdhani Apartment, P.S.- Patliputra, District- Patna, at present posted at UCO Bank, Regional Office, Patna.
 4. Ranjan Kumar Sinha S/O Late Damodar Prasad Sinha, resident of 'Damodar Sadan', Opp.-Gurudwara, Gaighat, Gulzarbagh, P.S.-Alamganj, District- Patna, at present posted at UCO Bank, IGSC. Planetarium Extension Counter, Patna.
 5. Phanindra Prasad S/O Sri Surendra Prasad, resident of LIG 3/76, Hanuman Nagar, P.S. Patrakar Nagar, District- Patna, at present posted at UCO Bank, Frazer Road Branch, Patna.
 6. Rabindra Kishore Sharan S/O Sri Anand Kishroe Sharan, resident of H/O Manoj Kumar, North of Dr. B.Bhattacharya, West Patel Nagar, P.S. Shastri Nagar, District- Patna, at present posted at UCO Bank, Kankarbagh Branch, Patna.
 7. Dhanajay Kumar Verma S/O Sri Satyadeo Prasad Verma, resident of Road No. 10, Ashok Nagar, Kankarbagh, P.S. – Kankarbagh, District- Patna, at present posted at UCO Bank, Patna Main Branch, Patna.
 8. Ritendra Prasad Shrivastava S/O Late Baidya Nath Prasad Shrivastava, resident of Sri Krishna Nagar, Road No. 12, Near Madhu Kunj, P.S. Budha Colony, District- Patna, at present posted at UCO Bank, Patliputra Industrial Area Branch, Patna.

.... **Petitioners**

Versus

1. The UCO Bank (United Commercial Bank) 10, Brabourne Road, Calcutta-1 through its Chairman.
2. The Chairman and Managing Director, UCO Bank, 12 Old Court House Street, Calcutta-1.
3. The General Manager (Personnel) UCO Bank, 12 Old Court House Street, Calcutta-1.
4. The Deputy General Manager (Personnel) UCO Bank, 12 Old Court House Street, Calcutta-1.
5. The Regional Manager, UCO Bank, Bihar Zone, Patna.
6. The Regional Manager, Bhagalpur Division, UCO Bank, Bhagalpur.
7. Mr. A.S. Ojha, P.F. No. 28922 S/O name not known to the petitioner, presently posed in Scale III Officer Cadre at Regional Office, Bhagalpur.

- 
8. Mr. M.I. Hashmi, P.F. No. 27359 S/O name not known to the petitioner, presently posted in Scale III Officer Cadre at Branch Office, Jharia.
 9. Mr. Shailendra Jha, P.F. No. 32756 S/O name not known to the petitioners, presently posted as Scale II Officer.
 10. Mr. Balram Singh P.F. No. 27418 S/O name not known to the Petitioners, presently posted as Scale II Officer.
 11. Mr. Mahesh Kumar Singh, P.F. No. 27955 S/O name not known to the petitioners, presently posted as Scale II Officer.
 12. Mr. Manoj Kumar, P.F. No. 36376 S/o name not known to the petitioners, presently posted as Junior Management Scale Grade II Officer.
 13. Mr. Rajan Raman, P.F. No. 36113 S/O name not known to the Petitioners, Presently posted as officer in Middle Management Grade Scale II at Kankarbagh Branch of UCO Bank, Patna.

.... **Respondents**

With

=====

Civil Writ Jurisdiction Case No. 13987 of 2002

=====

Arun Kumar /s/O Late Raghubansi Das, aged about 45 Years resident of Flat No. 11, Mahesh Towar, Baldo Bhawan, road, Punaichak, P.S. Shastrinagar, District Patna

.... **Petitioner**

Versus

1. The UCO Bank, 10 Brebourn Road, Kolkatta-1.
2. The Chairman, and Managing Director, UCO Bank, Old Court House Street, Calcutta-1.
3. The General Manager (Personnel) UCO Bank, 12 Old Court House Street, Clalcutta-1.
4. The Deputy General Manager (Personnel) UCO Bank, 12 Old Court House Street, Calcutta-1.
5. The Regional Manager, UCO Bank, Bihar Zone, Patna
6. The Regional Manager, Bhagalpur Division, UCO Bank, Bhagalpur
7. Mr. A.S. Ojha, P.F. No. 28922 S/o name not known to the petitioner, presently posted in Scale III Officer Cadre at Regional Office, Bhagalpur.
8. Mr. M.I. Hashmi, P.F. No. 27359 S/o name not know to the petitioners, presently posted in Scale III Officer Cadre at Branch Office, Jharia.
9. Mr. Shailendra Jha, P.F. No. 32756 S/o name not known to the petitioners, presently posted as Scale II Officer.
10. Mr. Balram Singh P.F. No. 27418 S/o name not know to the petitioners, presently posted as Scale II Officer.
11. Mr. Mahesh Kumar Singh, P.F. No. 27955 S/o name not known to the petitioners, presently posted as Scale II Officer.
12. Mr. Manoj Kumar, P.F. No. 36376 S/o name not known to the petitioner, presently posted as Junior Management, Scale Grade

II Officer.

