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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESEVED ON: 29.03.2022

DELIVERED ON: 29.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.1311 of 2021

and

WMP.No.1458 of 2021

1. All India Union Bank Officer Staff Association,
Rep. By its General Secretary,
AIBOA House, II Floor,
No.109, Angappan Naicken Street,
Chennai-600 001.

2. Sabu G.Chelapaden,
Chief Manager (Law),
Flat No.3, Rajalekshmi Apartments,
Dr.Vasudevan Street, Ormes Road,
Kilpauk, Chennai-600 009.

3. Suresh Sachidanandam,
Chief Manager (Law), Flat No.304,
No.167, Eldams Square,
Eldams Road, Alwarpet,
Chennai-600 018.

.. Petitioners

vs.

1. Government of India,
Rep. By its Secretary,
Department of Financial Services,
Ministry of Finance, Jeevan-Deep,
Parliament Street, New Delhi-110 001.

2. Union Bank of India,
Rep. By its Chief General Manager (HR),
Human Resources Department,
Central Office, No.239, Vidhan Bhawan Marg,
Nariman Point, Mumbai-400 021.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration to declare that the Specialists Officers (Law) in Scale - IV who have been transferred from Andhra Bank and



Corporation Bank pursuant to the Scheme of Amalgamation dated 01.04.2020 to be placed in the seniority list of Chief Manager (Law) published on 07.12.2020 at the appropriate place based on the date of promotion and to consider and promote the eligible officers to the post of Assistant General Manager (Law) in Scale V cadre pursuant to the promotion circular dated 23.12.2020 and to extend all service benefits which has been given to the Specialist Officers (Law) in the second respondent Bank.

For Petitioner : Mr.N.G.R.Prasad,
for M/s.Row and Reddy

For Respondents : Mrs.P.J.Anitha,
Central Government Standing Counsel
for R1

Mr.Vijaya Narayan, Senior Counsel
for M/s.Edward James for R2

O R D E R

The Writ Petition is for a Declaration declaring that the Specialist Officer (Law) in Scale - IV who have been transferred from Andhra Bank and Corporation Bank pursuant to the Scheme of Amalgamation dated 01.04.2020 to be placed in the seniority list of Chief Manager (Law) published on 07.12.2020 at the appropriate place based on the date of promotion and to consider and promote eligible officers to the post of Assistant General Manager (Law) in Scale V cadre pursuant to the promotion circular dated 23.12.2020 and to extend all service benefits which has been given to the Specialist Officers (Law) in the second respondent Bank.

2. Facts leading to the filing of this writ petition, briefly narrated, are as follows:

2.1. The first petitioner is an association registered under the Trade Union Act, 1926. The Union consists of officers belonging to Specialist and General Category. The petitioners 2 and 3 belongs to Specialist cadre called Law Officer. The first petitioner is before this Court on behalf of 18 Specialist Officers and the second petitioner who got transferred from Andhra Bank and Corporation Bank and they are aggrieved by the Circular dated 07.12.2020 issued by the second respondent bank. The Andhra Bank and Corporation Bank, both are nationalized banks, got merged with the Union Bank of India / second respondent on 01.04.2020 under Section 45 of the Banking Regulation Act, 1949.



2.2. On 01.04.2020, 8 Specialist Officers (Law) from Andhra Bank and 10 Specialist Officers (Law) from Corporation Bank merged with Union Bank of India / second respondent. At the time of merger, 18 Specialist Officers were in the post of Chief Manager (Law) - Scale IV. The line of promotion earlier in their Bank was upto Scale-VI. Similarly, the specialist Officer in the second respondent can get promoted in their line upto Scale V. When it comes to Specialist Officers, since the chances of promotion from one grade to another is limited unlike in the case of Generalist Officers, the Specialist Officers are given an option to switch over to the scale of Generalist Officers at a certain level. The career path for the category of Specialist Officers as per clause 1.11 of the promotion policy for officers is Scale V.

