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W.P.No.13370 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>21.12.2023</i>
<i>Pronounced on</i>	<i>30.01.2024</i>

CORAM:

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.13370 of 2021
and W.M.P.Nos.15558 & 14207 & 14206 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. P.Naveen Kumar

3. Nalli Athul Madhar

/vs/

...

Petitioners

1. The 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 Resource Department,
 Central Office, No.239, Vidhan Bhawan Marg,
 Nariman Point, Mumbai – 400 021.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of declaration to declare the posting of the second and third petitioner and employees similarly situated and whose names are given in Ann I & II as being illegal and contrary to clause 5.1.2 & 5.1.3 of the Transfer on promotion Policy dated 09.03.2021 read with para 2 & 4 of the Staff Circular No.7414 dated 05.04.2021 relating to posting option to the promotees and for consequential direction to the second respondent Bank to post them in terms of the option given in the Union Parivar Module consequent on their promotion relating to promotion process for the year 2020-2021 & 2021-2022.

For Petitioner ... Mr.V.Govardhan
for M/s.Row & Reddy

For Respondents ... Ms.N.K.Nithilavani, CGC for R1

Mr.Srinath Sridevan
Senior Counsel for R2
for Mr.Edward James

ORDER

This Writ Petition has been filed for the issuance of Writ of Declaration to declare that the posting of the second and third petitioner and the employees similarly situated whose names are given in Annexure - I & II, as being illegal and contrary to clause 5.1.2 & 5.1.3 of the Transfer on Promotion Policy dated 09.03.2021 read with Paragraphs 2 & 4 of the Staff



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Circular No.7414 dated 05.04.2021 and to direct the second respondent Bank to post them in terms of the option given in the Union Parivar Module consequent on their promotion relating to promotion process for the year 2020-2021 & 2021-2022.

2. The first petitioner is a Trade Union by name All India Union Bank Officer Staff Association. The second and third petitioners are the employees of second respondent / Union Bank of India. The second respondent is one of the largest bank in India which is an amalgamation of Andhra Bank and Corporation bank. Due to amalgamation, the employees of Andhra bank and Corporation bank have become the employees of Union Bank of India. For the administrative purpose of the bank, the entire Country has been divided into 18 Zonal Offices and each Zonal Offices is further sub-divided into Regional Offices aggregated to a total of 125 Regional Offices across the country. The Central Office of the Union Bank of India is situated at Mumbai.

2.1 All the Officers of the second respondent Bank are governed by Union Bank of India (Officers') Service Regulation, 1979 (hereinafter



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referred to as “UBI Officers' Regulation”) as amended from time to time as such other guidelines / rules formulated from time to time in connection with the transfer of employees.

2.2 As per Regulation 47 of UBI Officers' Regulation, every Officer is liable for transfer to any office or branch of the Country or any place in India. As per Regulation 48 of UBI Officers' Regulation, every Officer shall be available for bank duties at any time of the duty. The second respondent bank has Transfer Policy for Officers vide Staff Circular No. 7382, dated 09.03.2021.

2.3 According to Clause 1.1.1 of the Transfer Policy for Officers, the Transfer Policy aims at bridging the gap between the officers' social / personal needs and career growth as well as the business growth of the organization, besides ensuring uniformity and transparency. According to the Clause 3.2 of the said policy, all the officers shall be governed by Regulations 47 and 48 of Union of India Officer's Regulations. For the sake of clarity, Clause 3.2 reads as under:



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“3.2. All the officers shall be governed by Regulation 47 and 48 of Union Bank of India (Officers') Service Regulations, 1979 as amended from time to time. Accordingly, Every Officer is liable for transfer to any Office or Branch of the Bank or any place in India and every Officer shall be available for Bank's duties at any time of the day. Nothing mentioned in this Policy shall restrict the scope of any of the provisions of Union Bank of India (Officers') Service Regulations, 1979, Union Bank of India Officer Employees' (Discipline & Appeal) Regulations, 1976, Union Bank of India Officer Employees' (Conduct) Regulations, 1976, all amended from time to time and/or guidelines/rules formulated from time to time by the Bank in connection with posting/deployment/rotation of officer employees upto MMGS-III. The Bank will be free to transfer any officer anywhere in the Country to meet its exigencies. Notwithstanding anything contained in this Policy, the Bank reserves its right to retain/transfer any officer, entirely at its discretion.”

