

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 30-11-2020

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.13657 of 2020  
and W.M.P.No.16980 and 16982 of 2020

1. UCO Bank Officer's Association  
Rep. by its General Secretary,  
326, Thambu Chetty Street,  
Chennai - 600 001.
2. All India UCO Bank Officers Federation  
Rep. by its Vice President,  
10, B.T.M.Sarani,  
Kolkatta - 700 001. .... Petitioners

-vs-

1. UCO Bank  
Rep. by its Managing Director  
Head Office,  
10, BTM Sarani, Kolkatta - 700 001.
2. The General Manager  
HRM, PSD, Training & OL,  
Human Resource Management Department,  
UCO Bank,  
Head Office, IR(NEGO) Cell,  
10, BTM Sarani, Kolkatta - 700 001.
3. The General Manager and Zonal Head  
UCO Bank, Chennai Zone,  
Old No.169, New No.328, Thambu Chetty Street,  
Chennai - 600 001. .... Respondents

Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to (i) furnish the list of employees opted to pay subscription to the petitioners by 8th every month and finalise the list by 20th of same month by considering the objections if any submitted by the petitioners; and (ii) furnish the list of employees from whom the subscription on the date of salary remitted in favour of the petitioners, in order to enable the petitioners to reconcile their accounts and also know as to

who had remitted subscription to them.

For Petitioner : Mr.K.Srinivasa Murthy  
for M/s. Row & Reddy

For Respondents : Mr.V.Suthakar

#### ORDER

The prayer sought for herein is for a writ of mandamus, directing the respondents 1 to 3 to furnish the list of employees opted to pay subscription to the petitioners by 8th every month and finalise the list by 20th of same month by considering the objections if any submitted by the petitioners and to furnish the list of employees from whom the subscription on the date of salary remitted in favour of the petitioners, in order to enable the petitioners to reconcile their accounts and also know as to who had remitted subscription to them.

2. The petitioners are employees union or officers union of the respondent UCO Bank. Each of these petitioner union of the respondent Bank are having number of employees as its members and each member of the employees union has to subscribe a particular amount every month, being the membership subscription towards the employees union.

3. In this regard, in view of the Human Resources Management System module of the respondent Bank (in short "HRMS"), the salary of the employees of the Bank is being paid through Electronic mode by crediting the salary to each of the employees Bank account. In view of the system of HRMS being adopted by the Bank, the union subscription to be made by every employee, hitherto since had been paid directly to the employees union, now being deducted from the salary itself of the employees concerned and credited in the account of the concerned employees union.

4. In this regard, the Government of India, Ministry of Finance, Department of Financial Services, has issued a circular to the Banks concerned, including the respondent Bank advising the Banks to take steps immediately to implement the check-off facility for the employees of the Bank concerned, permitting deduction of union membership subscription at the time of disbursement of the salary itself on the basis of the request to be made in this regard by every such employee.

5. In order to appreciate the said circular, dated 24.10.2019 of the Government of India, it is extracted hereunder :

"Subject : Online facility for recording / modifying employee mandate for deduction of union membership from the salary, and linking the same to HRMS for auto-deduction.

Madam / Sir,

Vide DO No.15/13/84-IR dated 11.1.1988 of Additional Secretary, Department of Economic Affairs (Banking Division) copy enclosed, public sector banks were advised to extend check-off facility (i.e., permitting deduction of union membership subscription at the time of disbursement of salary itself), if so requested, to all registered unions.

2. It is advised that necessary steps be immediately taken to implement the aforesaid check-off facility. In this regard, system for providing online facility for recording / modifying employee mandate for deduction of union membership subscription from the salary, and linking the same to HRMS for auto-deduction may also be set up expeditiously.

3. Compliance in this regard may please be ensured.

Encl.: as above.

Yours faithfully,

Sd/-

(K.M.Nandakumar)

Under Secretary to the Government of

India

Tel : 011-23748760"

6. It seems that, pursuant to the said circular issued by Government of India, the respondent Bank on 27.12.2019, issued a set of guidelines or procedure to be adopted or followed by the Bank in adopting the check-off facility system to deduct the employees union subscription of the employees concerned on the basis of the individual request come from them. The salient features of that guidelines or procedure to be adopted as issued by the UCO Bank, dated 27.12.2019 reads thus :

"1. An employee can opt for check-off membership of union / association of his choice through HRMS module of the Bank.

2. Employees, desirous to join any union / association can put / lodge their mandate for recording check-off facility in HRMS by clicking on Self Service Manage Association / Union Subscription.

