

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Fifteenth day of February Two Thousand Eighteen

PRESENT

THE HON'BLE MR.JUSITCE C.T.SELVAM

and

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CMP No.2933 of 2018

IN WA.51/2015

1 ALL INDIA UNION BANK OFFICERS [PETITIONERS]
STAFF ASSOCIATION REP BY ITS GENERAL
SECRETARY DON FLATS I FLOOR 19 SRP COLONY
7TH STREET, PERAVALLUR CHENNAI 600 082.

2 M. NARASIMHA RAO

Vs

1 UNION BANK OF INDIA [RESPONDENTS]
REP BY ITS GENERAL MANAGER (P),
NO.239, VIDHAN MARG, NARIMAN POINT,
MUMBAI 400 021

2 GOVERNMENT OF INDIA
REP BY ITS SECRETARY, DEPARTMENT OF
FINANCIAL SERVICES, MINISTRY OF FINANCE,
JEEVAN-DEEP, PARLIAMENT STREET, NEW DELHI

3 ALL INDIA UNION BANK OFFICERS
FEDERATION REG NO. 4964 REP BY ITS
PRESIDENT 26/82D CONNAUGHT PLACE
NEW DELHI 110 001.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue an interim direction directing the 1st respondent Bank to permit our members to participate in the selection process for the post of MMG III to be held on 18.12.2018 under the fast track mode and the result to be kept in the sealed cover as they did for the promotion process from JMG -I to MMG-II as per Staff

Circular No. 6298 date 20.01.2016 and 6317 date 15.02.2016 pending disposal of Writ Appeal.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.N.G.R.PRASAD SENIOR COUNSEL FOR M/S.ROW AND REDDY, Advocate for the petitioner and of MR.A.L.SOMAYAJI SENIOR COUNSEL FOR M/S.T.S.GOPALAN & CO., Advocate for the 1st respondent and of MR.S.RAJAMAKESH, Advocate for the 3rd respondent and the 2nd respondent not appearing either in person or by an advocate, the court made the following order:-

[Order of the Court was made by C.T.SELVAM, J.,]

The petitioners in CMP.No.2933/2018 have moved WP.No.14543/2014 seeking a writ of certiorarified mandamus, to quash the Staff Circular bearing Ref.No.6083 issued by the 2nd respondent, insofar as fixing 75% marks in APAR for each year and the cut off date for promotion as 01.07.2014, as the same being illegal, arbitrary to the guidelines dated 04.04.2013 issued by the 1st respondent in the writ petition and to direct the 2nd respondent-bank, viz., Union Bank of India, to consider the members of the 1st petitioner Association who have been appointed on or before 04.07.2011.

2 This Court, under orders dated 28.11.2014, upheld the contentions and concluded as follows:-

"...

17 Now, coming to the final conclusion, this Court is of the considered view that Clause 2[e] of the promotion guidelines dated 04.04.2013 gives discretion only to the 2nd respondent to relax the zone of consideration for the purpose of including the officers, who are similarly placed. Therefore, while the petitioners cannot claim it as a matter of right, the 2nd respondent will have to consider the exercise of power on the facts of the case as to whether such a relaxation is required or not. As the said exercise has not been done by the 2nd respondent on the premise that Clause 2[a] of the Promotional Guidelines dated 04.04.2013 and Clause 1.7 of the 2nd respondent dated 11.02.2014 would stand in the way, this Court directs the said authority to decide the said issue of relaxation in the light of the discussion made supra. In other words, in view of the finding rendered in the preceding paragraphs there will not be any legal bar for the 2nd respondent in considering the cases of those officers, who joined their services on and between 02.07.2011 and

04.07.2011 as per the orders of appointment. Accordingly, the impugned Circular insofar as it restricts only those who are appointed on or before 01.07.2011 are concerned, as against those who are appointed between 02.07.2011 to 04.07.2011 are concerned, is set aside and consequently, the 2nd respondent is directed to consider their inclusion by relaxing the zone of consideration within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the order passed by this Court will not have any application to those appointed after 04.07.2011 though belonging to the very same year. The challenge made to the qualification of 75% for being considered for promotion is rejected. It is made clear that the observation made with effect to clause 15 of the Appointment Orders dated 11.06.2011 is only for the purpose of deciding the eligibility for faster promotion only and not inter-se seniority. The writ petition stands ordered accordingly. However, there is no order as to costs. Consequently, the connected miscellaneous petitions are closed."

3 Challenging the same, the 2nd respondent in the writ petition, moved WA.No.51/2015. Under orders in MP.No.1/2015 in WA.No.51/2015, this Court was pleased to order stay of order under challenge in the Appeal. Presently, the petitioners in CMP.No.2933/2018 have moved this petition seeking a direction to the 1st respondent-Union Bank of India to permit the members of the petitioner-Association as well as the 2nd petitioner, to participate in the selection process for the post of MMG-III to be held on 18.02.2018 under the fast track mode and the result to be kept in the sealed cover as they did for the promotion process from JMG-I to MMG-II as per Staff Circular No.298 dated 20.01.2016 and 6317 dated 15.02.2016 pending disposal of the writ appeal.

