

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 2312 of 2015

IN

Civil Writ Jurisdiction Case No 14098 of 2001

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1. Manorath Nath Choudhary Son of 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 Son of 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. Ranjan Kumar Sinha Son of 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.
 4. Phanindra Prasad Son of 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.

.... Appellant/s

Versus

1. The UCO Bank (United Commercial Bank) 10, Brabourne Road, Calcutta - 1.
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 son of 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 son of name not known to the petitioners presently posted in scale III Officer Cadre at Branch Office, Jharia.
9. Mr. Shailendra Jha, P.F. No. 32756 son of name not known to the petitioners presently posted as Scale II Officer.
10. Mr. Balram Singh, P.F. No. 27418 Son of name not known to the petitioners presently posted as Scale II Officer.
11. Mr. Mahesh Kumar Singh, P.F. No. 27955 Son of name not known to the petitioners presently posted as Scale II Officer.
12. Mr. Manoj Kumar, P.F. No. 36376 Son of name not known to the petitioners presently posted as Junior Management Scale Grade II Officer.
13. Mr. Rajan Raman, P.F. No. 36113 Son of name not known to the petitioners presently posted as Officer in Middle Management Grade Scale - II at Kankarbagh Branch at UCO Bank, Patna.
14. Prabhat Kumar Son of Late Parmeshwari Prasad Resident of Mahesh Nagar, Behind Rajdhani Apartment, P.S. - Patliputra, District - Patna, at present posted at UCO Bank, Regional Office, Patna.
15. Rabindra Kishore Sharan Son of Sri Anand Kishore 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.
16. Dhananjay Kumar Verma Son of 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.

17. Ritendra Prasad Shrivastava Son of 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.

.... Respondent/s

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Appearance :

For the Appellant/s : M/s Awadhesh Kr Mishra, Ajay Kr & Manoj
Prabhakar, Advocates

For the Bank : M/s R P B Irnaway & Anand Sharan, Advocates

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**CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
&
HON'BLE JUSTICE SMT NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 04-02-2016

We have heard learned counsel for the appellants who are the unsuccessful writ petitioners belonging to the Accounts Branch of the Bank as well as the learned counsel for the United Commercial Bank (for brevity, the Bank) at length and, with their consent, this appeal is being disposed of at this stage itself.

2 The grievance of the appellants appears to be with regard to certain benefits that would accrue to persons belonging to similar cadre and certain benefits that they would be deprived. It is submitted that the policy decision to demerge a cadre and, thereafter, merge a cadre is arbitrary as it is operated to the disadvantage of persons opting for one cadre.

3 Let it be recorded that so far as the latter part of

submission is concerned, it is not that by virtue of demerger alone that any disadvantage or advantage flows. It is after merger, certain changes were brought about in a different cadre and not so given to the other cadre. That, in our view, cannot make the initial demerger invalid.

4 We have gone through the judgment of the learned Single Judge under appeal and we find that the learned Single Judge has considered all the relevant facts and decided the case rightly. There is no need of interference. However, as the matter has been argued at length, we would briefly note our reasons for not interfering.

5 It appears from about 1975 to 1981, recruitments were made for the post of Clerk –cum- Assistant Cashier. Having been so recruited, they were then given an option to choose between Cashier or Accountant, in other words, between Cash Department and Accounts Department. This option was irrevocable for the reason that once this option was exercised, they would then progress in the ladder according to their choice. In other words, a person, who chose Cash Department, would rise in hierarchy and reach upto the level of Chief Cashier which is Scale I Post. The other branch, being Accounts, they would rise in that Department to reach the post of General Officer, again in Scale I. Thus, upon exercise of the irrevocable option, two different Rules of progression were there. Each had its own set of

Rules and regulations which were dissimilar.

6 It appears that Bank took a decision to promote from Cashier to Chief Cashier when they reached the 09th stage in their service. This was objected to by employees in the Accounts Department on the ground that this would arbitrarily and unfairly accelerate the promotions or promotional avenue in the Cash Department which would and which could ultimately be to their disadvantage. Accordingly, a writ petition was filed in the Calcutta High Court. The Calcutta High Court dismissed the writ petition which dismissal was not interfered at the appellate stage or by the Apex Court. The effect of this judgment was that the two branches were accepted to be separate line of progression depending upon the initial irrevocable option given. What the Bank subsequently did, was once from both lines, people reached the Scale I post that is either General Officer Scale I or Chief Cashier Scale I, the Chief Cashier Scale I Post was merged with General Officer Post Scale I in the year, 2001. Thus, what we have is a singular initial recruitment which got bifurcated upon irrevocable option, then progression in the different lines and once they reached Scale I Post, merger thereafter. This is now what is under challenge.

7 To us, there is neither arbitrariness nor any hostile discrimination. The question of discrimination would only arise when

equals are treated unequally or unequals are treated equally. Here, the two branches are not equals. They got separated by the irrevocable options given. Each has its own route, its own pitfalls, its own advantages. They had different responsibilities. The nature of job is totally different. They are, thus, basically different. To ask for equal treatment in matters of promotion and other benefits amongst the two cannot be justified for they are not equals.

8 Thus, we find that Bank has done nothing wrong by merging the Officer Grade each being in the same pay scale and each branch having the opportunity of reaching that scale. This being a policy decision, Courts rarely interfere unless it is shown that it is palpably arbitrary or discriminatory which, in our view, is not the case.

9 We, thus, find no merit in this appeal. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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