IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 9906 of 2011

and MP Nos.1 & 2 of 2011

M.Sasivannan ... 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 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.

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 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 12.04.2011 to the petitioner, stating that the petitioner was discharged from the Bank with effect from 19.04.2011 the petitioner need not attend office from 20.04.2011. Hence, the petitioner filed the present Writ Petition.

7. The learned Standing Counsel appearing for the respondents submit that the Petitioner was appointed on contract basis as Officer - Marketing & Recovery (Rural) (hereinafter referred to as `OMR' for brevity) for a period of two years from 31.03.2008 to 30.03.2010. Though the period of contract came to an end on 30.03.2010 and had not been renewed, the Petitioner had continued to work thereafter. In the meanwhile, a Writ Petition bearing W.P. No. 7431 of 2010 was filed 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. It was further envisaged in that policy that those Officers against whom disciplinary proceedings were contemplated, will not be considered for permanent absorption and their contract will be allowed to expire and will not be renewed any further. Recording the said subsequent development, this Hon'ble 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. As 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 12.04.2011, he was requested not to attend office from 20.04.2011 onwards. Thereafter, the Petitioner filed the instant Writ Petition bearing W.P. No. 9906 of 2011 impugning the order of discharge from service dated 12.04.2011 and in view of the interim order granted therein, he has not been relieved from service and was allowed to continue

to work awaiting further orders from this Court. Similar Writ Petitions were filed by 38 other OMRs and all the cases were grouped together as a batch for common hearing.

8. The learned Standing Counsel for the respondents 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.

9. The learned Standing Counsel for the respondents 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. It had been found that as per the records of the Bank, the Petitioner, who had secured only 51.2% of the target as against the required 60% for absorption, had not been allotted any extraneous work and he had not handled any account falling under the Agricultural Debt Waiver and Relief Scheme, 2008, in the branch where he was then posted and hence, he was not entitled to be extended the benefit of reduction of targets by applying the revised norms in terms of the extant instructions. 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.

10. The Learned Standing Counsel appearing for the respondent-Bank would submit that the Respondents filed additional counter-affidavit with additional typed-set of documents highlighting that apart from the aforesaid failure of the Petitioner to achieve the target, the Petitioner had been exhibiting utter disregard to the conduct rules governing the contractual appointment and was a habitual non-performer as evidenced by his unpalatable conduct in unauthorisedly absenting himself from duty without any intimation on numerous occasions despite several notices and repeated warnings including those dated 23.12.2009, 21.05.2010, 30.06.2010 and 09.07.2010. Inasmuch as the policy for permanent absorption of contract officers as specialized officers, the Executive Committee of the Central Board of the Bank in the meeting held on 14.07.2010 specifically envisages that those officers against whom disciplinary proceedings are contemplated, will not be entitled to any benefit of consideration for permanent absorption. As the Petitioner has committed the aforesaid misconduct of unauthorized absence without intimation for which he is liable to face disciplinary action, he cannot in any event be entitled to any relief for continuing in service. It is further stated that though the Petitioner was allowed to continue in service by virtue of the interim orders granted by this Court dated 18.04.2011, the Petitioner has continued to unauthorisedly absent himself from duty without prior intimation even after 18.04.2011 and the petitioner has also been highly irregular by coming to office late frequently as evidenced from the correspondence. Moreover, the Petitioner by letter dated 18.10.2014 has submitted his resignation and has sought to be relieved from service.

11. Heard the submissions of the learned counsel for the petitioner as well as the respondent-Bank and perused the materials placed before this Court. The petitioner admits that he has not achieved the stipulated target and the disciplinary proceedings are contemplated against the petitioner for reported acts of misconduct. Further the petitioner is not attending duty inspite of interim order obtained by him in the Writ Petition. Therefore, I am of the considered view that the petitioner is not entitled to absorption in service as claimed by him and he cannot be retained in service. Moreover, the petitioner, by the impugned order dated 12.04.2011, was rightly discharged from the contractual employment after his tenure ended. Hence, this Court is not inclined to grant the relief sought for by the petitioner.

12. The Writ Petition is dismissed and the interim order already granted by this Court is vacated. No costs. Consequently, 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 (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 Sr.11634
+1cc to Mr.P.D.Audikesavalu, Advocate Sr.11874

W.P. No. 9906 of 2011

nm[co]
srg 24/03/2017