



W.P.No.7811 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.7811 of 2011

M.P.No.1 of 2011

Manikanda Prabhu

... Petitioner

Vs

The General Manager,
Union Bank of India,
No.239, Bibhan Marg,
Nariman Point,
Mumbai

... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in CO.IDO.H.2227/1501/2011, dated 12.03.2011, on the file of the respondent herein and quash the same as illegal and direct the respondent to consider the petitioner for the post of I.T.Manager in the existing vacancy to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.P.Raghunathan for

Page No: 1/9



W.P.No.7811 of 2011

M/s.T.S.Gopalan & Co

ORDER

The instant Writ Petition had been filed seeking to quash the order of the respondent dated 12.03.2011, and consequently direct the respondent to consider the petitioner to the post of IT Manager in the existing vacancy.

2. Heard Mr.R.Sankarasubbu, learned counsel appearing for the petitioner and Mr.P.Raghunathan learned counsel appearing for Mr..T.S.Gopalan, the learned counsel appearing for the respondent.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an Engineering Graduate having an experience of 3½ years in the IT Department with further qualification of Testing Cobel and Dataware House. The respondent had issued an advertisement on 31.05.2009, inviting application to the post of I.T.Manager. Pursuant to the advertisement, the petitioner had applied and was issued a call letter by the respondent calling upon him to attend

Page No: 2/9



W.P.No.7811 of 2011

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an interview on 18.05.2010, at Mumbai. He would submit that the petitioner had done well in the interview which was over in just three minutes, but however only 75 candidates were selected and all the others including candidature of the petitioner had been rejected. He would submit that the respondent is doing public sector undertaking ought to have conducted process of selection fairly and ought not to have only drawn about by conducting an interview without any fair and transparent procedure, rejecting the claim of various persons including the petitioner. He would submit that the entire procedure adopted by the respondent is a farce and they had already chosen the person who were to be appointed for the reasons best known to them. Therefore, he would seek interference of this Court in the selection process and to set aside the order passed by the respondent and direct them to consider the case of the petitioner's appointment.

4.Countering his arguments, Mr.P.Raghunathan, learned counsel appearing for the respondent would submit that the entire procedure

Page No: 3/9



W.P.No.7811 of 2011

WEB COPY

has been transparent as per the procedure governing by the bank. Further, the learned counsel appearing for the respondent would submit that the Writ Petitioner had earlier filed a Writ Petition in W.P.No.21986 of 2010, in which this Court had already rejected the contentions of the petitioner by holding that it was the respondent Bank to consider the merit and eligibility of the petitioner to the post and had only granted him a relief by issuing the direction to consider the petitioner's representation and that if the selection had already been finalized, the results of the same, as to the candidature of the petitioner may be informed. Only pursuant to such direction on the representation of the petitioner, his result was intimated to him. In the interview, total award of mark was 50 and the petitioner had been assessed only for 24 marks whereas out of 75 candidates, 40 candidates have been shortlisted and selected and the last candidate had scored 48 marks. He would further submit that various criteria was taken into consideration of the candidates ability during the interview and marks have been accorded accordingly. Therefore, he would submit that the present Writ

Page No: 4/9



W.P.No.7811 of 2011

WEB COPY

Petition at the out set is not maintainable as already this Court had considered the case of the petitioner and had held that it is the right of the bank to consider the merit and eligibility of the petitioner to the post. He had not filed any appeal against the said order and therefore, in the present Writ Petition, the petitioner cannot question the way in which the respondent bank had considered the merit and eligibility in the interview and therefore, he would seek dismissal of the Writ Petition.

5.I have heard rival submissions made on either side and perused the materials placed on record.

6.It is admitted that the petitioner had approached this Court earlier by way of Writ Petition in W.P.No.21986 of 2010, seeking for a direction to direct the respondent to consider the petitioner's representation dated 09.09.2010 by appointing him for the post of Manager I.T., at the respondent bank. Considering the said Writ

Page No: 5/9



W.P.No.7811 of 2011

WEB COPY

Petition, this Court had passed the following order:-

4.The relief sought for in this Writ Petition to provide an appointment as Manager (I.T) in the respondent Bank, cannot be granted, for the simple reason that it is for the respondent Bank, to consider the merit and eligibility of the petitioner to the post of Manager (I.T) among other candidates interviewed for the said post.

5.On the facts of this case, the only relief that could be granted is that a direction is issued to respondent Bank to consider the petitioner's representation and pass appropriate orders. If the selection had already been finalised, the results of the same, in so far as the candidature of the petitioner, be informed within a period of four weeks from the date of receipt of a copy of this order.

7.From a reading of the aforesaid judgment, this Court had held that the relief sought for by the petitioner cannot be granted for the reason that it was for the respondent bank to consider the merit and eligibility of the petitioner to the post of Manager I.T. The petitioner

Page No: 6/9



W.P.No.7811 of 2011

WEB COPY

had not challenged the aforesaid order which had approved the right of the respondent bank to consider the merit and eligibility. However in the present Writ Petition, the same contention is raised by contending that the respondent bank ought not to have proceeded simply based upon the interview and such interview was only a farce.

8.It could be seen from the above said order, the Writ Petition had been disposed of with a direction to furnish the results to the petitioner. Pursuant to the said direction, a communication had been sent to the petitioner intimating him that he only scored 24 marks whereas the last candidate had scored 48 marks. Since the respondent's right to consider the merit and eligibility had already been held in favour of the respondent, I find that this Court in the present Writ Petition again cannot go into the same issue when the petitioner had not preferred any appeal against the aforesaid order.

9.In such view of the matter, I do not find any merit in the Writ Petition filed by the Writ Petitioner.

10.In fine, this Writ Petition is dismissed. However, there shall be

Page No: 7/9



W.P.No.7811 of 2011

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no order as to costs. Consequently, connected Miscellaneous Petition is closed.

16.11.2023

Pbn
Index : Yes/No
Speaking order : Yes/No
Neutral Citations : Yes/No

Page No: 8/9



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W.P.No.7811 of 2011

K.KUMARESH BABU,J.

pbn

To
The General Manager,
Union Bank of India,
No.239, Bibhan Marg,
Nariman Point,
Mumbai

W.P.No.7811 of 2011
M.P.No.1 of 2011

16.11.2023

Page No: 9/9