
(2013) 05 AHC CK 0109

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 29495 of 2013

Ajay Kumar Dwivedi

APPELLANT

Vs

S.B.I. and Others

RESPONDENT

Date of Decision : 27-05-2013

Acts Referred:

Citation : (2013) 6 ADJ 163 : (2013) 6 ALJ 140 : (2013) 99 ALR 607 : (2013) 6 AWC 5592 : (2013) 138 FLR 1002 : (2013) 4 UPLBEC 2925

Hon'ble Judges : Vineet Saran, J;B. Amit Sthalekar, J

Bench : Division Bench

Advocate : Mohit Kumar, for the Appellant; Satish Chaturvedi, for the Respondent

Final Decision : Dismissed

Judgement

B. Amit Sthalekar, J.—This is a writ petition by the petitioner challenging the order dated 2.5.2013 whereby his representation dated 12.2.2013 has been rejected by the General Manager (NW-1), S.B.I., Lucknow. The petitioner has also prayed for a direction to the respondents to absorb him permanently in the service of the respondent-Bank in terms of the various Circulars issued by the Bank. As per the averments in the writ petition, the petitioner was appointed as Officer Marketing & Recovery (Rural) on contract basis for a period of 2 years from 19.5.2008 to 18.5.2010 vide appointment letter dated 14/19.5.2008. It is claimed by the petitioner that several contract employees were appointed as Officer Marketing and Recovery and thereafter the respondent-Bank also issued Circulars on 20.7.2010, 26.7.2010 and 18.8.2010 laying down a policy for absorption of contract employee who had achieved a target of 60%. Subsequently by the Circular dated 26.7.2010 the achievement target of 60% was relaxed and a period of 1 -2 months relaxation was given to the new incumbent before considering the target allotment and achievement. Further by the Circular dated 18.8.2010 the condition of 60% target achievement was further relaxed and it was provided that if the services of the contract employee

are used in work other than the work allotted to them that factor shall also be taken into consideration while assessing the target achievement of the concerned employee. According to the petitioner some of the contract employees including the petitioner filed writ petition No. 57034 of 2010 claiming that persons lower in merit have been absorbed ignoring the petitioner. All the writ petitions were clubbed together and decided by a common judgment dated 28.1.2013 and the respondent-Bank was directed to reconsider the case of the petitioners including the present petitioner on their individual representation and thereafter pass reasoned orders after giving opportunity of hearing to the petitioners.

2. The contention of the petitioner is that in the light of the direction of the High Court, he submitted his representation before the Regional Branch Office as well as Local Head Office, State Bank of India, Lucknow on 12.2.2013. However, instead of considering the representation on merits in the light of the Circulars of the Bank, the impugned order dated 2.5.2013 has been passed by the General Manager (NW-1), State Bank of India, H.R. Department, Local Head Officer, Lucknow rejecting the claim of the petitioner for permanent absorption.

3. We have heard Shri Mohit Kumar, learned counsel for the petitioner and Shri Satish Chaturvedi representing respondent Nos. 1 to 5 and the learned standing counsel for the respondent No. 6.

4. Learned counsel for the petitioner submitted that the impugned order dated 2.5.2013 has been passed without taking into consideration the Circulars of the respondent Bank dated 20.7.2010, 26.7.2010 or 18.8.2010. It is further stated that the petitioner was never given any opportunity of personal hearing. Shri Mohit Kumar, learned counsel for the petitioner further submitted that other persons who had obtained orders in their favour, their cases have been considered and although the target achievement was much below 60% but on review their target achievement had been held to be more than 60% but in his case there was no such review of the target achievement. He has also referred to the grounds taken in his representation dated 12.2.2013 and submitted that those grounds have not been considered in terms of the Circular dated 18.8.2010. Learned counsel for the petitioner further submitted that the petitioner attained a target achievement of more than 60% but in the impugned order while rejecting his representation his target achievement had been stated to be only 41.64%.

