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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5909/2016, CM Nos.24328-24329/2016**

ALL INDIA FEDERATION OF UCO BANK OFFICERS

..... Petitioner

Through: Mr. Sudhir Nandrajog, Sr. Adv. with
Mr. Amitabh Sinha, Mr. Amon
Nandrajog & Mr. Varun, Advs.

versus

MINISTRY OF FINANCE BANKING DIVISION AND ORS

..... Respondent

Through: Mr. Nand Kishore Jha, Adv. for R-1
Mr. Suhail Dutt, Sr. Adv. with
Mr. Sarfaraz Khan, Adv. for R-2 and 3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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12.07.2016

CM No.24329/2016

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 5909/2016

1. The present petition has been filed by the All India Federation of UCO Bank officers with the following prayers:-

“a. issue writ of mandamus or certiorari or any other appropriate writ, order or direction directing respondent nos.2 and 3 to implement the Annual Transfer Exercise i.e ATE-2016 of the UCO bank as per the

transfer policy envisaged in the year 2013 and revised in the year 2014 and 2016;

b) issue writ of mandamus or certiorari or any other appropriate writ, order or direction directing respondent nos.2 and 3 to implement the policy of “zone of domicile” or “zone of preference”;

c) issue writ of mandamus or certiorari or any other appropriate writ, order or direction directing respondent nos.2 and 3 to quash the circular dated 5.7.2016 thereby preparing the list of candidates/employees eligible for repatriation and ineligible for repatriation;

d) pass such other further order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. It is the case of the petitioners that the circular dated November 9, 2013 provided inter-zone transfer in the following manner:-

A. INTER-ZONE TRANSFER:

“....6) Zonal Heads are to indicate in the transfer orders for officers identified for interstate/zone transfer that only such officers who will report for duty at their new place of posting by 18.11.2013 will be eligible for repatriation in the subsequent Annual Transfer Exercise (ATE), 2015 for North Eastern States and ATE-2016 for other states under the then applicable Transfer Policy.”

B. INTRA ZONE TRANSFER:

“...4) Officers who have already completed 3 years in their place of posting as on 31.08.2013 must be compulsorily taken into consideration for intra-zone transfers/movements, intra Zone transfer exercise should be completed within 30.11.2013..”

3. In the year 2014, a revised transfer policy came into force providing inter-alia procedure for inter-zone transfer in the following manner:-

“....For this purpose, if sufficient vacancies do not exist in the Zone, the Bank will move out the officers in the following order viz, newly promoted Scale-I, II&III Officers: Officers who are required to undergo mandatory post promotional obligations of Rural and Semi-Urban posting; Officers identified on Longest Continuous Stay basis; Officers who have not completed their minimum retention period according to their Longest Continuous Stay basis; Officers who have not completed their minimum retention period according to their Longest Continuous Stay and Officers who have reached the age of 57 years. In the aforesaid exercise, if sufficient replacements are not available, the remaining in-coming officers will be deployed in the nearest deficit zones based on their second/third preference. A zone-wise roster will be maintained in this regard by Head Office/Circle Office which will be updated every year....

9. Officers who are posted in a zone in which their places of domicile at the time of appointment do not fall and have completed three years effective service may also apply for posting in the Zone within which their place of domicile fall and such applications will be

considered at the time of annual inter-zone transfers in terms of provisions under clause 8 as above. A zonewise/Circle roster will be maintained in this regard by Head Office/Circle Office which will be updated every year..”

16... While preparing the longest continuous stay list and identifying the officers for inter-zone transfers, the transfer list will be prepared in the following order:

16.1 For the purposes of inter-zone/inter-circle transfers, officers who have completed their minimum retention period in the zone shall be identified for transfers first according to their longest continuous stay in the zone/circle without considering their retention period in the place and thereafter, rest of the officers will be identified for inter-zone/inter-circle transfers on the basis of their longest continuous stay in the zone/circle without considering their retention period in the zone/place..”

4. On June 29, 2016, the transfer policy of 2014 was amended with respect to the procedure to be followed while applying the policy of zone of domicile inter-alia providing as under:-

“.... Officers up to Scale-III transferred from one zone to another will be brought back to their zone of domicile after serving for three years (effective service) on their making application in this regard. For this purpose, if sufficient vacancies do not exist in the Zone, the Bank will move out the officers in the following order viz, newly promoted Scale-I, II&III Officers; Officers who are required to undergo mandatory post promotional obligations of Rural and Semi-Urban

posting; Officers identified on Longest Continuous stay basis who have completed minimum retention period of three years in the Zone /Head Office, in the aforesaid exercise. If sufficient replacements are not available, the remaining incoming officers will be deployed in the nearest deficit zones based on their second/third preference. A zone wise roster will be maintained in this regard by Head Office which will be updated every year. Officers who could not be accommodated in their ZOD or Zone of preference will be considered for repatriation in the subsequent ATEs according to scale wise roster maintained by Head Office.”

5. Mr. Sudhir Nandrajog, learned Senior Counsel appearing for the petitioners states that the petitioners are not aggrieved by the transfer policy, but, the manner, it has been implemented while issuing circular dated July 5, 2016. He has drawn my attention to pages 84 onwards including page 93, which are (i) list of officers eligible for repatriation and; (ii) list of officers eligible for repatriation not being considered due to no vacancy at domicile zone. According to him, the policy has been implemented in favour of some officers and to the prejudice of others.

6. Mr. Suhail Dutt, learned Senior Counsel appearing for the respondents 2 and 3, has taken a preliminary objection on the maintainability of the writ petition in this Court, as, according to him, the cause of action, if any has arisen in Calcutta.

7. Be that as it may, noting the submissions as made by Mr. Sudhir Nandrajog, a question would arise, whether the issue as raised and contended by Mr. Sudhir Nandrajog, can be raised and espoused by the federation or it would be an individual grievance of an officer, in whose favour the transfer policy has not been implemented. This Court is of the view, noting the submissions made by Mr. Nandrajog, that the implementation of the transfer policy has been in favour of some officers and to the prejudice of the others then it cannot be said to be a common grievance of all the Members of the Federation, for the Federation to file this petition. In fact, the plea of Mr. Nandrajog, that the transfer policy has been implemented to the prejudice of some officers would give a cause of action to those officers to approach the Court. This I say, for the reason that the grievance/prejudice caused to that particular officer, need to be looked into from the perspective of the facts, which would be pleaded by that particular officer.

8. That apart, if plea of prejudice is upheld, then there is a likelihood of third party rights getting affected, which may require impleadment. Noting the above, this Court is of the considered view that the present petition filed by the Federation for grievances of individual officers, would not be

maintainable. Nothing precludes the individual officers to seek redressal, if aggrieved by the transfer orders in accordance with law. The present petition is dismissed.

CM No.24328/2016 (for stay)

Dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 12, 2016/ak