IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.123 OF 2014

[Bhaskar s/o Gangaramji Dokrimare .vs. The Reserve Bank of India and one]

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri Anand Parchure, counsel for the petitioner,
Shri R.M.Bhangde, counsel for the respondents.

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CORAM : SMT. VASANTI A. NAIK AND PRASANNA B. VARALE, JJ.

DATED : JULY 07, 2015.

By this petition, the petitioner challenges the order of the respondent No.1-Reserve Bank of India, dated 20.11.2013 informing the petitioner that the request of the petitioner to be promoted on the post of Assistant Manager, Grade-A at Nagpur, is rejected.

There are two channels of promotion to the post of Assistant Manager Grade-A in the Reserve Bank of India, one being the qualifying channel and the other being the merit channel. Normally, the examination for both the channels are conducted every year by the Reserve Bank of India. In the year 2011, the examinations were held for the qualifying channel. The petitioner had appeared in the examination of the qualifying channel in the panel year 2011, but was unsuccessful. Against the 17 vacancies, that were available for promotion to the post of Assistant Manager, Grade-A at Nagpur, 24 candidates were declared successful. As per the Memorandum of Settlement between the Management of Reserve Bank of India and the All India Reserve Bank Employees Association and especially clause 9 (iv) thereof, if the number of candidates entitled for promotion exceed the vacancies identified for the next panel year, then the next promotional examination would be held only after all the successful candidates get promoted against the vacancies which arise in the subsequent panel year. In the year 2012, the examination for the qualifying channel was held. Seven candidates, who were successful in the year 2011, but who could not be promoted due to lack of vacancies, were carried forward to the subsequent year and were absorbed as Assistant Manager Grade-A, in the panel year 2012. In the panel year 2012, against 11 vacancies, 23 candidates were selected. The petitioner could not be accommodated in the 11 vacancies, as he was down below in the list of the selected candidates, as per the marks awarded to him in the examination. The result of the 2012 examination was declared on 11.03.2013. Since some successful candidates could not be accommodated in the vacancies as per the merit list, it is the case of the respondents that on the request made by some successful candidates, who could not be accommodated against the 11 vacancies, they were promoted as Assistant Manager, Grade-A in the branches of the Bank in the other cities. The petitioner was asked to join at Raipur, but the petitioner refused to do so. According to the petitioner, since the petitioner was placed above some of the candidates in the merit list and those candidates were promoted as Assistant Manager Grade-A at Nagpur, the petitioner was entitled to be promoted in the vacancies at Nagpur. However, by the impugned communication, the respondent-Bank expressed its inability to accommodate the petitioner in Nagpur. The petitioner has impugned the order of the Reserve Bank of India, dated 20.11.2013 in the instant petition.

Shri Parchure, the learned counsel for the petitioner, has relied on Clause 9 (iv) of the Scheme of Memorandum of Settlement between the Management of Reserve Bank of India and its Employees, to canvass that since the petitioner was declared successful in the 2012 Qualifying Channel Examination, the petitioner was entitled to be accommodated in the vacancies at Nagpur. It is submitted that as per Clause 9 (iv) of the Memorandum of Settlement, the successful candidates, who could not be accommodated, are entitled to be promoted against vacancies which arise in the subsequent panel year. It is stated that the successful candidates exceeding the vacancies in the year 2011, were entitled to be promoted in the 2012 vacancies and the successful candidates, of the year 2012 like the petitioner, were entitled to be promoted against the vacancies which arose in the year 2013, at Nagpur. It is submitted that the petitioner was asked to join on the post of Assistant Manager Grade-A at Raipur, whereas certain other officers were retained in the vacancies in the Nagpur branch of the Reserve Bank of India, though they were placed below the petitioner in the merit list. It is submitted that in view of Clause 9 (iv), the petitioner was entitled to be absorbed in the vacancies in the Nagpur Branch only.