As per the above clause, the bank has got the authority to transfer its officers anywhere across the Country to meet its administrative exigencies, not withstanding anything contained in the policy. Thus, the bank has reserved its right to retain / transfer any officer, entirely at its discretion.

2.4 The petitioners have filed this writ petition by restricting their claim upon Clause 5.1.2 and 5.1.3 of the transfer policy which states as under:



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“5.1.2. On promotion under Normal Track, the Officers (Male & Female) will be retained within the Zone, subject to availability of vacancies and administrative requirements of the Bank. However, on promotion under Normal Track, the officers (male & female) will be transferred to another Region within the Zone.

5.1.3. On promotion under Fast Track, the Officers will be posted outside the Zone.”

3. Mr.V.Govardhanan, the learned counsel for the petitioners, submitted that as per the above clauses and promotion under Normal Track, the Officers will be retained within the zone; however on promotion under Normal Track, the officers will be transferred to another region within the zone; on promotion under Fast Track the Officers will be posted outside the zone; during the promotion process for the year 2020-2021 and 2021-2022, the employees got promoted with effect from 01.04.2020 and 01.04.2021 respectively.

3.1 On 05.04.2021, the bank issued Staff Circular No.7414 calling for posting option from promotee Scale II and Scale III officers; according to which the officers were required to specify their preferences in the petitioner's banks internal HR Portal for consideration; promotion to the post of Scale II and Scale III Officers was announced on 01.04.2020 and



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30.05.2020 and the promotion to the said post for the year 2021-2022 was announced on 31.03.2021; even though the Staff Circular No.7414 was issued on 05.04.2021, the members of the petitioner's union were not given postings in accordance to their choice / preferences opted by them; posting for Scale II and Scale III officers were given on 25.04.2021 and they are required to be relieved on 11.06.2021 and 14.06.2021; however due to Covid-19 Pandemic the officers were asked to relieve on 03.07.2021.

3.2 The second petitioner participated in the promotion process through normal track for the year 2021-2022 for Scale-III; though he had given three choices namely, three Zones in terms of Clause IV of the Circular dated 05.04.2021, the second petitioner was posted in the same zone; several other officers who have participated in the Normal Track in the same year were given their choice of places; the third petitioner participated in the promotion process through Fast Track for the year 2020-2021 and he was posted in the same Zone though he had made his option to be posted at Visakhapatnam, Hyderabad or Vijayawada; the petitioners have listed out 79 officers in Annexure-I and 87 officers in Annexure-II who are said to be belonging to the first petitioner union and who got affected



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due to non-consideration of the options exercised by them in accordance with the staff circular and promotion policy.

4. According to the learned counsel for the petitioners the place of posting given during the process of promotion and transfer are arbitrary and some favouritism is shown to those employees who belong to some other Union and the employees of the first petitioner were victimized. Attention was drawn to the interim order granted on 05.08.2021 to prevent the bank from proceeding with the implementation of the transfer orders, wherein this Court has observed that unless the respondent bank comes forward with the details of the transfer orders issued to all the 3995 officers in Scale-II and 2094 officers in Scale-III, it is not possible to arrive at a conclusion whether the distribution of officer has been done rationally so as to maintain the balance of man power vis-a-vis the business of the zone. So it is submitted that the second respondent bank did not come with the relevant particulars to justify that the process of promotion and transfer were effected in a fair and proper manner.



