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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 15th July, 2024*

\+ W.P.(C) 11132/2019

VEERPAL KAUR .....Petitioner

Through: Mr. O.S. Sheoran, Advocate

versus

STATE BANK OF INDIA & ANR .....Respondents

Through: Mr. S.L. Gupta, Mr. S.L. Garg, Mr. Balmukand, Mr. Pawan Kumar Gupta, Mr. Arjun Gupta, Mr. Aditya Vikram Gupta and Ms. Tarunika Sharma, Advocates

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

JYOTI SINGH, J. (ORAL)

1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

> *"1) Issue an appropriate writ/direction/order in the nature of Certiorari quashing the impugned letter dated 10.04.2018 issued by the respondent no. 2 terminating the services of the petitioner; and/or*
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> *2) Issue an appropriate writ/direction/order in the nature of Mandamus directing the respondent to reinstate the petitioner with consequential benefits; and/or*
>
> *3) Pass any other order(s) as this Hon'ble Court may deem fit in the facts and circumstances of the case, in the interest of justice."*

2. Factual matrix to the extent relevant is that applications were invited by the State Bank of India in 2014 vide Advertisement No. CRPD/PO/AB/2014-15/04 for recruitment of Probationary Officers in the associate banks of State Bank of India ('SBI'). Petitioner was declared successful and received a call letter dated 05.02.2015 from the Central

Recruitment and Promotion Department, SBI for group discussion and interview, scheduled for 16.02.2015. Being successful in the second stage also, Petitioner received an Offer of Appointment dated 09.05.2015 from State Bank of Hyderabad, informing her that she had been selected for appointment as Probationary Officer ('PO') in Junior Management Grade Scale-I and was advised to report at the Head Office on 25.05.2015 for completion of the recruitment formalities. This was followed by an Appointment Letter dated 18.06.2015 appointing the Petitioner as PO on probation for a period of two years. Be it noted that terms and conditions of the appointment were clearly specified in paragraph 2 of the Offer of Appointment. In 2017, SBI merged with five of its associate Banks and Petitioner, who was working as PO in State Bank of Hyderabad, became an employee of SBI but the conditions of service remained the same.

3. Petitioner avers that in 2018, while the Petitioner was suffering from various complications arising out of pregnancy, she was compelled to undergo confirmation test to confirm her services with SBI, which was not a part of the service conditions stipulated in the Offer for Appointment or Letter of Appointment. Subsequently, SBI informed her that her extraordinary leave had been sanctioned from 03.07.2017 to 03.09.2017 and 06.09.2017 to 12.09.2017 on loss of pay and she would not be entitled for salary or other allowances and neither would the period be counted as service for seniority, etc. This was followed by the impugned letter dated 10.04.2018 issued by Respondent No.2, terminating the services of the Petitioner in terms of Rule 16(3)(a) of State Bank of India Officers' Service Rules, 1992 (hereinafter referred to as '1992 Rules'). Petitioner states that challenging the impugned order, Petitioner filed a writ petition before this

Court being W.P.(C) No.6030/2018, which was disposed of vide order dated 29.05.2018, with liberty to the Petitioner to make a representation against the impugned order within a week and if any such representation was made, the Bank was directed to decide the same.

4. Pursuant thereto, Petitioner made a representation dated 04.06.2018, which was rejected by SBI vide order dated 21.06.2018, on the ground that Petitioner failed to secure minimum qualifying marks in the second confirmation test held on 21.01.2018 and her services were thus liable to be terminated by virtue of Rule 16(3)(a) of 1992 Rules. Challenging this order, Petitioner has filed the present writ petition.

5. Learned counsel for the Petitioner argues that Petitioner was appointed with the State Bank of Hyderabad and on her transfer with SBI post the merger, the initial terms and conditions of her service remained unchanged. Neither the Offer of Appointment dated 09.05.2015 nor the Appointment Letter dated 18.06.2015 provided for a confirmation test for a PO placed on probation. It is urged that Rule 16(3)(a) of 1992 Rules is inapplicable to the Petitioner as she was originally appointed in the State Bank of Hyderabad. Though subtly, learned counsel also urges that Petitioner was compelled to undertake the confirmatory test at the time when she was undergoing mental and physical trauma on account of pregnancy related complications and did not have a fair opportunity to prepare for the test.