2.3. At the time of amalgamation, these 18 affected officers were Specialist Officers in Scale IV. According to the Scheme of Amalgamation, they should have been shown in the seniority of Specialist Officer Scale IV. On 07.12.2020, the second respondent published the seniority list of Specialist and Generalist Officers.

2.4. When the seniority list of Specialist and Generalist was issued on 07.12.2020, the names of 18 Specialist Officers who were transferred from Andhra Bank and Corporation Bank should have been shown in the seniority of Specialist Officer (Law) - Scale IV. But on the contrary, the names of these Specialist Officers in the second respondent Bank were shown in Generalist category in Scale-IV, many of whom who were juniors to the petitioners 2 and 3 were shown in the seniority list of Specialists. According to the petitioners, the names of these 18 officers shown in the Generalist Cadre is illegal and contrary to the Scheme of Amalgamation. Their names, according to seniority, should have been shown in the Specialist line and they were Specialist Officers (Law) in Scale IV and they have their right to get promoted up to Scale V. Thereafter, they may move to Generalist line of promotion. Since the seniority of the petitioners were affected in the Scheme of Amalgamation, they have filed the present writ petition, seeking the above Declaration.

3. The second respondent has filed a detailed counter affidavit stating as follows:

(i) The Implementation and Monitoring Committee decided that the category of Specialist Officers in the Transferor Banks matching with the list of Specialist Cadre in the second respondent, on amalgamation, will fall within the career path as defined in the promotion policy of the second respondent.



Accordingly, Law Officers of the Transferor Banks, who are Specialist Officers in Scale III are entitled to apply for promotion to Scale IV as Specialist Cadre. Therefore, Law Officers of the Transferor Banks who are already Generalist Officers in Scale IV would be considered on par with the Generalist Officers of the second respondent in Scale IV and their consideration as Generalist Officer was as per the seniority list of the Transferor Banks.

(ii) The second respondent has ensured that all Generalist Officers of Andhra Bank and Corporation Bank are treated on par with the Generalist Officers of the second respondent.

(iii) The petitioner, without any basis, has raised objections stating that they ought to be considered as Specialist Officers and that their names should be notified in the Seniority List of Officers in the Specialised segment.

(iv) None of the 18 officers including the petitioners have ever raised any objection pertaining to the same before the competent authority and only when the Circular with regard to seniority list was issued, they have come forward with their objections and also filed the present writ petition.

(v) The second respondent has followed a uniform and harmonized promotion policy as approved by the Board and accordingly, the seniority list was prepared ensuring the interests of all employees of the Transferor Banks and also the second respondent.

(vi) The decision of the second respondent did not suffer from any infirmity, whatsoever, both in the decision making process or the decision itself. Moreover, writ jurisdiction is limited to judicial review of the decision making process and not on the decision itself.

(v) By the instant Writ Petition, the petitioners are effectively seeking a direction from this Court to treat Generalist Officers of the Transferor Banks as Specialist Officers of the second respondent, on the basis that such Generalist Officers of Transferor Banks were Specialist Officers till Scale III or are performing the role of a Specialist Officer.

(vi) The classification of all Generalist Officers of the Transferor Banks as Generalist Officers in the second respondent is reasonable and in compliance with Article 14 of the Constitution of India.

(vii) Generalist Officers who are working in Specialist segment cannot automatically claim that they should be treated as Specialist Officers and any such conversion would be subject to the promotion policy of the second respondent.



(viii) Clause 3.4. of the Promotion Policy (Staff Circular No.7296 dated 01.12.2020 provides that "Officers recruited in General Banking and working in the specialized segment/functional department mentioned above and possessing requisite qualifications/expertise may also opt for conversion to Specialized segment. Such officers may submit their requests for conversion in response to the Circular issued by the Bank. They will be considered for conversion at the sole discretion of the Management."

