

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.18937 of 2000

UCO Bank SC/ST & OBC Employees Council,
Rep. by its President,
Mr.G.Murugesan

...Petitioner

Vs.

1. The Chairman and Managing Director,
UCO Bank,
10, B.T.M.Sarani,
Calcutta.
2. The General Manager,
(Personnel) UCO Bank,
12, Old Court House Street,
Calcutta 700 001.
3. The Zonal Manager,
UCO Bank,
169, Thambu Chetty Street,
Chennai-1.
4. The Government of India,
Ministry of Personnel,
Public Grievances and Pensions,
Department of Personnel & Training,
New Delhi.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent for the Promotion processes for Clerical to J.M.Scale-I, vide circular No.CHO/PAS/06/2000 dated 5.9.2000 and quash the same and direct the respondent 1 to 3 to issue a Fresh Notification on the basis of the vacancy based roster pursuant to the fourth respondent office-memorandum No.36012/96/Estt.(Res.) dated 2.7.97.

For Petitioner : Mr.S.Saravanakumar

For Respondents: Mr.V.Suthakar
Standing Counsel for R1-R3

O R D E R

The prayer sought for in this writ petition is for a writ of certiorarified mandamus to call for the records of the second respondent for the Promotion processes for Clerical to J.M.Scale-I, vide circular No.CHO/PAS/06/2000 dated 5.9.2000 and quash the same and direct the respondent 1 to 3 to issue a Fresh Notification on the basis of the vacancy based roster pursuant to the fourth respondent office-memorandum No.36012/96/Estt. (Res.) dated 2.7.97.

2. I have heard Mr.S.Saravanakumar, learned counsel for the petitioner and Mr.V.Suthakar, learned Standing Counsel appearing for the respondents-Bank.

3. This writ petition has been filed by the petitioner namely UCO Bank SSC/ST & OBC Employees Council representing by its President G.Murugesan. The said G.Murugesan, in the capacity as a President of the petitioner-Employees Council has filed this writ petition and in support of the petition, he only filed an affidavit.

4. It is the prime objection of the learned Standing Counsel appearing for the respondents-Bank that, though the writ petition was filed in the year 2000, immediately after filling of the writ petition, the office bearers of the petitioner-Association was changed and by thus the said Murugesan, the erstwhile President of the petitioner-Association, who was instrumental of filing of this writ petition, is no more President of this Association. It is further stated that from 2000, some other set of office bearers had been looking for the Office of the petitioner-Association and in this regard, by latest communication dated 01.06.2016, the petitioner-Association has selected new set of office bearers headed by one K.Ramesh, President of the Association.

5. The learned Standing Counsel appearing for the respondents-Bank would further state that as against the said selection of new set of office bearers, the said Murugesan had approached the City Civil Court by filing an Original Suit in O.S.No.2630 of 2016 before the XIV Assistant Judge, City Civil Court, Chennai seeking to declare the said selection of new set of office bearers is illegal and null and void.

6. The learned Standing Counsel for the respondents-Bank would also submit that in the said suit, the Bank, as a defendant, had filed an application in I.A.No.9459 of 2016 filed under Order VII Rule 11 of the Code of Civil Procedure to reject the plaint. The learned Judge after having heard both parties and after considering the merits of the claim made by the

respondents-Bank finally allowed the said I.A., by rejecting the plaint and in this regard, the learned Standing Counsel for the respondents-Bank has brought to the notice of this Court about the said order passed by the learned XIV Assistant City Civil Court, Chennai by order dated 03.03.2017 and the said order is extracted hereunder.

" Judgment

The suit has been filed seeking the relief of permanent injunction restraining the defendants, their men, agents, subordinates or anybody conducting State Committee Meeting/conference of the plaintiff UCO Bank SC/ST and OBC Employees Council based on the notice/circular dated 31.03.2016 issued by the first defendant or any other subsequent dates, without the authorization of the President of the Plaintiff Council and for cost.

I.A.No.9456/2016 filed under Order VII Rule 11 of the Code of Civil Procedure to reject the plaint was allowed today. Consequently this suit is dismissed as plaint rejected, with cost."

7. The learned Standing Counsel appearing for the respondents-Bank also brought to the notice of this Court, the reasoning given by the learned Judge for allowing the Bank's I.A., to reject the plaint filed by the said Murugesan. In this regard, final findings of the civil Court can usefully be extracted here under.

"The plaintiff has to prove that he still continues to be the President of All India UCO Bank SC/ST and OBC Employees Council. But there is no acceptable evidence to show that Mr.G.Murugesan continues to be the President of the All India UCO Bank SC/ST and OBC Employees Council beyond 12.1.2000. The plaintiff has miserably failed to show that he still continues to be President of All India UCO Bank SC/ST and OBC Employees Council. When the plaintiff has miserably failed to establish that he continues to be President of All India UCO Bank SC/ST and OBC Employees Council beyond 12.1.2000, this Court has no hesitation in holding that Mr.G.Murugesan is not entitled to any relief in the suit and the points 1 to 4 are answered accordingly".