Shri Bhangde, the learned counsel for the respondents-Reserve Bank of India, supported the action of the Bank and submitted that the reliance placed by the petitioner on Clause 9 (iv) of the Memorandum of Settlement is misplaced as the Memorandum of Settlement on which the petitioner has relied was to remain in force only for a period of two years i.e. panel years 2011 and 2012. It is submitted, by referring to Clause 11 of the Memorandum of Settlement, that the changes in the Scheme were to remain in force only for a period of two years, i.e. panel years 2011 and 2012 after which a new scheme was to be put in place by mutual consultation. It is stated that in Clause 11 of the Memorandum of Settlement, it is clearly stated that a new scheme proposed to be introduced from the panel year 2013 would be announced in advance, by the Bank. It is stated that Clause 11 of the Memorandum of Settlement, further clarifies that no credits (for papers passed) would be allowed to be carried forward to the new scheme and all the candidates would be required to appear in the examination under the new scheme. It is stated that it is clear from a reading of Clause 11 of the Memorandum of Settlement that the petitioner as well as the other successful employees, who could not be promoted to the post of Assistant Manager Grade-A in the panel year 2012, were required to appear for the examination under the new scheme of 2013. It is stated that in view of Clause 11, the petitioner cannot claim promotion to the post of Assistant Manager Grade-A at Nagpur in the panel year 2013 without appearing at the panel year 2013 examination. It is submitted that after the results of 2012 were declared, certain employees, who were successful but who could not be accommodated, requested the bank to promote them in the vacancies outside the city of Nagpur and in view of the request by such employees, the respondent-Bank tried to accommodate the successful candidates of the year 2012 in the various vacancies of the Reserve Bank of India, outside Nagpur. It is stated that only three candidates are absorbed in the vacancies at Nagpur, but all of them are above the age of 52 years. It is stated that as per the Annual Transfer Policy, the bank has exempted the persons above the age of 52 years from transfer. It is stated that the petitioner had praised the Annual Transfer Policy of the Reserve Bank of India, by his communication, dated 13.06.2013. It is stated that having praised the policy, the petitioner cannot effectively challenge the retention of the three employees, who were below the petitioner in the merit list in the Nagpur Branch, as they are more than 52 years of age, more so, when the petitioner has not shown any right in the petitioner to be absorbed/retained in the Nagpur

Branch, in the year 2013 on the basis of his success in the 2012 Qualifying Examination. It is submitted that the petitioner has appeared at the 2014 examination from the merit channel and is declared successful. It is stated that the petitioner could be promoted on the post of Assistant Manager Grade-A in the vacancy at Nagpur, in view of his selection in the 2014 examination.