4. Mr.N.G.R.Prasad, learned counsel for the petitioner made the following submissions / contentions:

- (i) The impugned seniority list showing the petitioners and other Specialist Officers of erstwhile Andhra Bank and Corporation Bank in Scale IV of Generalist Cadre was totally against Clause 13 of Scheme of Amalgamation which says that the transferee bank, namely Union Bank of India shall ensure that interests of all transferring employee and officers of the Transfer Banks are protected and the action of the respondent Bank is in gross violation of the principles of natural justice.
- (ii) Since the petitioners 2 and 3 and 16 transferee employees from Andhra Bank and Corporation Bank were Specialist Officers (Law) in Scale IV, their names should be shown in the Circular dated 07.12.2020 relating to seniority under Specialist Officers (Law) in Scale IV and as a result, many of the Specialist Officers (Law) of the Andhra Bank and Corporation Bank, who were seniors as Scale IV compared Union Bank Specialist Officers would lose their promotion.
- (iii) If the seniority panel of the Specialist Officers is operated it would be detrimental to the petitioners, since the Specialist Officers (Law) - Scale IV of the second respondent bank whose names alone are shown the seniority list dated 07.12.2020 and who are juniors to the petitioners 2 and 3 and 16 other officers from the Andhra and Corporation Bank. The said act of the second respondent bank would be contrary to the Scheme of Amalgamation and also in violation of Articles 14 and 16 of the Constitution of India, since they are governed by uniform promotion policy.
- (iv) The 18 Specialist Officers of the Transferor Bank in Scale IV, when they had not applied for conversion and when they can move upto Scale V, the respondent Bank showing them in the Generalist cadre is totally contrary to Clauses 1.11, 1.12 and 3.4 of the Scheme of Amalgamation and



secondly, proviso to Clause 13 of the Amalgamation Scheme clearly states that Officers of the Transferor Bank are protected.

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(v) Reliance has been placed upon the decision in Canara Bank, Bangalore v. M.S.Jasra and Others [(1992) 2 SCC 484] and stated that the petitioners are entitled to parity in the transferee Bank.

5. Mr.Vijaya Narayan, learned Senior Counsel for the second respondent Bank has put forth the following submissions:

(i) In Andhra Bank and Corporation Bank, there is separate channel of promotion for Specialist Officers only till Scale III and for further promotion i.e., Scale IV and above, the Specialist Officers were considered as Generalist Officers for the purpose of promotion and their seniority was also considered in the general banking segment. There was no promotion policy beyond Scale IV grade in Andhra Bank and for promotion beyond Scale IV, the Andhra Bank used to follow Government guidelines.

(ii) In Andhra Bank, there was separate channel for Specialist Officer for promotion upto Scale III. However, for promotion to Scale III to IV, there was no such separate channel for Specialist Officers, which means there was no career path beyond Scale III grade in Andhra Bank for Specialist Officers.

(iii) In the promotion policy of Corporation Bank, dedicated clauses Nos.2.10 and 3.10 were mentioned for Specialist Officers for promotion upto Scale III only. However, for promotion from Scale III to IV and above, there was no such clause stipulated. Even in Corporation Bank, the promotion process for Specialist Officer was upto Scale III and not beyond.

(iv) The career path for Specialist Officers at the Transferee Bank i.e., Union Bank of India, is different and varies depending on the relevant category of the specialist post. For instance, the Specialist career path for a Law Officer is upto Scale V and for a Chartered Accountant / Finance is upto Scale IV. There is a well defined career path policy for Specialist Officers even prior to the amalgamation.

(v) The second respondent, in its meeting held on 25.11.2020, has approved the promotion policy for the Amalgamated entity and the same was notified, vide Circular No.7296 dated 01.12.2020, which stipulates that on promotion to Scale IV and above, they will be guided by the career path defined for officers of the Anchor Bank in their respective specialisation.