4 Mr.N.G.R.Prasad, learned counsel appearing for the members of the 1st Petitioner-Association submitted that on an earlier occasion, members of the 1st Petitioner-Association and 2nd petitioner, had been permitted to take their examination for promotion from Grade-I to Grade-II Officers and the results of such examination regards member of the Petitioner Association are being held in a sealed cover as the outcome of WA.No.51/2015 would have a direct bearing on the matter. He submitted that similar procedure may also be adopted in the present instance and the members of the 1st Petitioner-Association and 2nd petitioner, may be permitted to write the examination for promotion from Grade-II to Grade-III.

5 Mr.A.L.Somayaji, learned Senior Counsel appearing for the

Appellant/1st respondent-Bank submitted that promotion from Grade-II to Grade -III would depend, not only on the outcome of the examination, but also on an assessment of the service put in by an employee as Grade-II Officer. Such assessment would not be possible in the case of members of the 1st Petitioner-Association and 2nd petitioner, as they have not functioned as Grade-II officials.

6 Learned counsel appearing for the 3rd respondent submitted that members of their Association may also be permitted to take up the ensuing examination for promotion from Grade-II to Grade-III.

7 Learned Senior counsel appearing for the Appellant-Bank / 1st respondent submitted that membership of the 4th respondent Association is large in number and granting relief as claimed by them presently would have a result of having to call off the examinations. He further submitted that they had not moved any application as done by the present members of the Petitioner Association and as such, their case could not, now be considered.

8 We have considered the rival submissions.

9 We are of the view that interests of justice would be secured by granting relief as prayed for by the members of the 1st Petitioner-Association and 2nd petitioner herein, for the reason that even if the Appellant-Bank / 1st respondent herein, were to succeed in WA.No.51/2015, no harm would flow to the Appellant ; whereas the consequences of final finding in Writ Appeal being otherwise would be disastrous as far as the members of the petitioner Association are concerned. In stating so, we have also considered the submission of Mr.A.L.Somayaji, learned Senior Counsel that there is no possibility of assessment of capacities of the members of the members of the 1st Petitioner-Association and 2nd petitioner as Grade-II Officers. We note that it may be contended by the members, that such position arose not owing to any wrongful conduct on their part, which again might be a matter calling for independent consideration. We also place on record, submission of learned Senior Counsel for the Appellant-bank that if members of the 4th respondent Association move this Court with a petition, similar to the present petition in CMP.No.2933/2018 and if this Court is inclined to consider the same, then a separate examination would be conducted for such persons.

10 It has also been brought to notice that the Body conducting the examination, viz., INSTITUTE OF BANKING PERSONNEL SELECTION COMMITTEE, is a neutral and independent one.

11 Accordingly, this Court directs the Appellant/1st respondent - Bank to permit the following persons to take up the examination to be held on 18.02.2018:-

1. Ranjith Kumar
2. Dasyam Srinivas

3. Bholu Prasad Y
4. Suresh Kumar M
5. M.Narasimha Rao
6. Durgam Venkiti
7. G.Pravin Seshu
8. Goud Surendra
9. Mothi Lal P
10. Naveen Kumar Pathak
11. Emmanuel Dasari
12. Venkateswarlu K
13. M.Vikas Srivastava
14. Kranthi Kumar
15. Tayi Sujith
16. Mallikarjuna Reddy
17. Rohit Chhabra
18. Naresh Kumar
19. P.Pravin Seshu
20. Durga Prasad

12 The Institute of Banking Personnel Selection Committee is also directed to permit them to take up the examination and the result of the same, should be kept in a sealed cover and published, subject to the result of the writ appeal.

13 The Miscellaneous Petition is ordered accordingly. Post the Writ Appeal for hearing on 28.02.2018.

-sd/-
15/02/2018

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE GENERAL MANAGER (P),
UNION BANK OF INDIA, NO.239, VIDHAN MARG,
NARIMAN POINT, MUMBAI 400 021

2 THE SECRETARY
GOVERNMENT OF INDIA
DEPARTMENT OF FINANCIAL SERVICES,
MINISTRY OF FINANCE, JEEVAN DEEP,
PARLIAMENT STREET, NEW DELHI

3 THE INSTITUTE OF BANKING PERSONNEL
SELECTION COMMITTEE, IBPS HOUSE, 90 FEET D.P.ROAD,
NEAR THAKUR POLYTECHNIC, OFF.WESTERN EXPRESS
HIGHWAY, P.B.NO.8587, KANDIVALI [E],
MUMBAI 400 101.

C.C. to M/S.ROW AND REDDY Advocate SR.NO. 1908

C.C. to M/S.T.S.GOPALAN & CO Advocate SR.NO. 1862

C.C. to M/S.S.RAJMAKESH Advocate SR.NO. 1888

Order

in
CMP.2933/2018

in
WA.51/2015

Date :15/02/2018

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