On hearing the learned counsel for the parties and on a perusal of the Memorandum of Settlement, as also the affidavit-in-reply filed on behalf of the respondents, it appears that the action of the respondent-Bank cannot be faulted with. The petitioner had failed to qualify the 2011 Qualifying Channel Examination but in the 2012 qualifying examination, the petitioner was successful. However, there were only 11 vacancies in the panel year 2012 and 23 candidates had been declared successful. It is the case of the respondents that some of the successful candidates, who could not have been absorbed in the vacancies, in view of their position in the merit list, were promoted in the various branches of the respondent-Bank, outside Nagpur, on their request. The respondent-Bank also sought to promote the petitioner on the post of Assistant Manager Grade-A at Raipur. The petitioner refused to go to Raipur and claimed his promotion in the Nagpur vacancies, of the year 2013. The Memorandum of Settlement, as could be seen from Clause 11 thereof, was to remain in force only for a period of two years, i.e. panel year 2011 and panel year 2012. It could be gathered from the Memorandum of Settlement that a new scheme was proposed to be introduced from the panel year 2013 and it was to be announced by the Bank in advance. Since a new scheme was to be introduced from the panel year 2013, it is rightly submitted on behalf of the Bank that the petitioner could not have sought his promotion in the Nagpur vacancies of the year 2013, on the basis of Clause 9 (iv) of the Memorandum of Settlement. It appears that only the successful candidates of the 2011 examination were to be carried forward for their absorption in the vacancies of the year 2012, at Nagpur. In view of the new policy that was proposed to be introduced, from the panel year 2013, the candidates successful in the Qualifying Channel Examination of 2012, were not entitled to be absorbed in the vacancies of the panel year 2013. The reliance placed by the counsel for the petitioner on Clause 9 (iv) of the Memorandum of Settlement is misplaced. The 2012 Qualifying Channel Examination was held on 22/12/2012 and the 2013 Qualifying Channel Examination was held on 15/02/2014. The petitioner, could not have been promoted in the vacancies occurring in the panel year 2013, in view of Clause 11 of the Memorandum of Settlement which provided that the scheme would be in force for two years, i.e. the panel years 2011 and 2012 and a new scheme would be introduced from the panel year 2013 and the same would be announced in advance. It is not the case of the petitioner that any other successful candidates, who could not have been accommodated in the vacancies at Nagpur in the panel year 2012, were accommodated in the vacancies at Nagpur in the year 2013, except the three candidates, who are above 52 years of age and who were retained at Nagpur only in view of the Annual Transfer Policy of the Reserve Bank. The petitioner has not disputed that the three persons, who have been retained at Nagpur by the Reserve Bank in the vacancies of the panel year 2013, are above the age of 52 years. In fact, it is pointed out on behalf of the respondents that the petitioner had, by his communication, dated 13.6.2013, appreciated the Annual transfer Policy of the Reserve Bank of India which exempted the employees above 52 years of age from transfer. The petitioner, like the other successful candidates, who could not be accommodated in the vacancies of the panel year 2012 at Nagpur, was asked to join at Raipur, as the Bank had decided to accommodate the successful candidates of the panel year 2012 on the post of Assistant Manager Grade-A in the branches outside Nagpur as per the request of some of the candidates. We do not find any illegality in the action of the respondents in asking the petitioner to join as an Assistant Manager Grade-A at Raipur Branch of the Bank. The Bank had not insisted that the petitioner should join and the petitioner was permitted to work in the Nagpur office on the Class-III post that was held by him. It appears that the successful candidates of the panel year 2012 were accommodated by considering their request sympathetically and the absorption of the successful candidates of the panel year 2012 on the post of Assistant Manager Grade-A in the other cities was not in terms of the Memorandum of Settlement. It appears that some of the successful candidates have joined in the Branches outside Nagpur in terms of the orders of the Reserve Bank. Two of the candidates, who have joined the Branch outside Nagpur, are above the petitioner in the merit list. Be that as it may, that is not the issue before us. This Court is required only to consider whether the petitioner had any right to claim his absorption-promotion on the post of Assistant Manager Grade-A in Nagpur Branch only on the basis of the results of the 2012 Panel Examination and whether the successful candidates of 2012, who could not be promoted in the vacancies, were required to be accommodated-promoted in the vacancies of the panel year 2013. We do not find anything in the Memorandum of Settlement which entitles the petitioner to seek promotion on the post of Assistant Manager Grade-A at Nagpur in the panel year 2013 on the ground that the petitioner had passed the 2012 Panel Examination and the vacancies for the panel year 2013 were required to be filled in by the successful candidates, who could not have been accommodated in the vacancies of the year 2012, as the Memorandum of Settlement was to remain in force only for a period of two years, i.e. panel years 2011 and 2012. The petitioner neither made any request for permission to appear at the 2013 Panel Year Examination, nor did the petitioner appear in the examination of panel year 2013. Mrs. Bramhankar, who was asked to join on the promotional post at Patna and who had refused to join there, appeared in the 2013 Panel Year Examination and was successful. The petitioner also should have attempted the examination of the panel year 2013 like Mrs.Bramhankar. The petitioner has, however, appeared in the 2014 Panel Year Examination from the merit channel and is successful. It is informed that the petitioner would be promoted as an Assistant Manager Grade-A in a vacancy of the panel year 2014.

Since we do not find any merit in the writ petition, the same is dismissed with no order as to costs.

JUDGE **JUDGE**