(vi) In summary, the Specialist Officers of the Transferor Banks are treated as Specialist Officers in the Transferee Bank and all officers, who are Generalist Officers in the Transferor Banks (as on the date of scheme) are treated as Generalist Officer in the Transferee Bank.

(vii) Reliance has been placed upon the decision in New Bank of India Employees Union v. Union of India & Ors. [1996 Scale (2) 734], wherein it was held that "no scheme of amalgamation can be fool proof and Court would be entitled to interfere is limited, only when it comes to the conclusion that either the Scheme is arbitrary or irrational or has been framed on some extraneous consideration".

(viii) Any change in the seniority list might lead to a disruption of the promotion process of the Bank. The issues flagged by the petitioners in relation to 18 Law Officers cannot be decided in isolation as it involves multiple cause of action leading to disruption of a policy decision of the Board of Union Bank.

The learned Senior Counsel for the second respondent has also relied upon the following decisions:

- (i) K.Thimmappa and Ors. V. Chairman Central Board of Directors, SBI and Others [AIR 2001 SC 467]
- (ii) Dwarka Prasad and Ors. v. Union of India and Ors. [AIR 2003 SC 2971]
- (iii) Union of India and Ors. v. Krishna Murthy and Ors. [(1989) 4 SCC 689]
- (iv) New Bank of India Employees Union & Anr. Vs. Union of India and Others [1996 Scale (2) 734]
- (v) Union of India v. Atul Shukla [AIR 2015 SC 1777]
- (vi) Bharati Reddy v. The State of Karnataka and Ors. [(2018) 6 SCC 162]
- (vii) P.U.Joshi and Ors. v. Accountant General, Ahmedabad and Ors. [AIR 2003 SC 2156]

6. This Court has considered the submissions made and also perused the entire materials placed on record.

7. The issue to be decided in this writ petition is whether the impugned seniority list published by the second respondent on 07.12.2020, placing the petitioners as Generalist Officer (Law) Scale IV, pursuant to the Scheme of Amalgamation dated 01.04.2020 is legally sustainable?

8. The main contention of the petitioners is that at the time of amalgamation, the petitioners were Specialist Officers



in Grade IV and according to the Scheme of Amalgamation, they should have been shown in the Specialist Officer Grade-IV, but on the contrary, they have been shown in the Generalist cadre.

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9. The promotion policy of Andhra Bank prescribes no promotion beyond Scale IV grade in Andhra Bank. The promotion policy of Andhra Bank issued vide Circular No.444 dated 31.03.2012, reads that "as envisaged in the HR Policy a separate channel is introduced for the Specialist Officers. The quota for the Specialists will be carved from out of the total vacancies declared on a year to year basis. For Scale III to Scale IV, the policy does not include any separate channel for Specialist Officers". Therefore, in Andhra Bank promotion policy, there was a separate channel for Specialist Officer upto Scale III, however, for promotion to Scale III to IV, there was no such separate channel for Specialist Officers, which means there was no career path beyond Scale III grade in Andhra Bank for Specialist Officers.

10. As regards Corporation Bank, Clauses 2.10 & 3.10 of the promotion policy prescribes Specialist Officers for promotion upto Scale III and however, for promotion from Scale III to IV and above, there is no such clause stipulated. Therefore, all Specialist Officers in the Transferor Banks stand converted to Generalist Officers upon promotion to Scale IV and the separate channel of promotion for Specialist Officers in the Transferor Banks is only till Scale III.

11. The career path for Specialist Officers at the Transferee Bank / Union Bank of India is different and varies depending on the relevant category of the specialist post. As per Clause 1.1. of the promotion policy for officers issued by the second respondent Bank vide Circular No.7296 dated 01.12.2020, the career path for Law Officers is upto Scale V and for a Chartered Accountant / Finance is upto Scale IV.

