

(1992) 03 CAL CK 0008
In the Calcutta High Court
Case No : Matter No. 1174 of 1990

B.K. Gautam and Others

APPELLANT

Vs

UCO Bank and Others

RESPONDENT

Date of Decision : 26-03-1992

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : 97 CWN 296 : (1993) 1 ILR (Cal) 416 : (1993) 2 LLJ 358

Hon'ble Judges : Susanta Chatterji, J

Bench : Single Bench

Judgement

Susanta Chatterji, J.—The present writ petition has been filed by two petitioners praying inter alia for a writ of mandamus commanding the respondents to forebear giving promotion to the respondents No. 9 to 21 in the Junior Management Grade, Scale I without promoting the petitioners first to such cadre and further directing them to promote the petitioners to such cadre on the ground that the steps taken by the respondent bank authorities are irregular and illegal. It is stated in detail that the petitioners are the employees of the UCO Bank as clerks and they are now posted in different branches. There is a scope for promotion of the clerical staff to Junior Management Grade. There is a promotion policy as framed and in terms of the agreement embodying the promotion policy, the promotion of clerical cadre to Junior Management Grade, Scale-I has certain guidelines. The specific allegation is that the respondent bank authorities have promoted the private respondents who are recommended by Union and if those persons are promoted there is no bar or impediment to consider the case of the petitioners for promoting them in the manner as claimed.

2. The writ petition is seriously opposed by the respondent bank authorities by filing affidavit-in-opposition. It is however, conceded by the bank authorities before this Court that in : order to have peace and to maintain the working atmosphere the demand of the Union had to be accepted and as per the recommendation of the Union certain employees have been promoted although

they are not within the consideration zone for promotion. It is submitted on behalf of the bank authorities that there are certain requirements to be considered for promotion from clerical cadre to Junior Management Grade, Scale-I. There are certain objective tests and the scope for marking the numbers. Since the petitioners are not within the consideration zone they cannot ipso facto file a writ petition and ask for a writ from this Court to command the respondents to promote them. The promotion cannot be claimed as a matter of right nor the petitioners have any locus standi to ask for the reliefs in the manner as alleged. Unless the petitioners come within the consideration zone for promotion, they cannot claim that their rights have been denied. The bank authorities have no grudge nor any animosity towards the petitioners. If they acquire the necessary qualification and cross the eligibility criteria and they are within the consideration zone, their case will be obviously considered for effective promotion. During the pendency of the writ petition the cases of certain persons who were not promoted, have since been promoted as they have come within the consideration zone.

3. Mr. Banerjee for the petitioners in his usual fairness has submitted that certainly the petitioners cannot claim for promotion as a matter of right but if the persons similarly circumstanced are allowed to be promoted at the instance of the Union the petitioners' case for promotion will have to be considered otherwise the concept of equality before law as enshrined under Article 14 of the Constitution of India, will be defeated. The conditions laid down under Article 14 of the Constitution of India are the acid test for which the acts done and/or caused to have been done by the respondent bank authorities will have to be viewed.

4. Upon perusal of the materials on record and having heard the Learned Lawyers for the respective parties this Court does not appreciate that with a view to maintain peace the bank authorities would be compelled to promote certain employees with the recommendation of Union. If those persons who have been recommended by the Union have no eligibilities and they do not come within the consideration zone, their promotion is obviously bad in law and cannot be supported before this Court by way of effective adjudication. If the persons having similarly circumstanced with that of the petitioners are promoted and the petitioners case for promotion is not considered, then there is certainly violation of law by infringing the interest of the petitioners.

5. Considering all the aspects of the matter this Court finds that if the bank authorities want to stick to the consideration zone for promotion then it cannot give promotion to the persons at the instance and/or recommendation of the Union. If the persons as recommended by the Union have been promoted, for any other consideration by ignoring the standard and guideline as laid down by consideration zone, then the case of the petitioners should be viewed with the same yard stick. In consequence thereof the writ petition is disposed of directing the respondent bank authorities to take effective steps to consider the case of

the petitioners for promotion to Junior Management Grade Scale I if the persons recommended by the Union as conceded in affidavit-in-opposition, have been allowed to be promoted, within a period of eight weeks from the date of communication of this order. If the bank authorities is of the view that nobody can be promoted without coming within the consideration zone, then no effective promotion should be given to the persons who are alleged to have been promoted under the recommendation of the Union.

6. It appears that some of the persons who are allowed to have been promoted under the recommendation of the Union are comparatively lower in the merit to that of the petitioners as stated. No separate order is passed as to costs.

7. All parties concerned to act on the signed copy of the operative part of this judgment on the usual undertaking. Writ petition disposed of.