3. Once check-off mandate is lodged in HRMS for a particular month, no further changes will be allowed to the employees for that month. HRMS package will remain open to the employees for updation during 1st to 7th of the month.

4. Recording of mandate for check-off facility in HRMS shall be made available from 30.12.2019.

5. After completion of recording of mandate for check-off facility in HRMS by all the employees, deduction will be started in salary packages, as applicable.

6. Henceforth, manual mandate for check-off facility is discontinued.

The contents of the circular may be brought to the notice of all the employees."

7. In this context, it is the grievance or case of the petitioners employees union that, number of employees or members of the petitioners employees union, every month have to make subscription towards the union and in this regard, in view of the HRMS system, every employee of the Bank, if they want to become a member or to continue to be a member of a particular employees union has to give its option to the Bank through the check-off system for deduction of the union subscription every month from their salary.

8. Accordingly, the members of the petitioners union also or most of them have given such option to the respondent Bank to deduct the employees union subscription every month from their salary. Accordingly, after deducting the subscription from their salary it is being credited every month at the account of the petitioners union. However, while making such credit, a statement of such credit being made in the account of the employees union also is provided by the Bank, where, only the amount of subscription of various members being credited in the account of the employees union alone is mentioned, however the name of the employee by whom such subscription is made has not been mentioned. Result of which, it has become a difficult task for the employees union to verify as to which member has made subscription, who has not made the subscription, otherwise the subscription made by various employees as reflected in the account sheet provided by the Bank every month to the union concerned do not disclose the name of such subscriber. Because of which, the employees union could not find out which employee has not subscribed, who is the new employee who has come in the fold of the particular employees union and which employee who is already being the member of a particular union has opted out to become the member of the other union and in view of these

details could not be culled out from the account being submitted by the Bank to the employees union every month, the union based on or inconsonance with the bye-laws could not act upon to delete the name of the member employee who has not made the subscription continuously for three months, according to the bye-law of the union and if any new employee wants to opt towards the petitioners union or any particular employees union, those employee could not also be inducted immediately as a new member of the union because of want of such particulars.

9. Only in these circumstances, in order to get the complete details of the name of every such employee who made such contribution to the particular employees union, especially the petitioners employees union, the respondent Bank must give such details every month and in order to get the same, though the petitioners union have made attempt to get it as desired by them by making representations, it seems that the respondent Bank has not come out with the said details and they continue to send the details of payment of subscription without mentioning the name of such subscriber and thereby, seems to have been aggrieved, the petitioners employees union have filed this writ petition with the aforesaid prayer.

10. I have heard Mr.K.Srinivasa Murthy, learned counsel appearing for the petitioners who would submit that, once the check-off system has been introduced linking with HRMS module of the Bank, where, between 1<sup>st</sup> and 7<sup>th</sup> of every month every employee will be given an option to make the subscription to the union, where he is the member, by volunteering himself or permitting the Bank to deduct the union subscription from the salary and where such a deduction is being made every month by the Bank, there could be no difficulty for the Bank to submit the details as to from whom or from which employee such subscription for a particular month towards a particular union has been deducted and being credited in their account. If such particulars with name, details of the employee concerned from whom such deduction is being made towards a particular union, is supplied every month, that would be easier for the employees union to verify their account and also to act upon as per their bye-law as to how many members of their union continued to make their subscription and how many have left and how many of them come newly every month, can also be calculated and be acted upon.

11. In this context, the learned counsel appearing for the petitioner has relied upon the Government of India Guidelines, dated 24.10.2019, which has been extracted herein above and would state that, pursuant to which, the respondent Bank itself has given the procedure to be adopted in this regard for having the check-off membership of union by their circular, dated 27.12.2019, accordingly, if the respondent Bank are directed to

act upon by sending the entire list of subscribers who have made subscriptions to the petitioners union at the end of the month, that would be suffice to the petitioners union and therefore, the learned counsel appearing for the petitioners union seeks indulgence of this Court to issue such a direction by way of mandamus as has been prayed for in this writ petition.

12. On the other hand, on behalf of the respondent Bank, Mr.V.Suthakar, learned Standing counsel appeared, who by relying upon the counter affidavit filed by the Bank as well as the typedset of documents filed in this regard by the Bank, has submitted that, the check-off system has been introduced through HRMS of the Bank, ofcourse pursuant to the directives issued in this regard by the Government of India through their circular, dated 24.10.2019. According to the said HRMS, each of the employees of the Bank has to operate by getting their salary and making any subscription towards employees union only through HRMS, otherwise called as check-off system.