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5. Mr.Srinath Sridevan, the learned Senior Counsel for the second respondent submitted that the second respondent had already filed a reply through an update Affidavit on 17.08.2021 as directed by this Court to produce essential details of transfer; the relevant details of 3328 officers being the subject matter of writ petition have already been furnished and on which the petitioners themselves have done a data analysis and the scope of the writ petition cannot be expanded more than for which it has been filed; there is no victimization as alleged by the petitioners; the large number of persons who did not raise any objection itself would show that the exercise was done in a very proper manner.

5.1 Mr.Srinath Sridevan further submitted that many of the petitioners' union had filed writ miscellaneous petitions to delete their name and hence the petitioners' union is not espousing the cast for 164 members; the bank has generally retained the officers promoted under Fast Track in those zones where there is shortfall of officers and where there are surplus officers, the bank has generally transferred those promoted officers and on Normal Track outside the zone; all these transfers have been made only by taking into consideration of the exigencies of the administration; the



grievance cannot be considered if the holistic meaning of the transfer policy

is not properly understood by the petitioners.

6. Before proceeding to further discussion of the matter, I feel it is appropriate to bring on record the essential clauses of Transfer Policy which is referred by both the parties. Clause 5.1.2 and 5.1.3 of the Transfer Policy speaks about the modality of transfer and postings in respect of promotion under Normal Track and promotion under Fast Track. For the sake of convenience, Clause 5.1.2 and 5.1.3 of the Transfer Policy is extracted hereunder:

“5.1.2. On promotion under Normal Track, the Officers (Male & Female) will be retained within the Zone, subject to availability of vacancies and administrative requirements of the Bank. However, on promotion under Normal Track, the officers (male & female) will be transferred to another Region within the Zone.

5.1.3. On promotion under Fast Track, the Officers will be posted outside the Zone.”

7. In case of promotion of female officers, they will be considered to be retained within the zone even if their promotion is under Fast Track and if they have completed two years of active service outside or present state /



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zone. For better clarity Rule 5.1.4 is extracted under :

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“ 5.1.4. However, in case of promotion of a Female Officer under Fast Track channel, her services will be retained within the Zone, if she has completed 2 years of service outside her present State / Zone in the preceding 6 years of the cut-off dated of the current promotion process, subject to availability of vacancies and administrative requirements of the Bank.”

8. Clause 5.1.8 of the Transfer Policy would speak about how the balance is achieved between an individual's preference and bank's requirement. For convenience, Clause 5.1.8 is extracted hereunder:

“ 5.1.8 In order to encompass the posting preference of officers (promoted under Fast Track channel) as well as to match the bank's requirement of officers in difference scales and pertaining to different job families; upon declaration of promotion results, Bank may seek posting preference from such officers. After declaration of promotion results, officers upto MMGS-III, promoted under Fast Track channel, may be asked to submit their preference for 3 Zones, which will be kept in view while deciding their postings. However, it shall not be binding on the Management to accede to such request.”

9. Even though liberty is given to officers up to MMGS-III promoted under Fast Track Channel that can be only considered by the second respondent and shall not be a mandate. In fact the learned counsel for the petitioners also admitted the fact that transfer is an incident of service and the officers have to raise up to the exigencies of the bank. However the grievance and the allegation of the petitioners is that transfer was not



uniformly and rationally done but it has been used as a tool to victimize the employees who belong to the first petitioner's Union and hence the bank cannot simply seek shelter on the general principle that the transfer is an administrative decision. In this regard, I feel it is also essential to capture the essence of staff circular No.7414 and the said exercise can be done by extracting Paragraph Nos. 2 & 4 of Circular as under:

“2. Accordingly all Officers, who have been promoted to

2.1. Scale I under All India Channel during Promotion Process 2019-20 and 2020-21 (Including e-Andhra Bank and e-Corporation Bank promotees) and

2.2. Scale II & III under Fast Track during Promotion Process 2020-21 (including e-Andhra Bank and e-Corporation Bank promotees) and 2021-22 are given an option to choose 3 zones & 3 regions within each zone, in order of preference for posting, other than present zone.

...

