

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 10068 of 2011
and MP Nos.1 & 2 of 2011

S.Sasikala

... Petitioner

Vs.

1 State Bank of India,
Rep. By its Chairman,
Corporate Centre, State Bank Bhavan,
Madame Cama Road, Mumbai 400 021.

2 The Chief General Manager,
State Bank of India, Local Head Office,
No.16, College Lane, Chennai 600 006.

3 The General Manager (NWZ)
State Bank of India, Human Resources Department,
Local Head Office, Circle Top House
No.16, College Lane, Chennai 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, after calling for the concerned records from the 3rd respondent, quash the order of the 3rd respondent dated 12.04.2011 bearing ref. No.HR:RC:104 and consequently direct the respondent Bank to absorb the petitioner as Marketing & Recovery Officer (Rural) on permanent basis with all consequential benefits. सत्यमेव जयते

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.P.D.Audikesavalu
Standing Counsel

O R D E R

The petition has been filed praying for issuance of a Writ of Certiorarified Mandamus, after calling for the concerned records from the 3rd respondent, quash the order of the 3rd respondent dated 12.04.2011 bearing ref. No.HR:RC:104 and consequently direct the respondent Bank to absorb the petitioner

as Marketing & Recovery Officer (Rural) on permanent basis with all consequential benefits.

2. Heard Mr.Balan Haridas, learned counsel appearing for the petitioner and Mr.P.D.Audikesavalu, learned Standing Counsel appearing on behalf of the respondents-Bank.

3. The learned counsel appearing for the petitioner submits that the petitioner was working as Marketing and Recovery Officer (Rural) on contract basis with the respondent State Bank of India from 31.03.2008. The petitioner was duly selected by the Bank as per the policy approved by the Central Board of the Bank and governed by the Officer-Marketing & Recovery (Rural) Service and conduct Rules, 2004 framed by the Bank in exercise of its statutory powers under the State Bank of India Act,1955. As per the said Rules, the appointments were made after an open advertisement and a selection process comprising of an oral interview and on selection of the best among those who possessed the eligibility criteria. The first advertisement for recruiting such officers was issued in May 2004. The petitioner was initially called Marketing & Recovery Officer (MRO) - Farm Sector and later from 2006, the Bank changed their designations to Officer-Marketing & Recovery (OMR) - Rural. In the year 2006 -2008, the Bank issued advertisement again and the most meritorious candidates were recruited through the same selection process. The petitioner was one of the candidates selected and appointed in the selection process held during the year 2008. A high eligibility criteria was uniformly prescribed for such recruitment.

4. The learned counsel for the petitioner would further submit that the State Bank of India Officers- Marketing & Recovery (Rural) Service and conduct Rules, which were framed by the Bank with effect from 06.09.2004, are made applicable to the petitioner and persons recruited like the petitioner. Rule 4 therein envisaged the appointment of Officers-Marketing & Recovery (Rural) for a contractual period renewable depending on the performance and the State Bank of India's discretion and need. Rule 7 therein set out the career path as follows:

Grade	Minimum Service Eligibility Criteria
OMR - RURAL - S1	3 years as OMR - RURAL
OME - RURAL - S2	4 years as OMR - RURAL -S1
OMR - RURAL - S3	4 years as OMR - RURAL - S2

As per the rules and terms and conditions of service, on showing performance of the newly recruited contract officers, the Management of the Bank decided to confirm them as permanent

officers. Such a decision was taken by the Central Board of the Bank held on 20.04.2006. Therefore, the decision for confirming the petitioner was purely based on their excellent performance for which a survey was earlier conducted by the Corporate Centre in 2006 - 2007.

5. The learned counsel for the petitioner would further submit that as per the Rules, the petitioner was entitled to be considered for promotion to S1, S2 and S3 Grades on completion of 3 years or 4 years service, respectively. However, the Bank did not pass any orders of promotion to S1, S2 or S3. Contract appointees like the petitioner were becoming restive and started leaving the Bank's services. The Bank issued a circular dated 08.10.2007 on the subject of career path and compensation package for Officers - Marketing & Recovery (Rural) and Technical Officers (Farm Sector). Thereafter, the aforesaid Rules were also circulated to all the Branch Heads to inform them of their service conditions and roles and responsibilities. The petitioner has represented for her permanent absorption, but she was orally assured that her services will be continued and absorbed.