5. From a perusal of the averments made in the writ petition and the documents on record it is seen that the petitioner has referred to a list of persons who were petitioners in one or other writ petition filed before this Court. From the document filed collectively as Annexure-8 to the writ petition, it will be seen that it is not all the petitioners or all the contract employees who have been granted absorption on review of target achievement. The chart filed by the petitioner of persons of the various writ petitions shows that in some cases on a review of the target achievement some persons have attained target achievement of more than 60% and it is only those persons who have been absorbed. Those having a

target achievement, even on review, of less than 60% have not been absorbed.

6. From a perusal of the impugned order it is also seen that the representation of the petitioner and the grounds taken therein have been considered by the competent authority in the light of the Circulars referred to by the petitioner which provide a minimum target achievement of 60% and in paragraph 8 of the order it has been mentioned that the target achievement of the petitioner has been only 41.64%. It has been revealed that against a target achievement of Rs. 392 lacs the petitioner has achieved a target of only Rs. 163.25 lacs, which comes to 41.64% and, therefore, he was not found suitable for absorption in the service of the Bank in terms of the Corporate Center letter dated 20.7.2010.

7. In paragraphs 5 and 6 of the impugned order the competent authority has referred to the Circular of the Corporate Center letter dated 18.8.2010 as well as the directions given by this Court in its order dated 28.1.2013 referring to the Bank's Circulars dated 20.7.2010, 26.7.2010 and 18.8.2010. In paragraph 9 of the impugned order the competent authority has specifically stated with reference to the Corporate Center letter dated 18.8.2010 that no other work was allotted to the petitioner other than those related to his role and responsibility. The relevant portion of the impugned order reads as follows:

Performance of Shri Dwivedi was also reviewed in the light of Corporate Centre letter No. RB/AC/SB/121, dated 18.8.2010 and it was observed that no other work was allotted to him other than those related to his roles and responsibilities. Thus, in the course of review, his targets did not call for revision.

8. It has also been noted by the competent authority that the term of contract of the petitioner had expired on 18.5.2010 but he continued to attend the office even thereafter. He was also advised that though he had continued to work after 18.5.2010 inspite of expiry of the contractual term and non renewal of his contract, the period of service rendered by him after 18.5.2010 shall not be counted as contractual service under the relevant service rules applicable to Officer Marketing and Recovery.

9. The petitioner has also filed a supplementary affidavit in which he has brought on record as Annexure S.A.-1, the percentage achievement of budget as on 31.3.2010 of some of the persons whose names have already been mentioned in the chart prepared by him as Annexure-8 to the writ petition and whose cases have been reviewed and they have been found to have achieved a target of more than 60% and have, therefore, been recommended for absorption. During the course of arguments, the learned counsel for the petitioner submitted that the target achievement of the petitioner was 80% or more. This is not reflected in any of the document on record. In-fact on the petitioner's own showing in paragraph 1 of his representation his target achievement by his own assessment was 52.82%. The other documents which have been filed are with relation to the field visits of the petitioner. The learned counsel for the petitioner further submitted that persons having as low as 3.06% and 6.80% target achievement

have also been absorbed. This is an incorrect statement as those persons shown in the chart at page 77 to the writ petition, were on review found to have achieved 61.22% and 64.90% respectively. As we have already noted above the competent authority has also considered the grounds taken by the petitioner in his representation dated 12.2.2013 in the light of the Bank's Circulars dated 18.8.2010. So far as not granting of a personal hearing to the petitioner is concerned, the petitioner has not made any request in this regard in his representation dated 12.2.2013 in spite of the order of this Court dated 28.1.2013

10. Therefore, considering the facts in its entire aspect and with reference to the documents on record we are of the view that the competent authority in the impugned order has examined the case of the petitioner in the light of the Circulars of the respondent-Bank particularly the Circular dated 18.8.2010 on which much stress was laid by Shri Mohit Kumar, learned counsel for the petitioner and we do not find any illegality or infirmity in the impugned order dated 2.5.2013. The writ petition lacks merits and is accordingly dismissed.