12. The Functional Committee and Implementation and Monitoring Committee (IMC), constituted by the second respondent Bank in the meeting held on 26.02.2020, has recorded as under:

"It is observed that in Andhra Bank and Corporation Bank, although officers who have joined under Specialist category are considered to be specialist upto Scale-III. For further promotions i.e., Scale IV and above, they will be considered as Generalist for the purpose of promotion and seniority also in line with the general banking officers. Whereas in Union Bank of India, career path of Specialist Officers is different in different categories of specialist posts. In case of some



categories, the specialisation is upto Scale VI in UBI."

In the process of amalgamation, it was decided by the Functional Committee and Implementation and Monitoring Committee (IMC) in the meeting held on 26.02.2020, constituted by the Board of the UBI and comprised the highest representative of the Corporation Bank and Andhra Bank that the category of Specialist Officers in the Transferor Banks matching with the list of Specialist cadre in Union Bank, on amalgamation, will fall within the career path as defined in the promotion policy of Union Bank.

13. Accordingly, the names of 18 Law Officers, including the petitioners 2 and 3 were already Generalist Officers in the Transferor Bank was included in the seniority list of officers in the General Banking segment. Further Union Bank in its Board Meeting held on 25.11.2020 has approved the promotion policy of the Amalgamated Entity and the same was notified, vide Circular No.7296 dated 01.12.2020, Clause 1.12 of the Promotion Policy is relevant:

"In case of Specialist Officers (directly recruited / selected through internal conversation process) of e-AB and e-CB in Scale I to III (Except RDOs and Marketing Officers) their seniority will be reckoned under respective specialist category from the date of their joining / date of conversion / date of promotion to the present scale whichever is later. On promotion to Scale IV and above, they will be guided by the career path defined for officers of the Anchor Bank in their respective specialisation."

14. A cursory reading of the above clauses makes it clear that Law Officers of the Transferor Banks, who are already Generalist Officers in Scale IV, prior to the Scheme, cannot be considered as Specialist Officers after the Scheme. The petitioners, who are Generalist Officers working in the specialist segment cannot automatically claim that they should be treated as Specialist Officers and any such conversion would be subject to the promotion policy of the Union Bank of India.

15. Clause 3.4. of the Promotion Policy of the second respondent Bank in Circular No.7296 dated 01.12.2020 provides that "Officers recruited in General banking and working in the specialized segment / functional department mentioned above and possessing requisite qualifications/ experience may also opt for conversion to Specialised segment. Such officers may submit their requests for conversion in response to the Circular issued by the Bank. They will be considered for conversion at the sole discretion of the Management".

16. The decision in Bharathidasan University Backward Class



and Most Backward Class Employees Association v. The State of Tamil Nadu and Ors. [Manu / TN / 0647/2015] emphasis the proposition that the writ petition, in a service matter, filed by an Association is not maintainable. Therefore, in the light of the aforesaid decision, the writ petition is not maintainable insofar as the first petitioner Association is concerned.

17. As regards the petitioners 2 and 3 are concerned, they have approached this Court in their individual capacity. Effectively, the relief sought in the writ petition is to convert Generalist Officers of Transferor Banks to Specialist Officers, which cannot be permitted except as contemplated under Clause 3.4. of the Promotion Policy of the second respondent Bank.

18. In the decision in New Bank of India Employees Union v. Union of India & Ors. [1996 Scale (2) 734], relied on by the learned Senior Counsel for the second respondent Bank, the Hon'ble Supreme Court held as under:

"That no scheme of amalgamation can be fool proof and Court would be entitled to interfere is limited, only when it comes to the conclusion that either the scheme is arbitrary or irrational or has been framed on some extraneous consideration.

No Scheme governing service matters can be foolproof and some section or the other of employees is bound to feel aggrieved on the score of its expectations being falsified or remaining to be fulfilled. Arbitrariness, irrationality, perversity and mala fide will of course render any scheme unconstitutional but the fact that the Scheme does not satisfy the expectations of every employee is not evidence of these.