6. Learned counsel for SBI, *per contra*, argues that on being successful in the selection process, Petitioner was allocated to the State Bank of Hyderabad and an offer letter dated 09.05.2015 was issued. It was stated in the Offer of Appointment that Petitioner will be confirmed in the Bank after

completion of probation period of two years, subject to qualifying the confirmation test to be conducted by the Bank. Thereafter, Appointment Letter dated 18.06.2015 was issued specifically stating that apart from terms and conditions in the offer letter, Petitioner's services will be governed by State Bank of Hyderabad (Officers) Service Regulations, 1979 and subsequent amendments thereto.

7. It is further submitted that Petitioner appeared in the confirmation test held on 24.03.2017 by State Bank of Hyderabad but later, there was a merger and at the time of merger, an option was given to the Petitioner whether to accept the terms and conditions of SBI from the effective date or to be paid terminal benefits available in State Bank of Hyderabad and discontinue the services. Petitioner opted to accept terms and conditions of SBI. As per SBI Circular dated 09.06.2011, candidates recruited as POs could be confirmed only on qualifying the confirmation test conducted by the Bank after 18 months of probation and were required to obtain minimum 50% marks. In case of failure to do so in the first attempt, period of probation would be extended by six months and candidate would appear in the second test. A candidate who failed the second test was liable to be terminated. Result of the first test undertaken by the Petitioner was declared in June, 2017 after merger but Petitioner failed to qualify. Her period of probation was extended up to 21.12.2017 but Petitioner chose to remain on extraordinary leave for a long period and her probation was again extended till 01.03.2018. Second confirmation test was held on 21.01.2018 but Petitioner again failed to qualify the same and her services were terminated vide order dated 10.04.2018 and no fault can be found with the impugned action, which is in conformity with the Appointment Letters, Rule 16(3)(a)

of 1992 Rules and Circular dated 09.06.2011.

8. Heard learned counsels for the parties and examined their rival contentions.

9. The main plank of the argument on behalf of the Petitioner is that Petitioner was appointed with the State Bank of Hyderabad prior to its merger with its associated Banks and on her transfer to SBI, her original terms and conditions of service remained unchanged and there being no stipulation in the Rules/Regulations applicable to State Bank of Hyderabad and/or her Offer of Appointment and Appointment Letter for qualifying the confirmation test for confirmation of her service, failure to qualify the confirmation test could not be a ground for her termination. In order to examine this argument, a backdrop of the Petitioner's appointment and her transfer to SBI is necessary.

10. Indisputably, SBI issued an advertisement for filling up the posts of POs in its associate Banks and being successful in the selection process, State Bank of Hyderabad issued Offer of Appointment dated 09.05.2015. Contrary to the submission made on behalf of the Petitioner, a bare perusal of the Offer of Appointment reflects that it was stated therein that period of probation will be two years, which may be extended at Bank's discretion and confirmation in the Officers Junior Management Grade Scale-I Cadre will be subject to satisfactory completion of 72 mandatory E-Learning Lessons and qualifying in the confirmation test. Relevant part of the offer letter is extracted hereunder:-

Period of Probation & Training	*The period of probation **will be two years**, which may be extended at the Bank's discretion. Confirmation in the Officers Junior Management Grade Scale-I cadre will be subject to satisfactory, completion of probation period, completion of 72 Mandatory E-Learning*

	*Lessons and **qualifying in the confirmation test.** You will be on training for a period of two years in four different Branches throughout the country.*
Pension fund and Gratuity	*You will be governed by the State Bank of Hyderabad Employees' Defined Contribution Pension Scheme (SBHEDCPS). You will be entitled to the benefits of Pension Fund and Gratuity according to the rules in force. For this purpose you have to execute an undertaking.*
Cash Security	*You are required to deposit a sum of Rs. 1000/- at the time of your reporting at the place of posting, as security deposit for the due performance of the duties of your employment in terms of the Regulations referred to above. This amount will be forfeited in the event of your leaving the service of the Bank during the probation period.*

11. Therefore, it is incorrect for the Petitioner to urge that there was no stipulation in the offer letter requiring her to qualify the confirmation test for confirmation of her services on completion of probation period of two years. In addition to a categorical stipulation in the offer letter, it is also provided in Rule 16(3)(a) of 1992 Rules that if in the opinion of the Competent Authority, an Officer on probation is not fit for confirmation, in the case of a direct appointee, his services may be terminated.

