

(2007) 09 MAD CK 0128

In the Madras High Court

Case No : Writ Petition No. 20963 of 2004 and WPMP No. 25236 of 2004

M. Kannan and Others

APPELLANT

Vs

State Bank of India and Others

RESPONDENT

Date of Decision : 28-09-2007

Acts Referred:

Citation : (2007) 09 MAD CK 0128

Hon'ble Judges : M. Chockalingam, J

Bench : Single Bench

Advocate : Jeyes Dolia, for Aiyar and Dolia, for the Appellant; B. Rajendran, for Respondent Nos. 1 and 2 and Kamatchi Sundaresan, for the Respondent

Final Decision : Dismissed

Judgement

M. Chockalingam, J.—Seeking a writ of mandamus, the petitioners have brought forth this writ petition seeking a direction to the 2nd

respondent bank to fill up the existing vacancies in the post of Record Keeper cum Cashier by appointing the selected candidates whose names

were published by the Bank in the year 2001.

2. The affidavit in support of the petition and the counter affidavit are perused. The Court heard the learned Counsel on either side.

3. The case of the petitioners as could be seen is that the petitioners who joined service in the 2nd respondent Bank long back, have been carrying

on their service without any blemish; that a circular was issued by the second respondent bank in the year 2000 modifying and issuing further

guidelines for promotion to the post of clerical cadre by revising their eligibility criteria to appear for written test; that as per the circular, these

petitioners were eligible; that they were qualified pursuant to the written test;

that under the circumstances, they were to be interviewed by the Selection Committee; that all the candidates who came with the eligibility criteria as per the circular, were called for to write the written test; that the number of candidates to be called for the interview was fixed at 1.5 = 1 in the order of merit; that accordingly, the petitioners were fully qualified and eligible for being promoted; that they have also been selected and placed in the panel; that the first batch of candidates numbering about 67, was released by the bank, out of which 64 candidates were promoted, and postings have also been issued; that three out of the first batch of Record Keeper cum Cashier candidates undertook All India Clerical Examination and got selected and have also been absorbed; that the present vacancy is about 321; that the selected candidates list was kept pending from 2001; that no further candidates have been appointed to the post of Record Keeper cum Cashier; that initially there were vacancies numbering 66; that the candidates numbering 67, were given postings as Record Keeper cum Cashier from the selected list for the reasons that the 67th selected candidate had obtained the marks equal to the marks obtained by the 66th candidate; that while the panel was kept pending all along in the past, the petitioners learnt that the bank without filling up those posts from and out of the panel of the candidates selected pursuant to the selection held in the year 2001, is likely to resort to a fresh selection and again maintain a separate panel without any justification whatsoever; and that under the circumstances, it becomes necessary that a direction has got to be given to the second respondent bank to fill up those posts from and out of the panel wherein the petitioners' names find place, and orders be issued.

4. Advancing his arguments on behalf of the petitioners, the learned Counsel would submit that originally, a panel was prepared; that pursuant to the written test conducted by the bank and written by the petitioners, they were also selected; that it is true that there were only 67 candidates who appeared at that time, and the vacancies were filled up; that as regards the remainder, the petitioners' names find place in the panel, and it is also pending; that while the matter stood thus, there is no question of preparation of a new panel or appointment of the fresh candidates by new selection that would arise, and hence, a direction becomes necessary.

5. In answer to the above, the learned Counsel for the respondents 1 and 2 would submit that the writ petition has got to be dismissed for the reasons that they want to get themselves to be taken as Record Keeper cum Cashier; that the said post itself has been abolished; that apart from that, previously 65 vacancies were available; that those 65 vacancies have been filled up, and thus, there was no vacancy at all; that the panel was kept pending for the purpose of considering the remaining candidates from the panel if any vacancy arose; but, actually, it has not arisen so; that further, there was a settlement entered into between the two Unions which would constitute the majority employees, on 27.12.2005, wherein it was clearly agreed that a new recruitment policy has got to be adopted and to be implemented; that accordingly, it has been implemented; that the results have got to be announced; that while so, the instant writ petition has been brought forth; and that for the above reasons, it has got to be dismissed.

6. The learned Counsel for the newly impleaded parties namely respondents 3 to 7, supported the contentions put forth by the learned Counsel for the respondents 1 and 2.

7. The Court paid its anxious consideration on the submissions made.

8. This Court is of the considered opinion that the writ petition has got to be dismissed for more reasons than one. It is not in controversy that originally, a panel was prepared for the purpose of filling up the vacancy of Record Keeper cum Cashier by way of promotion. At the time when it was prepared in the year 2001, there were only 65 vacancies. It is also not in controversy that those vacancies have already been filled up. True it is, the panel was kept pending for the purpose of filling up the vacancies from and out of the panel of the candidates. But, in the instant case, there is nothing to indicate that a vacancy has arisen. Once the panel was prepared in the year 2001, this Court is at a loss to understand how it could be kept pending for more than five years. It is well settled proposition of law that the panel prepared for such a purpose, could be valid only for a period of one year.

9. It is also brought to the notice of the Court that there are two Unions having majority of the employees, and they have also entered into a settlement in the year 2005, wherein it has been agreed between the parties

that a new recruitment policy has got to be adopted, pursuant to which, it has been followed, and the process was on, and the results are to be published. Now, at this juncture, it remains to be stated that the post for which the petitioners seek themselves to be promoted and for which purpose, a panel was also prepared in the year 2001, according to the respondent bank, has already been abolished. Under the circumstances, no question of either filling up the vacancy or making any promotion to the said post would arise. It is also not in controversy that the petitioners who constitute a Union, would come within the said two Unions, who have already entered into a settlement, which, according to the respondent Bank, would be binding on the petitioners also. Further, it is brought to the notice of the Court that challenging the settlement, a writ petition in W.P. No. 38472/2003 was also filed, and stay was requested; but, the Court was not inclined to grant stay. Now, for the reasons stated above, this Court is of the opinion that this writ petition requires an order of dismissal in the hands of this Court. Accordingly, it is dismissed. No costs. Consequently, connected WPMP is also dismissed.