13. Mr. Rajan Raman, P.F. No. 36113 S/o name not known to the petitioners, presently posted as Officer in Middle Management Grade Scale II at Kankarbagh Branch of UCO Bank, Patna. Respondents 9 to 13 are under employment of Respondent No. 5 and for another address thorough Regional Manager, UCO Bank, Bihar Zone, Patna, District-Patna.

.... **Respondents**

=====

Appearance :

(In CWJC No. 14098 of 2001)

For the Petitioner/s : Mr. AWADHESH KUMAR MISHRA, ADV.
MR. JAIPATI SINGH, ADV.
Mr. ATUL CHANDRA, ADV.
For the Respondent/s : MR. R.P.BIRNAWAY, ADV.
MR. ANAND SHARAN, ADV.

(In CWJC No. 13987 of 2002)

For the Petitioner/s : Mr. AWADHESH KUMAR MISHRA, ADV.
MR. JAIPATI SINGH, ADV.
Mr. ATUL CHANDRA, ADV.
For the Respondent/s : MR. R.P.BIRNAWAY, ADV.
MR. ANAND SHARAN, ADV.

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT
Date: 20-07-2015

In both the writ applications filed under Article 226 of the Constitution of India, same order dated 26.04.2001 issued by the General Manager (Personnel) UCO Bank, Head Office Kolkata is under challenge and, therefore, they have been heard together and are being disposed of by the present common judgment.

2. By the said impugned order dated 26.04.2001, a decision has been taken to merge the



cadre of General Officers and Chief Cashiers working under the Bank, Scale wise, with clear stipulation that one common seniority list would be drawn in accordance with Regulation 18 of the UCO Bank (Officers') Service Regulations, 1979 comprising officers in general category and Chief Cashiers and further that there would be one common career path for such combined category of Officers. The decision further contemplates that with this merger, the Chief Cashiers shall have the same designation, role and responsibility and that of the General Officers. From the impugned order, it appears that the decision is based on an agreement reached between the Bank Management with the All India UCO Bank Officers' Federation and the Majority Officers' Organization in the Bank in order to remove compartmentalization and to bring home complete merger of the Officers in general category and Cashiers. After reaching to such agreement, the Board of Directors of the Bank took a decision for complete merger of the two classes of Officers in the Bank.

3. Apart from seeking quashing of the said order of merger dated 26.04.2001, the petitioners have



also sought for a direction to provide equal opportunity of promotion to the petitioners and such other employees at par with Cashiers working in the Accounts Department of the Bank, taking into account their qualification, efficiency and date of joining in one Cadre. They have also sought for a direction to frame statutory regulation under Section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. Alternatively, the petitioners want the impugned order of merger to be declared as non est, till Regulations under the Act of 1970 are framed.

4. The petitioners were appointed as Clerk-cum-Assistant Cashier in the Bank on various dates ranging from 18.08.1980 to 02.02.1981. Respondent Nos. 7 to 13 are also said to have been appointed in the same Cadre of Clerk-cum-Assistant Cashier in the Bank. This fact is not in dispute. The Bank, in the Year 1981, sought options from the employees working as Clerk-cum-Assistant Cashier as to whether they wanted to work in the Accounts Department or in the Cash Department. It was mentioned explicitly, while inviting opinions that persons with combined designations



(Clerk-cum-Assistant Cashier) one in the Accounts Department and the other in the Cash Department, already in the Banks employment and functioning in both departments, having exercised the irrevocable option of being placed either in the Accounts Department Seniority List or in the Cash Department Seniority List, shall continue to be in the respective seniority list as opted by them. It was indicated that in the case of those persons, appointed hereinafter in the Clerical Cadre with such combined designations, they will have similar option of being placed either in the Accounts Department Seniority List or Cash Department Seniority List. Such option was to be exercised by them in writing within one month of confirmation in the Bank Service. It was also indicated that those employees, who did not exercise the right of option in writing within stipulated period, will be treated as having opted in the department as indicated by first position of his combined designation.

5. All these petitioners and the private respondents no. 7 to 13 had the opportunity to exercise option accordingly. The petitioners exercised their option for Accounts Department and they were designated as



Clerk in the Accounts Department whereas Respondent Nos. 6 to 13 exercised their options to work in the Cash Department. Separate seniority lists of Accounts Department and Cash Department were accordingly prepared. The private respondents, who had opted in the Cash Department, were subsequently promoted at Head Cashier and thereafter Officer Grade D i.e. Junior Management Grade Scale-I with the designation of the Chief Cashier. The petitioners, aggrieved by the policy of the Bank which resulted into grant of better promotional avenues to the private respondents, filed a writ petition before the Calcutta High Court giving rise to Matter No. 284 of 1988 (Manorath Nath Choudhary and Others Versus UCO Bank and Another.