12. Additionally, SBI has placed reliance on Circular dated 09.06.2011, which provides that POs will be confirmed in the Bank only on qualifying the confirmation test and obtaining the minimum marks, which are 50% for Unreserved categories and 45% for Reserved categories. In case the candidate failed to clear the first attempt, probation was extended by six months to enable the candidate to appear in the second test, to be conducted within six months of the first test and failure in the second attempt would

entail termination. As per the counter-affidavit, Petitioner failed in both the confirmation tests held on 24.03.2017 and 21.01.2018 respectively and was therefore, terminated by SBI. This position is uncontroverted on behalf of the Petitioner and therefore, no infirmity can be found with the termination order, in light of a clear stipulation in the offer of appointment requiring the Petitioner to qualify the confirmation test.

13. Insofar as the contention of the Petitioner that the Rules of SBI are inapplicable to her service conditions as she was originally appointed with the State Bank of Hyderabad is concerned, the same merits rejection. SBI has brought forth in the affidavit that w.e.f. 01.04.2017, State Bank of Hyderabad merged with SBI vide Gazette Notification No. GSR 156(E) to 160(E) dated 22.02.2017 issued by the Government of India. At the time of merger, Petitioner was given the following option/Offer of Employment in SBI:-

> *"(A) I have examined the terms and conditions of service and accept the offer of employment from the effective date on the terms and conditions stated in the annexure including SBI terminal benefits as mentioned in Option A of clause 2(a) of the annexure B1/B2.*
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> *OR*
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> *(B) I have examined the terms and conditions of service and accept the offer of employment from the effective date, on the terms and conditions stated in the annexure except the SBI terminal benefits. I opt for Terminal / Superannuation Benefits of State Bank of Hyderabad as mentioned in option B of clause 2(a) of the annexure B1/B2.*
>
> *OR*
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> *(C) I do not accept the offer of employment in SBI and wish to discontinue the services. I may be paid Terminal Benefits available in State Bank of Hyderabad.*

14. Petitioner submitted her consent and opted for option 'A', thereby accepting the offer of appointment in SBI from the effective date on the terms and conditions stated in the Annexure including SBI Terminal

Benefits and clearly did not opt for option 'C' and therefore, it is not open for the Petitioner to contend that service conditions of SBI and/or Rules of SBI, including Rule 16(3)(a) of 1992 Rules or the Circular, as aforementioned, is inapplicable.

15. On the aspect that Petitioner was allegedly undergoing mental and physical trauma owning to complications in the pregnancy and thus could not qualify the confirmation test, it would suffice to note that SBI granted enough indulgence to the Petitioner taking into account her personal problems. As per the counter-affidavit, first confirmation test was conducted on 24.03.2017, which the Petitioner failed to qualify and her period of probation was extended for six months, i.e. 21.12.2017, which the maximum permissible extension under the Rules, however, Petitioner remained on Extraordinary Leave from 03.07.2017 to 03.09.2017 and again from 06.09.2017 to 12.09.2017 and SBI extended the probation period till 01.03.2018 and the second confirmation test for the Petitioner was conducted on 21.01.2018, which she again failed to qualify and therefore, it cannot be said that her problems were ignored by the SBI. As a matter of record, Petitioner scored only 36 marks out of 200 and therefore, as against minimum qualifying marks of 45% for SC category, Petitioner secured only 18%, leaving no option with SBI but to terminate her services.

16. For all the aforesaid reasons, this Court finds no infirmity with the impugned order of termination dated 10.04.2018 and the order of rejection of her representation dated 21.06.2018. Writ petition is dismissed being devoid of merit.

JYOTI SINGH, J

JULY 15, 2024/kks