

S/L 50
25.03.2022
Court. No. 23
suvayan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5306 of 2020

Joseph Kumar Sharma
Vs.
Punjab National Bank & Ors.

Mr. Joydip Basu

...for the Petitioner.

Mr. Santanu Maji
Mr. Subhendu Das
Mr. Subhayu Das

...for the respondents.

The writ petition has been filed on 20th March, 2020 against United Bank of India. The petitioner says that United Bank of India (in short 'UBI') during the pendency of the writ petition has merged with Punjab National Bank (in short 'PNB') and is now known as 'PNB'. The petitioner seeks leave to make the formal amendment by replacing UBI by PNB.

Liberty is given to the petitioner to amend the cause title of the writ petition by incorporating the words "Punjab National Bank" in the place as stead of "United Bank of India". Since the amendment is formal in nature and can be allowed in terms of the provisions analogous to the principals of Order XXII Rule 10 of the Code of Civil Procedure, 1908, the same is allowed without any formal application.

The Advocate for the petitioner is granted to leave shall incorporate the correction as indicated hereinabove.

The registry/department shall take appropriate steps to incorporate the amendment/correction in the register and other documents maintained for the purpose of filing of writ petition.

The petitioner claims to be an empanelled Badli Sweeper in United Bank of India (in short 'UBI') at Baruipur Rail Gate Branch which has now merged with Punjab National Bank (in short 'PNB'). The petitioner says that from a Badli Sweeper list dated 18th July, 2014, it will appear that the petitioner was empanelled as a Badli Sweeper in UBI. The petitioner says that he has since then been working at Baruipur Rail Gate Branch of UBI, now known as PNB as nd when called for. The respondents say that by an office Memo dated 6th April, 2021, the Deputy General Manager of PNB has informed all Zonal Managers that there is no provision for engagement of Badli Sweepers in PNB for which a guideline on ban of temporary appointments in PNB has been circulated on 17th July, 2020. Details of such Badli Sweeper engaged in UBI now PNB has also been called for. The petitioner apprehends that the petitioner's empanelment as Badli Sweeper may be cancelled in view of such circular.

The respondent bank also raises a question of maintainability as to the writ petition on the ground that the petitioner's empanelment as a Badli Sweeper is purely temporary and contractual in nature. No writ petition lies for enforcement of such contract. It is submitted by the bank that pursuant to the office Memo dated 6th April, 2021, the name and details of the petitioner has been submitted by the branch concerned. No decision has yet been taken towards removing the petitioner from being an empanelled Badli Sweeper at Baruipur Rail Gate Branch under South 24 Parganas Circle of PNB. Petitioner according to PNB is called for rendering services as and when the regular sweeper is absent. Unless there is a requirement, the petitioner may not be called for rendering services. On behalf of the respondent bank, it is also submitted that the apprehension of the petitioner that he will be removed from the panel is unfounded and the writ petition, even if is maintainable, is a premature one.

Responding to the objection of the respondent bank, the petitioner relies upon an order dated 9th September, 2020 passed by a learned Single Judge at Jaipur Bench of Rajasthan High Court and contends that a writ petition in respect of persons working on temporary basis in erstwhile UBI is maintainable after merger with PNB. Be that as it may, the petitioner

cannot be remediless. Even if the petitioner is an empanelled Badli Sweeper, he can maintain a writ petition to ventilate his grievances when he is admittedly a Badli Sweeper in a nationalised bank being an authority under Article 12 of the Constitution of India and his right, if any in view of the Circular of PNB is likely to be effected after the merger. At this stage holding that the writ petition is not maintainable will deprive the petitioner from seeking redressal of his grievances.

Considering the nature of petitioner's engagement and the grievances ventilated, I think justice will be sub-served if, I direct PNB, being the respondent bank to consider and dispose of the petitioner's representation dated 14th January, 2020 (appearing at page 25 of the writ petition) in the light of the office Memo dated 6th April, 2021 and the details that may be provided by Baruipur Rail Gate Branch of UBI in respect of the petitioner's engagement by a reasoned order within a period of twelve weeks from date after affording the petitioner an opportunity of hearing, if necessary and communicate the same to the petitioner within seven days from the date of the decision being taken.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings

(Arindam Mukherjee, J.)