13. He would also submit that, under this system, if an employee wants to make subscription to a particular employees union, he can make a request in every month between 1st and 7th and once such a request comes from an employee, based on such request, the Bank will prepare a list in respect of the particular employees union that those who made such option in that month between 1st and 7th to become member or having become member of the particular union wants to deduct the subscription from the salary and the said list would be forwarded to the employees union requesting them to verify and confirm, whether the option made by those employees to become a member or being a member is correct information or not and such a request could be made by sending the list by 15th of every month by giving 5 more days to respond by the union, who, if they respond by 20th of that month, based on such response, it would be taken as a confirmation as to a particular employees membership in that union and accordingly, the subscription payable by such employee to such union would be deducted at the last working day of that month, that means from the salary payable to that salary month.

14. In this context, the learned counsel appearing for the Bank would however explain that, illustratively if a particular employees union is having 100 members, out of whom, one or two members want to opt out of the particular union and accordingly, make a request to the Bank in a particular month between the 1st and 7th, on that basis and also if an employee makes a request to the Bank on that month between 1st and 7th expressing his wish to become a member of a particular union, as a new member or after withdrawing the membership of x-union wants to become the member of y-union, on that basis, a list shall be prepared and accordingly, to the union having 100

members if two option have come to become member and two option have come to opt out of the member of the union, that would be consolidated and that list would be sent by 15th of that month to that union, seeking their confirmation as to whether the two person wants to become member of that union would be admitted, for whom subscription can be deducted and also to intimate that the two persons who are already members of the union want to switch over to some other union in respect of whom the deduction so far has been made in favour of that union would be stopped and the deduction would be made in respect of other union towards whom the option has been exercised by that employees. On the basis of confirmation to be supplied by that union in respect of those confirmation sought for by the Bank as referred to above on or before 20th of that month, the Bank will act upon to deduct the subscription amount from the salary of the respective employees concerned and accordingly, the amount will be credited in the account of the union concerned.

15. The learned counsel for the Bank by making this explanation, would also submit that, apart from this exercise being done by every month only in respect of change made by specific request of the employees as stated above, the Bank will also give a complete list of subscription made in respect of a particular union once in six months, where the particulars such as name of the employee, number of the employee and also the amount subscribed to a particular union also would be made available for the purpose of verification and accounting and this would be a regular intimation to be made by the Bank in respect of every employees union including the petitioners.

16. By making these submissions, the learned counsel appearing for the Bank would also contend that, if the method now sought to be adopted or the particulars sought to be required by the petitioners union as has been sought for in this writ petition are to be provided, the Bank has to unnecessarily send the list of entire subscribers of a particular union, which may be 100s or 1000s, where majority of them would not be making any change and they would be continuously making subscription to a particular union for months together or years together and therefore such a laborious job not only is needed to be undertaken but also that would no way be useful or helpful to the employees union.

17. Explaining further, the learned counsel for the Bank would contend that, if a union is having 100 members, out of which in a particular month only one change has come, remaining 99 are continued to pay the subscription, then unnecessarily the Bank has to make list of all the 100 names and send an intimation, based on which the union would not do anything better. Instead of, if the Bank adopt the system now being

adopted by sending only the change being made in the particular month on or before 7<sup>th</sup> of every month to the union by 15<sup>th</sup> of that month seeking their confirmation, where if 1 out of or 2 out of 100 alone would make a request for change, only in respect of that employee who wanted to be changed alone it can be confirmed by the union and in respect of others, it is deemed that they continued to be the members of the particular union and their union subscription is being continuously deducted every month by the Bank without fail and at the end of every month, such a deducted subscription amount would be credited in the account of the union.

18. By making all these detailed submissions, the learned counsel appearing for the Bank would contend that, if this method adopted by the Bank is permitted to continue, that will be helpful not only to the Bank but also to the petitioners union and other employees union similar to that of the petitioner and absolutely there could be no issue insofar as identifying the members of a particular union as to whether they have made subscription or not, and whether they are continued to be their members or not.

19. I have considered the said submissions made by the learned counsel appearing for the parties, especially the detailed submissions made by the learned counsel appearing for the respondent Bank explaining the aforesaid details as to how the system being adopted and implemented in the Bank.

20. If we take the grievance projected by the petitioners union, it simply discloses that, in every month they must be in a position to know who are all their members and unless and until every such subscription being made by employee with their name are furnished to the petitioner union, it may not be in a position to verify who are all continued to be the members of the petitioners union and who have opted out.

21. If this is the main grievance of the petitioners union, this Court feel that, in order to meet this challenge and to resolve this issue as projected by the petitioners union, if the system being adopted or to be adopted in this regard by the Bank, as explained above, are made to be a mandatory one to be adopted continuously without fail, that would meet the request of the petitioners and infact would address the grievance completely.

