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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 10.05.2024

+ LPA 705/2022 & CM APPL. 53063/2022 -Delay 49 days

MR. DHARMENDRA PRASAD SINGH AND ANR..... Appellants

Through: Mr. A.K. Mishra and
Mr. Manoj Kumar, Advocates.

Versus

STATE BANK OF INDIA THR CHAIRMAN AND ORS

..... Respondents

Through: Mr. Rajiv Kapur, Mr. Akshit Kapur
and Mr. Aditya Saxena, Advocates
for SBI.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

REKHA PALLI, J (ORAL)

1. The present appeal under Clause X of the Letters Patent seeks to assail the order dated 06.09.2022 passed by the learned Single Judge in W.P.(C) No.4061/2013. Vide the impugned order, the learned Single Judge has rejected the writ petition preferred by the appellants wherein they had sought directions against the respondent/bank to absorb them as Junior Manager Grade Scale I (Specialized Officers) in accordance with the respondent/bank's policies dated 20.07.2010 and 18.08.2010.



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2. At the outset the brief factual matrix as emerging from the record may be noted.
3. On 29.06.2010, the appellants were, for a three year contractual period, offered appointment in the respondent/bank as Officers – Marketing and Recovery (Rural S-1) [hereinafter referred as OMR (Rural S-1)]. Consequently, the appellants joined service as OMR (Rural S-1) on 30.06.2010 and 01.07.2010 respectively. On 20.07.2010, the respondent bank formulated a policy for absorption of employees who were working as OMR (Rural) on contractual basis and were in service of the bank on 14.07.2010, subject to their having achieved minimum of 60% of the business target during the year 2009-10. A clarificatory scheme was issued on 18.08.2010, wherein it was provided that employees who had served as OMR (Rural) and had then resigned to join as OMR (Rural S-1), which was a post with a higher grade pay, would also be eligible to apply for absorption.
4. The appellants who were in service of the bank on 14.07.2010, applied for absorption but their claims were not considered and consequently, their services were dispensed with by the respondent/bank after completion of their three year tenure. Being aggrieved, the appellants approached this Court by way of writ petitions which were disposed of with directions to the respondent to pass a reasoned order dealing with their representations. Upon these representations being rejected, the appellants again approached this Court by way of W.P. (C) 4061/2013, which has been dismissed by way of the impugned order by holding that since the appellants were holding the post of OMR (Rural S-1), they were not eligible for



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absorption under the policy. Furthermore, they were not even meeting the target performance of 60% as required under the policy.

5. Before us, Mr A.K. Mishra, learned counsel for the appellants submits that the impugned order is wholly perverse as the learned Single Judge has failed to appreciate that once the respondents had, in terms of the modified policy dated 18.08.2010, considered cases of even those employees who had after resigning as OMR (Rural) joined as OMR (Rural S-1) for absorption, the appellants could not be discriminated against merely because they had joined the service of the respondent/ bank as OMR (Rural S-1) itself. He, therefore, prays that the impugned order be set aside and the writ petition be allowed.
6. On the other hand, Mr. Kapur, learned counsel appearing for the respondent/bank supports the impugned order. By drawing our attention to the two policies dated 20.07.2010 and 18.08.2010, he submits that the common factor in both policies was to consider the performance of the employees while working as OMR (Rural) and since the appellants had never worked as OMR (Rural), their performance as such was not available for evaluation, which was a mandatory requirement under the absorption policy. He, therefore, contends that when the appellants do not fulfill the criteria laid down in the policies, the respondents were justified in not considering their cases for absorption. He, therefore, prays that the appeal be dismissed.
7. Having considered the submissions of the learned counsel for the parties, we may begin by noting the relevant extracts of the impugned



order as contained in paragraph nos. 12 to 14 thereof. The same read as under :-

“12. In the instant case, there is admitted fact the petitioners joined the respondent bank prior to cut-off date i.e. 14th July, 2010 but they have not fulfilled two conditions i.e. paragraph 2 (II) and paragraph (XII) of the policy dated 20th July, 2010. It is vehemently argued by the learned counsel for the petitioner that by way of amended policy, the petitioners are entitled for the relaxation in fulfilling the target performance of 60 per cent but the same has not been provided to them. In this context, this Court has perused the amended policy as quoted above also. As per the policy, the relaxation of fulfilling the performance target of 60 per cent is to be given to the person who has earlier joined as OMR but then resign from the post thereafter rejoining as OMR-S1. In the instant case, the petitioners have never joined as OMR and they have only joined on the post of OMR-S1. The relaxation of the amended policy cannot be given to them.

13. It is also argued by the learned counsel for the petitioner that the petitioners could not have achieved the performance target for a financial year 2009-10 due to the reasons beyond their control and therefore they have sought the relaxation as per the amended policy. As per the amended policy, the Bank had given option to the OMRs who had resigned from the service of the Bank and had re-joined in the higher cadre as OMRs S-1 will also be considered for permanent absorption as their services could be evaluated as they had worked with the Bank. It is also crystal clear that the OMR-S1 officers were not eligible for permanent absorption and those candidates who had worked as OMR with the respondent Bank and rejoined in the higher cadre as OMR-S1 were considered for the absorption.



14. This Court does not find any force that the officers who are similarly situated place with the petitioners were absorbed by the respondent Bank. Since the petitioner had not satisfied the eligibility criteria mentioned in the policy dated 20th July, 2010 and 18th August, 2010. Therefore, the petitioners have not been absorbed. There is no material on record to show that any discrimination has been taken place as alleged by the petitioners.”

8. From a bare perusal of the aforesaid extract, it is evident that the learned Single Judge has, only after examining the respondent's plea that employees who had worked only as OMR (Rural S-1), were not eligible for permanent absorption on which post the appellants had admittedly joined on contractual basis, rejected their claim.
9. Before us, learned counsel for the appellants has sought to urge that the respondents could not be permitted to discriminate between two classes of employees i.e., OMR (Rural) and OMR (Rural S-1); simply because one of those like the appellants had directly joined in the said category and the other one of those who had worked as OMR (Rural) initially and had then, after resigning from the said post, joined as OMR (Rural S-1). Even though this argument appears to be attractive on the first blush, upon perusal of the two policies, we are of the view that it is not for this Court to examine the rationale behind the considered decision taken by the respondents to absorb only those candidates who had worked as OMR (Rural). This decision of the respondents being a purely policy decision, the same cannot be a matter of judicial review.



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10. In the light of the admitted position that the appellants had never worked as OMR (Rural) and were not fulfilling a prescribed mandatory requisite period as such, therefore, there was no question of their performance as OMR (Rural) being evaluated, we find no reason to interfere with the impugned order.

11. The appeal being meritless is, alongwith the accompanying application, dismissed in the aforesaid terms.

(REKHA PALLI)
JUDGE

(SAURABH BANERJEE)
JUDGE

MAY 10, 2024
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