6. The Calcutta High Court, after considering the grievance of the petitioners, in detail, held that avenues of promotion and method of promotion for the persons in the Cash Department and for those in Accounts Department, could not be said to be similar in nature. Respective employees of the Cash Department and also the Accounts Department had exercised their options for maintenance of their seniority in two



departments and such persons consciously took their decision in the matter of opting for different seniority list, the Calcutta High Court observed. The Calcutta High Court further held that there was no arbitrariness or unreasonable discrimination in the matter of promotion of respective persons, in view of the fact that respective employees had opted for two separate Cadres by exercising options, which provided different promotional avenues. The Calcutta High Court dismissed the application, finding no substance in the contention on behalf of the petitioners, that they were discriminated as against the persons, who had opted for Cash Department and got promotions on the basis of their position in the seniority list of the Cash Department.

7. The petitioners have now challenged the merger of two classes of posts i.e. the General Officers and the Chief Cashiers on the ground that firstly, they were discriminated against in the matter of making better promotional avenues available to the persons, who had opted for the Cash Department and now with the merger of the posts, their chance to get promotion to the rank of General Officers, will be diminished.



8. Mr. Awadhesh Kumar Mishra, learned counsel appearing on behalf of the petitioners has submitted that illegal and arbitrary system of giving option in the year 1981 was introduced leading to disparity among the persons who originally belonged to the same Cadre of Clerks-cum-Assistant Cashiers. He has further submitted that the action of merger of the two classes of Officers by the impugned order, is against the undertaking, given by the Bank before the Calcutta High Court, where the Bank had taken stand that there would be two separate channels of promotion from the Accounts Department and the Cash Department. I have not been able to appreciate these two submissions; firstly for the reason that the Calcutta High Court, in its decision dated 18.08.1989 found no illegality in the matter of maintenance of two seniority lists of Accounts Department and the Cash Department, pursuant to exercise of options in the Year 1981. Secondly, in the supplementary affidavit filed on behalf of the petitioners on 13.07.2004, it has been stated that the management of the Bank has not implemented 1988 Ad hoc Promotion Policy, rather they have been acting as per their affidavits

and their undertaking given in the Calcutta High Court.

9. In any view of the matter, for the purpose of adjudication of the dispute in question, I need not go into those aspects. After having exercised their option in the Year 1981 or thereafter in terms of the said policy of exercising option, the persons, who exercised options for Accounts Department and those who exercised options for Cash Department formed separate class altogether. An employee of one department, in my opinion, could not and cannot claim parity to the employees of other department in the matter of seniority or promotional avenues. The promotion granted to the private respondents to the rank of the Head Cashier and subsequently the Chief Cashier in the Grade of Junior Management Scale Grade-I came to be upheld by the Calcutta High Court, as has been noted above. The scale of pay of Respondents No. 7 to 13 holding the post of Chief Cashier, was admittedly substantially higher than the petitioners and was comparable to the General Officers of the Bank. As a matter of fact, in my opinion, the petitioners do not have any locus standi to question merger of two classes of Officers, admittedly higher in

rank to these petitioners, into one Cadre. The case of these petitioners is not at all comparable with the class of Officers, which came to be merged by the impugned order.

10. I do not find any logic in submission made on behalf of the petitioners that such merger is going to diminish their chance of promotion to the rank of Officers. With the merger of the two classes of Officers, the Cadre automatically increased. In any view of the matter, a chance of promotion is not a fundamental or legal right, which can be sought to be enforced through a writ proceeding. It is a settled law that integration of different Cadres into one Cadre, cannot be said to involve any violation of equality clause and it is entirely a matter for the State to decide to merge or de-merged the Cadre/Group of Post. It is exclusively within the domain of the executive policy as to whether there would be merger of two Cadres into one Cadre or two Groups of Employees into one Group.

11. Secondly, as discussed above, and after having held that the petitioners cannot claim parity with the private respondents, they having been granted

promotion in their Cadre which they had opted, such promotions having already upheld by the Calcutta High Court, no case of equals being treated as un-equals is made out, in the background of the facts of the present case.

12. The relief sought for by the petitioners that a direction be issued to the respondent-Bank to frame the statutory regulations under Section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 was raised before the Calcutta High Court also in the said Matter No. 284 of 1988. The Calcutta High Court declined to issue such direction. I am also of the considered opinion that no such direction can be issued, asking the Bank to frame regulation, by this Court in a proceeding under Article 226 of the Constitution of India.

13. I do not find any merit in these applications, which are, accordingly dismissed.

14. There shall be no orders as to costs.

(Chakradhari Sharan Singh, J.)

Vats/-

U			
---	--	--	--