22. In this context, if every month, whatever the changes made between 1st and 7th of that month in respect of not only the petitioners union but in respect of all the employees union of the respondent Bank and such intimations are being made every

month by the Bank to all the employees union, including the petitioners union by 15th and based on which confirmations are given by such union on 20th of that month and based on such confirmation if the Bank acted upon towards deducting the union subscription from the salary of the employees concerned, who made such change by sending communication to that effect either through electronic mode or personally and accordingly if the salary is deducted for the purpose of subscription at the last working day of that month and those information alone if it is sent to the employees union, that would serve the purpose in order to meet the grievance of the petitioners union.

23. Beyond which, if the petitioners desire of getting the entire subscribers name list with amount deducted every month as a routine job, it is not only a laborious one from the point of view of the Bank but also would not serve any useful purpose to the union itself, because, if majority of the members of the union are continued to be the members of the same union and making the subscription without fail, based on which, if the credit details being supplied by the Bank to the employees union, the same can be verified by taking the account particulars from the Bank concerned, all those who made such subscriptions whose name even if is not mentioned, that would not change or alter the situation.

24. The reason being, that, only in respect of change is being made in that month, that would be intimated well in advance by 15th itself and after verifying the same, the union will be given an option to respond by way of confirmation by 20th of that month itself. Therefore the union will be in a clear the position to know what changes have been made in that particular month, that means, how many of them have newly come into that particular union and how many of them already existing, have opted out from that union.

25. Therefore, this Court feel that, if the afore discussed system continuously is adopted or directed to be adopted by the Bank, that would serve the purpose of the petitioners grievance and accordingly, a suitable order can be passed by this Court by disposing this writ petition.

26. In the result, this writ petition is disposed of with the following orders :

(i) that the respondent Bank is hereby directed to prepare the list of employees who make specific request between 1st and 7th of a particular month in respect of all the employees union including the petitioners and the said list consisting of the change requested for or opted for by the particular employee/s would be sent to the concerned union by

15th of that month.

(ii) In this regard, the following categories of employees would be construed as opted for change of subscription :

(a) an employee who is already being a member of a particular union wants to come out of that union and to join in other union.

(b) an employee who is already a member of a particular union wants to express his desire to stop subscription to that union.

(c) if an employee has never been a member of any employees union makes a request to deduct union subscription from his salary towards a particular union.

(iii) After receipt of the list on 15<sup>th</sup> of every month, depending upon the availability of such change being intimated to the Bank, the union concerned, to whom the list was sent by the Bank, shall examine the option / request made by particular employee or employees and accordingly, give its confirmation / objection, in respect of each of such employee, to the Bank as to whether the particular employee is already member of the particular union or the union wants to induct a particular employee who makes an option towards that union from that month and accordingly the confirmation report shall reach to the Bank from the union concerned by 20<sup>th</sup> of that month.

(iv) On receipt of such confirmation from every such union, including the petitioners, the Bank shall examine the same and accordingly, i.e., as per the wish of particular employee, if it is inconsonance with the confirmation to be made by the particular union, deduction can be made, accordingly, towards the union subscription from the salary of that employee on the last working day of that month, which means from out of the salary payable to such employee of that salary month. Accordingly, the subscription details could be intimated as usual to that union for the purpose of information.

(v) In case if any of the employee become an absentee or facing disciplinary proceedings is not in a position to get his salary from the Bank and by

virtue of that, if he has not paid the subscription also to the union, where he is already a member, such defaulters list also shall be intimated to the union concerned in that month itself.

(vi) Apart from the aforesaid, the Bank shall also send a list of entire subscribers who make such subscription towards a particular union, with the name details, to the union concerned, with subscription amount also, once in six months, which, according to the respondent Bank, they have been already undertaking.

27. With these directions, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst.Registrar (CS III )

/true copy/  
Sub Asst. Registrar

tsvn  
To

1. The Managing Director  
UCO Bank  
Head Office,  
10, BTM Sarani, Kolkatta - 700 001.
2. The General Manager  
HRM, PSD, Training & OL,  
Human Resource Management Department,  
UCO Bank,  
Head Office, IR(NEGO) Cell,  
10, BTM Sarani, Kolkatta - 700 001.
3. The General Manager and Zonal Head  
UCO Bank, Chennai Zone,  
Old No.169, New No.328, Thambu Chetty Street,  
Chennai - 600 001.

+1 cc to M/s.Row & Reddy Advocate sr38288

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