4. Further, all officers, who have been promoted to Scale II and Scale III under Normal Track during Promotion Process 2020-2021(including e-Andhra Bank and e-Corporation Bank promotees) and 2021-22 and willing to go outside their present Zone are also given an option to choose 3 Zones & 3 regions within each zone, in order of preference for posting, other than present zone.”

10. The petitioners rely on the above clauses of the circular and submitted that all the preferences exercised by the officers of the first petitioner's union were not properly appreciated and they have been victimized either by retaining those persons who opted to go out of the zone



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or pushed out those who had opted to remain in a particular zone / region.

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11. However the learned Senior Counsel for the second respondent submitted that the Staff circular No.7414 should be given into a holistic reading along with Paragraph Number '6' and Clauses 5.1.2, 5.13 and 5.1.8. of Transfer Policy. For the sake of clarity, Paragraph No.6 of the Staff Circular is extracted under:

“6. While deploying the promotee officers, distribution of officers will be done rationally so as to maintain the balance of manpower vis-a-vis the business of Zone. Though every effort will be made by the Bank to consider the requests submitted, yet due to manpower imbalances or administrative reasons, all requests may not be entertained. Hence, such preferred posting should not be considered as a matter of right.”

12. Even though the circular has been issued in the interest of the officers and with a good intention of accommodating them to the extent possible in accordance with their preference, the distribution can be done only to maintain the balance of man power vis-a-vis the business of the zone. Now the accusation of the petitioners is that the balancing exercise has not been done in a rational or fair manner.

13. In order to substantiate the contention of the petitioners they



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required the bank to furnish the details of transfer. In the affidavit of the second respondent bank itself the following details have been given in respect of Scale II and Scale III officers as under:

7. At the outset, the total membership of officers and number of transfers in Scale II and III are as set out below:

	AIBOC	AIBOA (Respondent No.1 Union)	Others	No member	Total Officers
Members	33476	2242	2171	4909	42798
in %	78.2	5.2	5.1	11.5	100.0
Transferred in Scale II	3076	142	288	489	3995
Transferred in Scale III	1607	60	117	310	2094

The above table would show that out of total numbers of 3995 effected in Scale II officers, 3076 officers belong to AIBOC union, 142 persons belonged to the first petitioner AIBOA union, 288 persons belong to some other union and 489 persons belong to no union. Out of total number of 2094 transfers effected in respect of Scale III, 1607 belong to AIBOC union, 60 persons belong to the first petitioner's union, 117 belong to other union and 310 do not belong to any union.

14. Mr.Srinath Sridevan, submitted that majority transfers were



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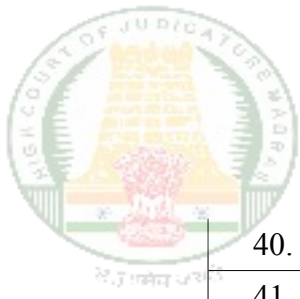
made in respect of those people who belong to other union and people who did not belong to any union, did not raise any objection. During the pendency of the writ petitions many members of the first petitioner's union have also filed petitions to delete their name from Annexure I & II which listed out of the members of the first petitioner union. The details of the Writ Miscellaneous Petitions along with the name of the person and their respective Sl.Nos. In Annexure I and II as below:

Sl. No.	Officer Name	WMP No.	Corresponding Officer Serial No. in Annexure
<i>Officers in Annexure 1, whose names have been deleted as member of Petitioner vide order dated October 31, 2022.</i>			
1.	Mallikarjun	16793 of 2022	63
2.	Upendra Raparthi	16782 of 2022	68
3.	Nageswar Chintagunti	19234 of 2022	70
4.	Ravitega Malineni	16786 of 2022	76
<i>Officers in Annexure 2, whose names have been deleted as member of Petitioner Union vide order dated October 31, 2022.</i>			
5.	Desavath Babu Naik	16791 of 2022	2
6.	Kedarnath Teki	16785 of 2022	6
7.	Vempadu Ravi	16788 of 2022	7
8.	Lakkaraju Meghashyam	16790 of 2022	13
9.	Nitesh Kumar Anisetty	16792 of 2022	15
10.	Praveen Kumarr Challuri	16784 of 2022	21
11.	Mahendra Singh Chauhan	14343 of 2022	30
12.	Harshwardhan Narayan Deshpande	16794 of 2022	33



