

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.896 of 2014
IN
Civil Writ Jurisdiction Case No. 953 of 2008**

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1. The UCO Bank of India through its Chairman UCO Bank, Head Office 10, Burman Road, Kolkata.
 2. The General Manager (Personal) UCO Bank Old Court, House Street, Kolkata.
 3. The General Manager (Operation-3) 12 Old Court House Street, Kolkata.
 4. The Zonal Manager cum Divisional General Manager cum Appellate Authority UCO Bank, 4th Floor, Block 'A', Mauryalok Complex, Dak Bungalow Road, Patna.
 5. The Regional Manager cum Disciplinary Authority, UCO Bank, Regional Office, Central Jail Road, Jawaripur, Bhagalpur.

.... Appellants

Versus

Anil Kumar S/o Late Bhuneshwar Prasad Resident of Lal Mishra Lane, 'Bihari Kunj' Khanjarpar, P.S. Barari, District Bhagalpur.

.... Respondent

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Appearance :

For the Appellants : Mr. Ramesh Prasad Birnaway, Advocate
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-03-2017

The sole private respondent filed a writ application which was registered as C.W.J.C. No. 953 of 2008. The relief prayed for was for a direction upon the respondent Bank to grant him promotion in the officers' cadre from clerk grade from the date junior to him, who were similarly situated as on 01.08.1997, had been given promotion.

The learned single Judge allowed the writ application and gave a direction in following terms:

“13. Respondents No. 4 and 5 are directed to re-



consider the petitioner's case in the light of the observations as above and grant him promotion with effect from 01.08.1997, if he is not found otherwise disqualified for said promotion. This application is accordingly allowed."

It is this relief, which has been granted in favour of the private respondent, that has brought the Bank before this Court in Letters Patent Appeal. The submissions, which are being made before the appellate Court, is no different than what was made before the learned single Judge and the same has been squarely answered by the learned single Judge in paragraph 7 to 11 :

7. The petitioner has brought on record a Circular No. CHO/PAS/14/97 dt. 19.08.1997 on which date the panel was prepared. The said Circular, inter alia, contains the following:-

"The finalisation of the lists of selected candidates under Merit-cum-Seniority Channel has been carried out in accordance with the provision of Para 3.6.1 Note (3) of PPS, 1988. The said provision stipulates that candidates who pass the written test will be ranked on the basis of marks obtained in the written test and those who shall rank within the number equivalent to three times the vacancies declared for this channel will be considered for promotion on the basis aggregate marks secured in the written test, service and qualifications. The provision also states that candidates who secure the same number of



marks in the aggregate shall be ranked on the basis of inter-se seniority.”

8. Further, it has specifically been mentioned in the said circular that selection of the candidates was subject to certain conditions including the one as contained in clause 8 which reads thus:-

“8. Any disciplinary proceedings initiated and pending as on 31st July, 1997 within the purview of Para 3.8.4 read with Para 3.5 of PPS, 1988.”

9. “PPS, 1988” denotes “promotion policy settlement, 1988” of workmen / staff of the Bank. From the said circular dated 19.08.1997, it will appear that the promotion was made effective from 01.08.1997, and therefore, 31.07.1997 was the crucial date fixed for denying promotion or keeping the promotion pending on the ground of pendency of departmental proceeding.

10. In such view of the matter, the Respondents could not have denied the petitioner promotion to the Bank Officers’ cadre with effect from 01.08.1997 in the absence of pendency of disciplinary proceeding as on 31.07.1997.

11. Learned counsel appearing on behalf of the Bank has vehemently submitted that the petitioner has been rightly denied promotion as on the date of issuance of the final list along with the Circular dated 19.08.1997, a proceeding was initiated against the petitioner on the charge of gross misconduct which



culminated into imposition of punishment. He submits that since on the date of empanelment, a disciplinary proceeding was pending against him, he was not entitled for grant of such promotion on that date and since subsequently punishment was imposed upon him, he was rightly not granted promotion after conclusion of the departmental proceeding. This submission cannot be accepted. As per the Circular of the Bank, selection of the candidates on the basis of written examination, was subject to the conditions as mentioned in the said circular. There are altogether eight such conditions which include pending of a disciplinary proceeding against a candidate as on 31.07.1997. The petitioner's case is not covered by the said condition No. 8. I am, therefore, of the view that the petitioner has been wrongly denied promotion to the Officers' grade with effect from 01.08.1997 on the ground of pendency of a disciplinary proceeding initiated on 04.08.1997."

Nothing new has been urged over and above what was urged and decided categorically with regard to the applicability of the Circular and which in no manner would come in the way of grant of such promotion since the promotion was granted with effect from 01.08.1997 to all eligible candidates, which included the private



respondent and the proceeding was initiated on 04.08.1997 i.e. after the promotion was granted. The promotion cannot be taken back in retrospection on a subsequent initiation of a departmental proceeding.

The learned single Judge, therefore, has committed no error in granting relief in favour of the private respondent.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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