IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 12160 of 2011
and MP Nos.1 & 2 of 2011

G.Yuvaraja ... Petitioner

Vs.

1. State of 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 (NW2)
   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 31.12.2010 bearing ref. No.HR:RC:3007 and consequently direct the respondent Bank to absorb the petitioner as Officer - Marketing & Recovery (Rural) on permanent basis with monetary benefits.

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 31.12.2010 bearing ref. No.HR:RC:3007 and consequently direct the respondent Bank to absorb the petitioner as Officer - Marketing & Recovery (Rural) on permanent basis with backwages, continuity of service and all consequential monetary and non-monetary 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 02.01.2009. 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 his permanent absorption, but he was orally assured that he 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 him 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 31.12.2010 to the petitioner, stating that the petitioner was discharged from the Bank with effect from 01.01.2011 the petitioner need not attend office from 02.01.2011.

7. The learned counsel for the petitioner would submit that pursuant to the circular issued by the respondent-Bank, the petitioner had not achieved the revised target reduction and it came to be claimed on account of transfer or involvement in other extraneous work like Agri Debit waiver and Debt relief exercise. The stand taken by the Bank is in contradiction to the letter forwarded from RBI, which clearly states that sufficient reduction in target should be done if an officer is transferred during the middle of the year 2009-2010. The petitioner was temporarily transferred to Mallur branch and after a gap of 9 months, he was re-transferred back to Sankari branch. 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. Learned Counsel for the Petitioner submitted that if the Petitioner is given an opportunity of personal hearing by the Competent Authority of the Respondent, he would be in a position to explain as to how he justifies his claim for having achieved the target by applying the revised norms. Hence, the petitioner filed the present Writ Petition.

8. The learned Standing Counsel for the respondents submit that the petitioner was appointed on contract basis as Officer - Marketing & Recovery (Rural) (hereinafter referred to as `OMR' for brevity) in State Bank of India for a period of two years from 02.01.2009 to 01.01.2011. The period of contract came to an end on 01.01.2011 and had not been renewed. In the meanwhile, a Writ Petition bearing W.P. No. 7431 of 2010 was filed in this Court by State Bank of India Contract Officers' Welfare Association (in which the Petitioner claims to be a member) impeaching an advertisement dated 30.01.2010 issued by State Bank of India for recruitment of Probationary Officers (Rural Business) from open market and for consequential direction to appoint existing Officers - Marketing & Recovery (Rural) (including the Petitioner) as permanent officers. During the pendency of that Writ Petition, the Executive Committee of the Central Board of State Bank of India in the meeting held on

14.07.2010 approved a policy for permanent absorption of Officers - Marketing & Recovery (Rural), who are in the services of the bank as on 14.07.2010 subject to having achieved minimum 60% targets during the year 2009-2010. Recording the said subsequent development, this Court by order dated 25.10.2010 disposed the Writ Petition (W.P. No. 7431 of 2010) with liberty to the members of State Bank of India Contract Officers' Welfare Association to agitate individual cases of non-absorption if necessity arises by initiating appropriate separate proceeding.

According to the Respondents, since the Petitioner had not fulfilled the terms and conditions stipulated for permanent absorption, he could not be considered for permanent absorption and by a letter of discharge dated 31.12.2010, he was requested not to attend office from 02.01.2011 onwards and was relieved from the contractual employment. Aggrieved thereby, the Petitioner has filed the instant Writ Petition bearing W.P. No. 12160 of 2011 impugning the order of discharge from service dated 31.12.2010. Similar Writ Petitions were filed by 38 other OMRs and all the cases were grouped together as a batch for common hearing.