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13.	Aman Saxena	19791 of 2022	34
<i>Officers in Annexure 1, whose names have been deleted as member of Petitioner Union vide order dated June 16, 2023.</i>			
14.	Monika Kaul	16454 of 2023	7
15.	Mehak Talwar	16451 of 2023	8
16.	Jitendra Kumar	16443 of 2023	24
17.	Amrita Pattanaik	17242 of 2023	28
18.	Hiralal Pradhan	17240 of 2023	32
19.	Sunil Jaiswal	17241 of 2023	42
20.	Kapil Sharma	17239 of 2023	49
21.	Ravi Policharala	477 of 2023	57
22.	Sanjeev Kumar	16780 of 2023	58
23.	Prudhviraaj Konde	32411 of 2022	59
24.	K V S G Gayatri	32405 of 2023	60
25.	P Santhosh Kumar	32415 of 2022	61
26.	K Nirmal Kumar	32413 of 2022	62
27.	Nagaraju B	3410 of 2022	64
28.	Nageswara Rao	4042 of 2022	67
29.	Budda Ramarao	32416 of 2022	69
30.	Pilli Babu	32404 of 2022	72
31.	Nakka Omprakash	32406 of 2022	74
32.	Vipparthi Paramesh	32401 of 2022	75
33.	K.Subbaiah	32412 of 2022	77
34.	Y Ramesh Babu	32417 of 2022	78
<i>Officers in Annexure 2, whose names have been deleted as member of Petitioner Union vide order dated June 16, 2023.</i>			
35.	Sivasankar Rampa	32397 of 2022	1
36.	M.Hari Babu	32421 of 2022	3
37.	Sravan Kumar	32408 of 2022	5
38.	Phani Kumar Banothu	32403 of 2022	8
39.	Joga Shanmukharao	32409 of 2022	10



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40.	Arukuri Prabhakar	32414 of 2022	11
41.	Nitin Kumar	16481 of 2023	14
42.	Prasad GRSV	32422 of 2022	16
43.	Madhu Chukka	32418 of 2022	20
44.	Naresh Utukuri	32423 of 2022	22
45.	Alli Praveenkumar	32402 of 2022	23
46.	Rayala Dayakar	32419 of 2022	24
47.	Amit Munshi Panchbuddhe	32407 of 2022	32
48.	Sanjay Kumar Mahto	16477 of 2023	38
49.	Shekhar Pawar	16475 of 2023	60
50.	Keshav Kumar	16478 of 2023	65
51.	Amarjeet Kumar	16476 of 2023	66
52.	Akshay Saha	16480 of 2023	68
53.	Mukesh Sah	16439 of 2023	83
54.	Gaurav Verma	16441 of 2023	86
<i>Officer in Annexure 1, whose name has been deleted as member of Petitioner Union vide order dated 21.12.2023.</i>			
55.	Ryna Joselene Nazareth	31566 of 2023	71
<i>Officer in Annexure 2, whose name has been deleted as member of Petitioner Union vide order dated 21.12.2023.</i>			
56.	Rohit Sinha	26285 of 2023	67

15. Now the grievance is only in respect of a very less number of person who might be just 100 in number or little above. Some explanations given by the employer for transferring to places other than the preferred ones is also a matter of relevance for the purpose of this Writ. It is submitted by the second respondent that zones like Bhuvaneshwar, Jaipur,



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New Delhi, Lucknow, Ranchi and Varanasi have got surplus persons in particular scales and Zones like Ahmedabad, Chennai and Bangalore (in particular scales) have deficit staffs and hence the bank had applied the transfer policy to balance the interest of the individual and the institution. It is further submitted that the first petitioner which is a minority association had stalled the nation wide transfer process for two years and due to which the whole administration has got paralyzed.

