

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14399 of 2013

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1. Abu Arshad Zaman Son Of Late Md. Zaman Resident Of Hamidpur Kurji, P.O.- Sadakat Ashram, P.S.- Digha, District- Patna- 800010

.... Petitioner/s

Versus

1. Uco Bank Through Its Chairman And Managing Director, Head Office, 1st Floor, 10, Btm Sarani- Kolkata- 700001
2. Chairman Cum Managing Director, Uco Bank, Head Office, 1st Floor, 10, Btm Sarani- Kolkata- 700001
3. General Manager, Hrm And Personnel Services, Uco Bank, Head Office- 2, Human Resource Management Department, 3 & 4, Dd Block (Sector- 1), Salt Lake- 700064, Kolkata
4. Assistant General Manager, (Hrm), Uco Bank, Human Resource Management Department, 3 & 4, Dd Block (Sector- 1), Salt Lake- 700064, Kolkata
5. The Circle Head, Uco Bank, Circle Office, Patna
6. Zonal Manager, (Reviewing Authority) Uco Bank, Zonal Office, Patna
7. The Chief Manager, (Reviewing Authority), Uco Bank, Zonal Office, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar, Advocate
For the Respondent/s : Mr. Anshuman, Advocate
Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 17-11-2016

Heard learned counsel for the parties.

2. The petitioner, who is a Senior Manager at W.H.C, Gaya Branch of UCO Bank claiming that he has wrongly been deprived of promotion from MMGS-III to SMGS-IV despite having requisite qualification for promotion as such having been allowed to participate in the examination for promotion, the petitioner secured 132 marks and the last person, who got only 108 marks has been selected for promotion.



3. Learned counsel for the petitioner submitted that the bank has framed its own policy for the purposes of promotion, where the eligibility for a person to appear in the examination for promotion has been stipulated. As the petitioner has secured the minimum eligibility which is provided in clause 4.3 of the scheme of the promotion and also having other requisite qualifications for appearing in the examination but having been rejected on the ground that the petitioner does not have minimum eligibility qualification and that has been communicated to the petitioner vide letter No. 1911/2012 Annexure-3 to the writ petition, wherein, it has been specifically mentioned that the officer not having obtained required minimum percentage of marks in Annual Performance Appraisal Report (APAR) for relevant year(s) under the last process in 2012-13, shows arbitrariness of the authorities concerned. It has further been mentioned in the bottom of the said letter that this information may please be treated as Department's reply to any appeal submitted to Competent Authority against non-promotion. He has further drawn attention of this court to the manner, in which the marks have been given by the reporting officer, reviewing officer and the officer, who has accepted the APAR. In the counter of the reply, it appears that out of five columns, the reporting officer has awarded four 'goods' to the



petitioner and one 'satisfactory'. Altogether out of 100, 82 marks have been granted to the petitioner by the reporting officer, but when the APAR went to reviewing officer, he considered the 'good' given by the reporting officer in the category of 60 to 74 marks and subsequently reduced the marks given to the petitioner from 82 to 65. Further the officer, who accepted the APAR of the petitioner, reduced the marks from 65 to 55 and recorded the petitioner 'worst performance average officer'. Learned counsel for the petitioner submitted that in the preceding two years, the petitioner has an outstanding reporting having 82% marks in his APAR and in this year, he has been given the bottom line, which is very inconsistent with the comments of the reporting officer. He submits that when in all the columns of the APAR except one or two, he has been shown to be good and in such circumstance bringing him at the bottom, appears to be arbitrary exercise of powers by the authorities concerned. Further the person, who secured lesser marks than the petitioner in the examination has been given promotion

4. Learned Counsel, appearing on behalf of the respondent Bank has submitted that the reporting officer has committed an error apparent on the face of record, because in some columns he has given the remark 'satisfactory' for which he has



given 8 out of 10 marks whereas for the remark 'good' he has given 9 out of 10 marks so on and so forth, which shows inconsistent approach of the reporting officer while awarding the marks in APAR of the petitioner as such the marks given by the reporting officer in the APAR of the petitioner should have been in the category of 'very good' but while making a comment, he has not given any reason for giving higher marks. The reviewing officer and the officer, who accepted the APAR, corrected the marks on the basis of remarks given by the reporting officer in APAR of the petitioner and no wrong has been done by them as the petitioner could not secure the minimum qualifying marks in his APAR, he has not been considered for promotion.

5. Considering the facts and circumstances of the case and the submissions advanced on behalf of the parties, this Court is not giving any opinion on the merit of the case as because of pendency of appeal, may cause prejudice to any of the parties.

6. In such view of the matter, the appellate authority is directed to decide the case of the petitioner within two months from the date of receipt/production of this order. The petitioner, if so advised may give the details of the fact what he feels in his favour, by way of filing supplementary memo of appeal within a period of two weeks and the appellate authority after giving due

opportunity of hearing to the petitioner, will pass a reasoned order in accordance with law.

7. With above observation and direction, this case is disposed of accordingly.

(Shivaji Pandey, J)

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