

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 22356 of 2022

Abhishek Choudhury
Vs.
The Union of India & Ors.

Mr. Biswaroop Biswas,
Mr. Prabir Rej,
Mr. Pranab Kumar Das For the petitioner.

Mr. Subrata K. Sinha
... for the respondent nos. 2 to 8.

The petitioner has challenged an order dated May 30, 2022 passed by the Regional Manager, Durgapur the respondent no.5, declining the petitioner's prayer for reversion to clerical cadre as per his representation dated January 29, 2021. The petitioner was appointed in the clerical post of the State Bank of India (in short, SBI). Subsequently, the petitioner was promoted to the post of Junior Manager Grade Scale (in short, JMGS) pursuant to a departmental promotion test. The petitioner was transferred by an order dated July 28, 2020 to his promotional post at Bataspur Branch, SBI. After such posting, the petitioner on January 29, 2021 made a representation to the Branch Manager, Bataspur Branch, SBI for reverting him back to his service in clerical cadre due to extreme physical and mental stress which prevented him from discharging his duty at the promotional post of Service Manager.

Mr. Biswas, learned counsel appearing on behalf of

the petitioner submits that the prayer of the petitioner was made pursuant to Rule 16(3)(b) of the State Bank of India Officers' Service Rules, 1992. A JMGS during his period of probation may be reverted to the grade or cadre from which he was promoted pursuant to 1992 Service Rules.

He draws the attention of this Court to the recommendation of Deputy General Manager and Circle Development Officer dated November 30, 2021 vide Memo No. PER/1764. As per the said Memo it has been clarified that the voluntary vacation of service recommended for the petitioner by an approved note dated October 19, 2021 was not in line with the recommendation of DGM and Circle Development Officer. The rejection of the appeal of the petitioner for reversion to the clerical cadre by the appropriate authority was not in terms of the recommendation. The DGM recommended that the original proposal for completion of all necessary formalities and re-submission for the proposal of reversion was to be complied with.

Thereafter, the petitioner was examined by medical board of the SBI. After such examination by the medical board it was recommended that the petitioner was to be involved in less stressful work. Despite the medical board's report, the Assistant General Manager (HR) by his report dated April 26, 2022 recommended that the application for reversion is not in tune with the bank's reversion policy.

Therefore, the same was proposed to be rejected. The petitioner being in unauthorized absence since January 5, 2021 was recommended for voluntary vacation of service upon furnishing of application of leave enjoyed by him, as per the guidelines of the SBI.

Based on such recommendation the Regional Manager issued the impugned order dated May 30, 2022.

Mr. Sinha, learned counsel appearing on behalf of the respondent/Bank submitted that by an order dated September 19, 2022 issued by the General Manager, (Network-III), the petitioner was deemed to have voluntarily vacated the service with effect from July 15, 2022. The said office order was kept in abeyance by an interim order dated September 29, 2022. He further submits that the requirement of reversion to the Grade or Cadre from which the petitioner was promoted cannot be made since it is in violation of the 1992 Service Rules. Reversion could only be made if an officer is not “*fit*” for confirmation. In the opinion of the Bank the petitioner was “*fit*” for confirmation. Therefore, there is no violation of statutory rule in not considering the prayer for revision.

Furthermore, he draws the attention of this Court to the guidelines issued by the Human Resources Department, State Bank of India, Corporate Centre, Mumbai. As per the said guidelines, reversion is not a matter of right but at the discretion of the management. In

case the reversion is requested on medical ground, the genuineness thereof must be got checked and certified by the concerned Circle. The medical board held that the petitioner was fit for work and therefore there is no requirement of reversion. Furthermore, the petitioner did not challenge the final order of vacation of service dated September 19, 2022 in this writ petition. Therefore, no order can be passed quashing the same.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that as per the statutory rules a promotee in the bank's service may be reverted to the Grade or Cadre from which he was promoted during the period of probation, if he is not "*fit*" for confirmation. From the report of the medical board of SBI dated February 28, 2022 it appears that the petitioner suffers from generalized anxiety disorder with mixed anxiety depression for which he needs regular psychiatric treatment including Pharmacotherapy and psycho therapy. Therefore, he was recommended to be involved "*in less stressful work*".

This Court finds that since the petitioner was recommended to be involved "*in less stressful work*", the petitioner was unfit for the post of JMGS-I as per the recommendation of the medical board, SBI. The guidelines no. 4.6(iv) of the Reversion Policy of JMGS to clerical cadre requiring genuineness of a request on medical ground to be

checked was also fulfilled in this case. The respondents have not challenged the finding that the petitioner suffers from certain medical conditions which were the basis of recommendation for involvement in less stressful work.

The final order of vacation of service was passed on September 19, 2022. The guidelines itself recommended reversion if the medical ground was to be genuine, JMGS-I could make a request for reversion within time limit of one year from the date of promotion.

The petitioner has made request for reversion within a period of one year from the date of promotion. He further got himself examined by the medical board of the bank. The medical board recommended less stressful work. By a letter dated November 30, 2021 the DGM and Circle Development Officer also recommended the petitioner's reversion to clerical cadre to be considered upon completion of all the necessary formalities.

In the light of the discussions above, the final order of vacation of service dated September 19, 2022 is set aside and or cancelled. The final order passed during the pendency of the writ petition has been the culmination of the recommendation dated May 30, 2022 which is under challenge in the present writ petition. The recommendation dated May 30, 2022 is also set aside and or cancelled. The authorities concerned/respondent no.5 is directed to consider the representation of the petitioner dated January

2020 strictly in terms of the 1992 Service Rules read with the Guidelines of SBI on Reversion Policy after taking into consideration the report of the medical board dated February 28, 2022. Such representation shall be considered within a period of six weeks from date upon giving a personal hearing to the petitioner. The representation will be disposed of by a reasoned order and the same shall be communicated to the petitioner within a period of two weeks passing thereof.

Needless to mention that the interim order dated September 29, 2022 has merged with the final order passed today.

With the aforesaid directions, the writ petition, being **WPA 22356 of 2022**, is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)