9. The learned Standing Counsel would submit that the Counsel appearing for the Petitioner had by notice dated 03.10.2012 addressed to the Counsel for the Respondents required the Respondents to produce, inter alia, the letter dated 18.11.2011 bearing RBU/SPR/OMR/207 written by its Rural Business Unit wherein it had been mentioned that 29 OMRs who have not been absorbed are fully eligible for absorption meeting out the parameters and the instructions received from the Corporate Office. In pursuance thereof, the Respondents had on 29.11.2012 produced the said letter dated 18.11.2011 before this Court. However, the name of the Petitioner does not find place in the list of 29 OMRs who had been recommended for absorption in the said letter dated 18.11.2011. The Petitioner had been found to be not eligible for absorption based on the revised evaluation matrix received from his controller since he did not achieve 60% of the business and recovery target set out for him. After the production of the aforesaid letter dated 18.11.2011, this Court by order dated 17.12.2012 directed the Respondents to review the case of all the Petitioners in the batch including the Petitioner herein for permanent absorption as per the recommendations made by the Deputy General Manager (Rural Business Unit) vide proceedings dated 18.11.2011 and in light of the revised norms set out in the circular dated 18.08.2010 issued by the Corporate Centre of the Respondents.

10. The learned standing counsel would further submit that in compliance of the aforesaid order passed by this Court,

the Competent Authority of the Respondent reviewed the cases of all the 39 Petitioners (including the Petitioner herein) in the light of the revised norms set out in the circular dated 18.08.2010 issued by the Corporate Centre of the Respondent and it had been found that even after applying the revised norms, the Petitioner, who had secured only 44.61% in the original performance, had not been found to be eligible for absorption due to his inadequate revised performance of 54.86% as against the required 60% for absorption. This Court by order dated 22.03.2013 in WP Nos.9894 of 2011 etc., disposed of 28 Writ Petitions in the batch recording the Report filed by the Respondents that the Petitioners in those cases would be absorbed in service as they had achieved the target as per the revised norms and there was no other impediment in that regard. The remaining Writ Petitions including the present case were posted for further hearing and disposal.

11. The Learned Standing Counsel for the respondent-Bank would further submit that the respondent-Bank has considered and passed orders and that the petitioner has not reached the target as per the revised norms and hence, cannot claim any absorption in service.

12. Heard the submissions of the learned counsel for the petitioner as well as the respondent-Bank and perused the materials placed before this Court. With regard to the claim of the petitioner for absorption in service, it solely depends on the achievement of the target by applying the revised norms, and the petitioner has now placed the materials in support of his claim, which would have been examined by the Competent Authority and the concerned authority has to pass orders on the claim made by the petitioner. On a perusal of the impugned order dated 31.12.2010, there is nothing on the face of that order to indicate as to whether the respondents had examined the eligibility of the Petitioner for extending the benefit of revising the business targets for the purpose of measuring the achievement stipulated for permanent absorption in service in terms of para 2(b) of the Circular No. RB/AC/SB/121 dated 18.08.2010 issued by the Corporate Centre of the Respondent.

13. In view of the submission made by the learned counsel for the petitioner that similarly placed OMRs, numbering about 28 who had been initially found to be ineligible for continuation in service, were later found to have achieved their target by applying the revised norms stipulated by the Corporate Centre of the Respondent and were considered by the respondent, without expressing any opinion on the merits of the rival claims, the impugned order passed by the 3rd respondent dated 31.12.2010 is quashed and the petitioner is permitted to make fresh representation with relevant materials to the 3rd

respondent within a period of two weeks from the date of receipt of a copy of the order and the Competent Authority of the respondents shall consider the claim of the petitioner and give an opportunity of hearing to the petitioner and pass reasoned order, in the light of the above said Circular issued by the Corporate Centre of the respondents and pass appropriate orders, on merits in accordance with law, within a period of 12 weeks from the date of receipt of the said representation from the petitioner. It is needless to add here that in the event of the Petitioner being found to be entitled for permanent absorption in service, other benefits as applicable to other similarly placed OMRs absorbed in service in terms of the relevant orders of the Respondent, shall be extended to the petitioner.

14. The Writ Petition is allowed on the aforesaid terms. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

jv

Sub Assistant Registrar

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 (NW2)
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, S.R.No.11631
+1cc to Mr.Aadikesavalu, Advocate, S.R.No.11869

EV(CO)
RS(24/03/2017)

W.P. No. 12160 of 2011