

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2016

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Mr. JUSTICE M.VENUGOPAL

W.A.No.899 of 2015

B.Jayakumar .. Appellant/ Petitioner

Vs.

- 1.State Bank of India
rep. by its Chairman and Managing
Director, SBI Corporate Office,
State Bank Bhawan,
Post Box No.12,
Madam Cama Road,
Mumbai - 400 021.
- 2.The Chief General Manager,
State Bank of India,
Chennai Circle, College Road,
Nungambakkam, Chennai - 34.
- 3.State Bank of India Contract
Officers' Welfare Association
rep. by its President,
9-B, Krishnapuram Second Street,
Saravanapatti Post,
Coimbatore Dist. - 641 035. .. Respondents / Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 25.10.2010 made in W.P.No.17227 of 2010.

The Writ petition is filed u/a 226 of the constitution of India praying for the issuance of a writ of mandamus forbearing the respondents from in any way regularizing the contract staff appointed in pursuance of Officers marketing and Recovery (Rural Service and Conduct) Rules providing for a career path as set out in Sl.No.7 of said rules.

For Appellant .. Mr.B.Jayakumar,
Party-in-person

JUDGMENT

(Judgment of the Court was delivered by SATISH K.AGNIHOTRI, J.)

Notice to the respondents is dispensed with at this stage, as no adverse order is passed against them in this writ appeal. With the consent of the appellant/party-in-person, the writ appeal is taken up for final disposal.

2.Assailing the correctness of the order dated 25.10.2010 made in W.P.No.17227 of 2010, whereunder the relief sought for by the appellant and other writ petitioners was rejected, the instant writ appeal is filed.

3.The appellant/writ petitioner along with other petitioners preferred a batch of writ petitions, seeking a blanket order against the respondents/State Bank of India to forbear them from in any way regularising the contract staff appointed in pursuance of Officers Marketing and Recovery (Rural Service and Conduct) Rules, providing for a career path as set out in Sl.No.7 of the said Rules. The writ petition was dismissed along with other writ petitions by a common order dated 25 October 2010, holding as under:

"11.As observed in the additional counter affidavit, the Trainee Officers' vacancies are kept intact for giving promotional opportunity to eligible clerical staff. The petitioners can participate in the written examination and interview for every promotional year and adequate number of vacancies are available for considering their claim for promotion. It is also assured in the additional counter affidavit that in the month of October, 2010 or immediately thereafter, written examinations for the promotional post of Trainee Officers will be held and all eligible persons including petitioners, if they are eligible, can participate in the written examinations and interview as per the Service Regulation.

12.In view of the above facts, the apprehension expressed by the petitioners in the affidavits, which is the cause of action for filing these writ petitions, is no longer a valid apprehension and the same is fully clarified by the Bank through additional counter affidavit dated 23.09.2010. The averments made by the Bank in the additional counter affidavit dated 23.09.2010 are hereby recorded. Further the Bank has also absorbed more than 7000 persons and regularisation of the balance employees is under process. Hence no mandamus could be issued now.

For the foregoing reasons, all the writ petitions are dismissed. No costs. Connected miscellaneous petitions are closed."

4.Mr.B.Jayakumar, appellant/party-in-person has chosen to challenge the aforestated order rendered by the learned single Judge in the instant appeal. The sole contention of the appellant/party-in-person is that regularisation of all the contract employees, if any made, will be against the ratio laid down by the Supreme Court in Secretary, State of Karnataka and Others Vs. Umadevi and Others¹.

5.The Supreme Court, in a catena of decisions, has clearly held that no illegal appointment, which is de hors the constitutional scheme of appointment and contrary to law, be regularised. However, irregular appointments can be regularised, in the appropriate facts of the case. The instant appeal cannot be considered for want of material facts, whereunder any particular appointment, as pointed out, was made de hors the constitutional scheme or Statutory Rules.

6.In view of the above, no case is made out to interfere with the order of the learned single Judge. However, it is open to the appellant/party-in-person to question the regularisation of a particular employee, if permissible, under the provisions of law.

7.With the aforestated observations, the writ appeal stands dismissed. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1. The Chairman and Managing
Director, State Bank of India
rep. by its SBI Corporate Office,
State Bank Bhawan,
Post Box No.12,
Madam Cama Road,
Mumbai - 400 021.

1.2006 (4) SCC 1

2.The Chief General Manager,
State Bank of India,
Chennai Circle, College Road,
Nungambakkam, Chennai - 34.

2 ccs to Mr.B. Jayakumar, Advocate, Sr. 11103
1 cc to Mr.P.D. Audikesavalu, Advocate, Sr. 11106

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