8. By relying upon those findings, Mr.V.Suthakar, learned Standing Counsel appearing for the respondents-Bank would submit that since the said Murugesan who filed the writ petition in the capacity of the President is no more President of the petitioner Association and thereafter, admittedly new/other personnel, including the present set of office bearers, had been brought on record, on behalf of the petitioner Association. It seems that the petitioner Association is not interested in pursuing this case. Hence, this writ petition may be dismissed on that ground.

9. With regard to the said claim made by the learned Standing Counsel appearing for the respondent Bank, I have heard Mr.S.Saravanakumar, learned counsel appearing for the petitioner. He would submit that at present, there is no instruction from the petitioner-Association to pursue the case, from the present set of office bearers, however, that will not dilute the claim made by the petitioner-Association in this writ petition, and therefore, by virtue of that, prayer sought for in this writ petition cannot become infructuous. Therefore, the learned counsel appearing for the petitioner would submit that, these above factors can be recorded and the writ petition may be disposed of with liberty to the petitioner-Association to agitate or re-agitate the issue raised in the writ petition, if they really aggrieved, by the subsequent office bearers of the petitioner-Association.

10. I have considered the submission made by both sides and in view of the fact that, the person who persuaded this matter, i.e, erstwhile President of the Association, cannot have the loco standi to maintain this writ petition from 2000 onwards, as he was no more President of the petitioner-Association and the recent set of office bearers selected and appointed for the petitioner Association has also been unsuccessfully challenged by the said Murgesan, which is evidenced by the proceedings filed by the learned Standing Counsel appearing for the respondents-Bank, the said plea of the learned counsel for the petitioner would have some force.

11. In view of the above set of facts and taking into account of the plea made by the learned counsel appearing for the petitioner, this writ petition is disposed of by recording the said information furnished by both sides, by dismissing the same, however, with liberty to the petitioner-Association to approach this Court, if any need arise, on the issue raised in this writ petition in future.

12. Accordingly, the writ petition is dismissed with the above observations. No costs.

s/d-
Assistant Registrar(VIII)

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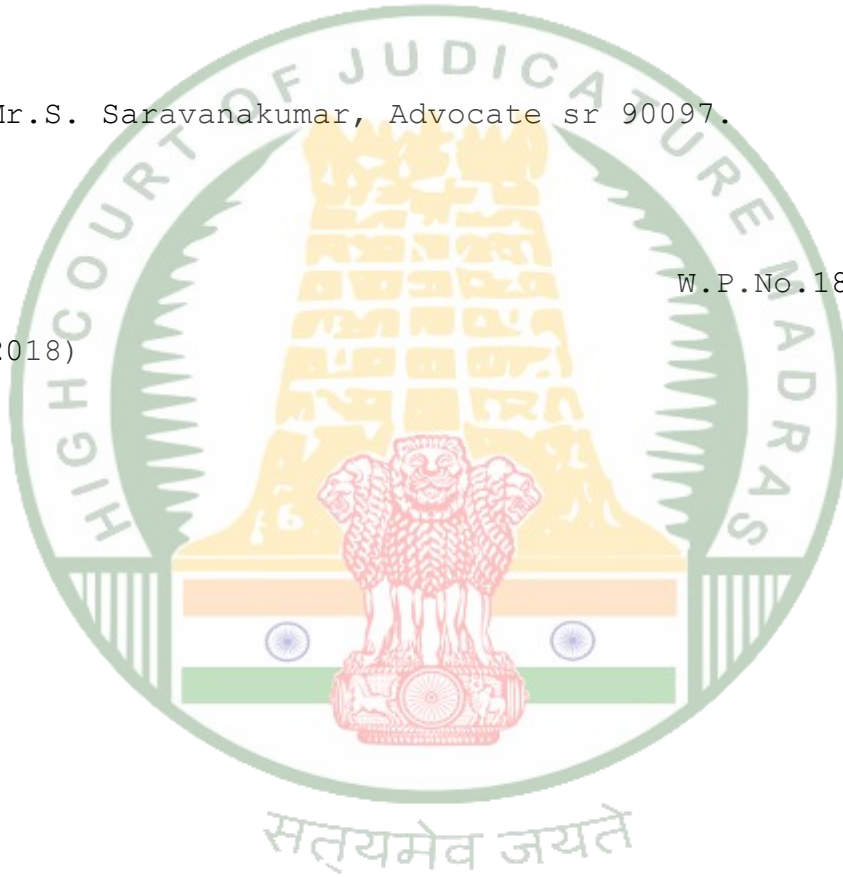
Sub-Assistant Registrar

rts

+1 CC to Mr.S. Saravanakumar, Advocate sr 90097.

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SP(24/01/2018)



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