16. The primary arguments that has already been advanced by the learned Senior Counsel for the second respondent is with regard to maintainability of the Writ Petition and jurisdiction of this Court to entertain the Writ Petition. According to the learned counsel for the second respondent, the transfer is an order in *personam* and hence the right to challenge the transfer is individual's right and it cannot be challenged by an Union as if it is a collective right. But the Writ Petition has been filed by both by the Union and the individuals. Even in the case of the individuals, they cannot have a right to claim the judicial review in the matters of administrative decisions like transfers unless it is established that they have been effected due to any malafide exercise of power and are violative of



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statutory provisions. Even the statistics provided by both the sides and balancing provisions would empower the bank to issue transfer and postings beyond the preference exercised by the individuals. On facts also nothing is shown that the orders have been issued in an arbitrary manner out of malafide intention.

17. Had the individuals filed separate petitions by stating reasons of victimization for any specific reasons as against each of the individual, it can be better appreciated whether there was any motive or malafidness by posting a particular individual in any particular case. Excepting the petitioners 2 and 3, no other individuals have come forward to give any reasons base any allegations of malice. Even the grievance of the petitioners 2 and 3 is that they have been either posted outside the zone / region than the one opted by them or retained in the same zone / region even though options were given to go outside of it.

18. An acceptable explanation has been given by the second respondent bank that the bank has to evaluate various situation especially a



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short fall and surplus available in particular zone / region and distribute the employees, only in accordance with the demand. So the petitioners 2 and 3 did not state any other reasons that they have been victimized at the hands of the second respondent due to the impugned promotions and transfer.

19. The other individuals of the petitioner's union did not give any specific reasons as against each of them except a generalized contention of the first petitioner that the promotion and transfers have been done in an arbitrary manner. In view of the order of injunction all those persons belonging to the first petitioner's union remained in the same place for nearly two years. When a major transfer and shuffle is effected in respect of thousands of employees, one particular set of individuals belonging to an Union, shall not be allowed to stall the entire transfer exercise by enjoying an order of injunction for nearly two years. In fact, the second respondent has also listed up the reasons as to how the employees have been accommodated and how their action cannot be viewed as something arbitrary or malafide.



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20. It would have been ideal if the employees who got the order of transfer have obeyed the orders and joined in the respective places and then give a representation to consider their grievance and to relook their place of posting. In a mass transfer of posting in respect of 3000 to 4000 people, only 100 and above people have filed this writ petition in the name of the first petitioner and obtained a stay order by stalling the entire exercise for nearly two years. Had the transfers been done without any policy or modality, it would have been fair on the part of the first petitioner union to file the Writ Petition for framing a transfer policy and guidelines in the interest of its members or otherwise such an exercise by an union could have been a collective bargaining. In the instant case the first petitioner Union had interfered with the transfer orders which would affect the individuals and about which the individuals alone have the cause of action and right to file a challenge in case the same is claimed as malafide and arbitrary.

21. Even though the decisions have been submitted on the side of the petitioners to show that the first petitioner have *locus standi* to file this



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petition, this Court has got no jurisdiction to entertain the same. It is too late to look into those aspects after the respondents suffered an order of injunction. It is up to the respondents to consider the individual's representation in case they are genuinely affected and show some moderation.

22. In the background of the above discussion, this Court cannot consider anything to be added further except the above observations. The petitioners did not establish that the entire exercise of Transfer Policy is a farce. Since many of the members of the petitioner themselves have deleted their names from Annexures I and II and the second respondent bank has to maintain the balance of taking into consideration of various factors like short fall and surplus in any particular zone / region, the relief now sought by the petitioners cannot be granted.

23. In the result, the Writ Petition is dismissed. No costs. Connected miscellaneous petitions are closed.



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Index: Yes

Speaking order

Netural citation : Yes

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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 Resource Department,
Central Office, No.239, Vidhan Bhawan Marg,
Nariman Point, Mumbai – 400 021.



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Pre-delivery order in
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30.01.2024