May be, a better formula could be evolved, but the Court cannot substitute its wisdom for government's save to see that unreasonable perversity, mala fide manipulation, indefensible arbitrariness and like infirmities do not defile the equation for integration. We decline the order on this ground. Curial therapeutics can heal only the pathology of unconstitutionality, not every injury."

Admittedly, in the case on hand, the petitioner has not challenged the validity of the Scheme. Unless the validity of the amalgamation scheme is challenged on the ground of arbitrariness, irrationality, perversity, malafide or unconstitutional, this Court cannot come to the aid of the petitioners.



19. This Court has granted interim orders dated 22.03.2021 directing that the second respondent Bank shall proceed with the promotion process, however made it clear that the result of the same shall be subject to the outcome of the writ petition. Since the result of the promotion is subject to the outcome of the writ petition, the second respondent bank is yet to complete the promotion process of Law Officers segment, for promotion from Scale IV to Scale V for the financial year 2021-2022. Further, the second respondent Bank has filed an additional affidavit dated 07.04.2021 informing that in the promotion process for Generalist Officers, out of 8 Law Officers, 5 Law Officers applied to participate in the promotion process, and all the 5 Law Officers have participated in the written test held on 24.01.2021 and also for the subsequent group discussion ; out of the above 5 candidates, one candidate namely one Atul qualified for the interview and subsequently, the interview process has also been completed by the Union Bank and the said Atul has not qualified upon completion of the interview process. As regards promotion process for Specialist Officers, out of the 8 Law Officers, Law Officers applied to participate in the promotion process for the Specialist Cadre and the group discussion and interview process is yet to be conducted by the second respondent.

20. This Court, on a careful consideration of the aforesaid promotional policy of the Transferor Banks as well as the the Transferee Bank, Scheme of Amalgamation and the submission made by the learned counsel on either side, is of the considered view that the seniority list of the second respondent bank dated 07.12.2020, published in pursuant to the Scheme of Amalgamation dated 01.04.2020, does not suffer from any malafide or arbitrariness and therefore does not warrant interference. The petitioner Association has also not challenged the Scheme of Amalgamation dated 01.04.2020 and having accepted the same and participated in the selection process, the petitioners cannot turn around and claim that their seniority has been wrongly placed in the Transferee Bank.

21. It is to be noted that in pursuant to the interim order passed by this Court, the petitioners 2 and 3 had participated in the written examination for promotion under the Specialist category, but the results of the same have not been published.

22. In the light of the above discussions and the reasons assigned above, this Court passes the following order:

(i) The second respondent bank shall publish the written examination results of the petitioners 2 and 3, who appeared under the Specialist Category for the year 2021-2022.

(ii) The petitioners 2 and 3 are at liberty to



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invoke Clause 3.4 of the Promotion Policy (Staff Circular No.7296 dated 01.12.2020] of the second respondent Bank by submitting a request for conversion to Specialized Segment, if they are otherwise qualified and eligible in the promotion process for Specialist Officer. On such request being made, it is for the second respondent Bank Management to consider the said request for conversion, considering the aforesaid facts.

23. The Writ Petition stands disposed of with the above liberty. No costs. Interim Orders already granted by this Court stands vacated and consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Secretary,
Government of India, Department of Financial Services,
Ministry of Finance, Jeevan-Deep,
Parliament Street, New Delhi-110 001.
2. The Chief General Manager (HR),
Union Bank of India,
Human Resources Department,
Central Office, No.239, Vidhan Bhawan Marg,
Nariman Point, Mumbai-400 021.

+1cc to M/s.Row & Reddy, Advocate, S.R.No.30270

+1cc to Mr.Edward James, Advocate, S.R.No.30324

+1cc to M/s.P.J.Anitha, Advocate, S.R.No.30785

W.P.No.1311 of 2021

SSI (CO)
SU(11/05/2022)