6. The learned counsel for the petitioner would also submit that in spite of the aforesaid Circular and the Rules, the Bank had failed to implement its commitments, assurances and the aforesaid statutory Rules. With increased reports of excellent performance results from the Agri Business Units, the Bank finally proposed to appoint permanent "Officers Rural Business" (ORB), which should be State specific. A letter dated 15.5.2009 of the Bank in this regard was sent by the Chief General Manager (Rural Business). The petitioner was orally assured of the said post. However, this was also not implemented. Further, without giving the petitioner promotions to S1, S2 & S3 or making her permanent, the Bank suddenly came up with a totally illegal advertisement dated 6.6.2009 for direct recruitment to S1 grade of Officers - Marketing & Recovery (Rural) and Technical Officers (Farm Sector) again on contractual basis. The said recruitment was against the State Bank of India Officers - Marketing & Recovery (Rural) Services and Conduct Rules, 2004, as per which S1 grade is a promotion grade with a prescribed selection process based on the performance of officers like the petitioner, as set out in Rule 7. At this stage, the respondent-Bank issued advertisement dated 20.1.2010 for recruitment of Probationary Officers, (General) as well as for Rural Business). Subsequently, the 3rd respondent had issued the termination order dated 12.04.2011 to the petitioner, stating that the petitioner was discharged from the Bank with effect from 19.04.2011 and the petitioner need not attend office from 20.04.2011. Hence, the petitioner filed the present Writ Petition.

7. The learned Standing Counsel for the respondent-Bank would further submit that disciplinary proceedings were contemplated against the petitioner for unauthorised absence of 274 days from 20.06.2008 to 20.03.2009 and though the petitioner was allowed to rejoin duty under special conditions vide letter dated 21.03.2009, she again went on leave for 24 days from 25.03.2010 to 17.04.2010.

8. The learned counsel for the petitioner would submit that the unauthorised absence for the period of 274, days is not correct. When the petitioner joined the Bank, the petitioner had 6 months baby and also had health complications. Therefore, she took leave, subsequently all her leave periods had been duly intimated and she also sent a letter dated 21.08.2008 enclosing the medical reports. The Bank accepted the report and allowed the petitioner to join duty. Even the petitioner's leave for a period of 24 days has been duly sanctioned.

9. The learned counsel for the petitioner would submit that the petitioner, pursuant to the circular issued by the respondent-Bank, has reached the norms as per the aforesaid Circular. Therefore, in the light of the order passed by this Court in WP Nos. 9894 of 2011 etc., dated 22.02.2013, the petitioner is entitled to be absorbed as permanent employee in the respondent-Bank.

10. The Learned Standing Counsel appearing for the respondent-Bank would submit that in the light of the order passed in WP Nos. 9894 of 2011 etc., dated 22.02.2013, the impugned order passed by the respondent bank, is to be set aside and remitted to the authority concerned to pass appropriate orders.

11. In the light of the submissions made by the learned counsel for the parties and in view of the fact that the petitioner has satisfied the revised norms as per the Circular issued by the Corporate Centre of the respondents, this Court has no hesitation to set aside the impugned order passed by the respondent Bank. Considering the facts and circumstances of the case, this court passes the following order:

(1) The impugned order passed by the 3rd respondent in ref. No.HR:RC:104 dated 12.04.2011 is hereby quashed and remitted back to the first respondent/Bank to pass appropriate orders for absorbing the petitioner as permanent employee like similarly placed persons in an earlier order passed by the respondent/Bank, and the said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

(2) In the event the petitioner being absorbed as permanent employee, the respondent-Bank is directed to pay all the consequential benefits as directed by this Court in the earlier order passed in W.P. Nos. 9894 of 2011 etc., dated 22.02.2013.

12. The Writ Petition is allowed with the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Jv

To

- 1 The Chairman,
State of Bank of India,
Corporate Centre, State Bank Bhavan,
Madame Cama Road, Mumbai 400 021.
- 2 The Chief General Manager,
State Bank of India,
Local Head Office,
No.16, College Lane, Chennai 600 006.
- 3 The General Manager (NWZ)
State Bank of India,
Human Resources Department,
Local Head Office, Circle Top House
No.16, College Lane, Chennai 600 006.

+1cc to Mr.Balan Haridas, Advocate Sr.11633

+1cc to Mr.P.D.Audikesavalu, Advocate Sr.11873

W.P. No. 10068 of 2011

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