

IN THE HIGH COURT OF JUDICATURE AT MADRAS

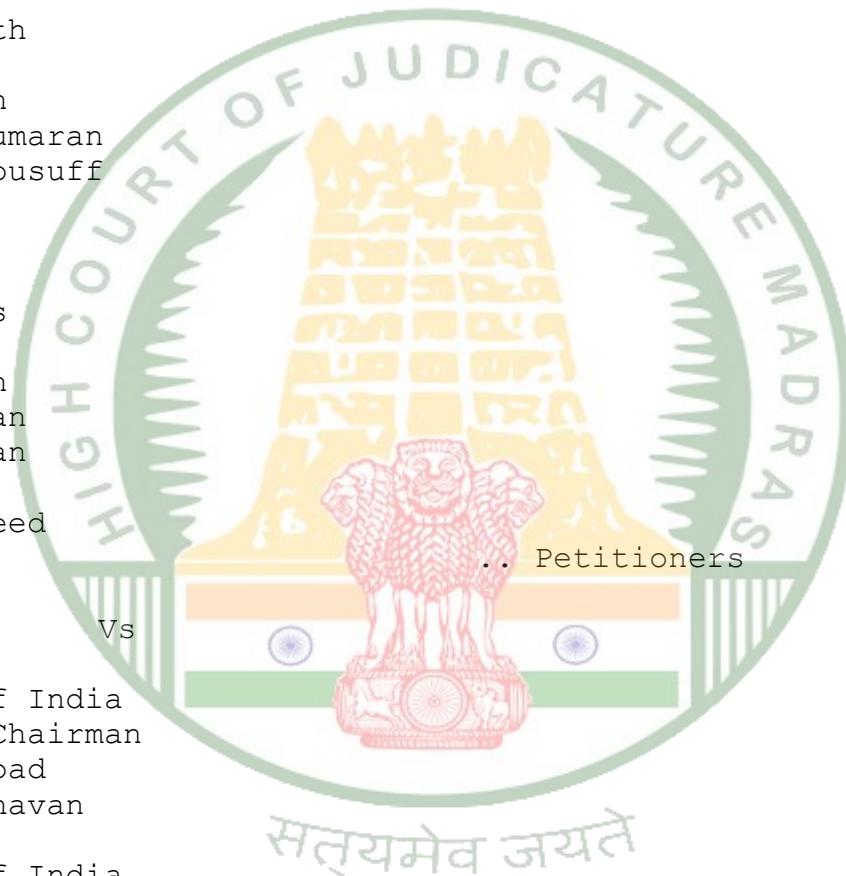
DATED : 28-9-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.20963 of 2004  
and  
WPMP No.25236 of 2004

1.M.Kannan  
2.G.Chandrakanth  
3.V.Vasanthi  
4.S.Karthikeyan  
5.V.Vasantha Kumaran  
6.S.Mohammed Yousuff  
7.N.Ramesh  
8.S.Raghupathy  
9.G.Jayaraj  
10.M.A.Amaladas  
11.M.Sundar  
12.A.Thangappan  
13.B.S.Nagarajan  
14.C.Gunasekaran  
15.C.Philip  
16.A.Abdul Waheed  
17.M.Saravanan



1.State Bank of India  
rep. By its Chairman  
Madam Cama Road  
State Bank Bhavan  
Mumbai  
2.State Bank of India  
Rep. By its  
Chief General Manager  
No.16, College Lane  
Circle Top House  
Nungambakkam  
Chennai 600 006  
3.State Bank of India Ambedkar  
Trade Union  
Rep. By its General Secretary  
22 Rajaji Salai  
Chennai 600 001  
4.K.Karunanithi  
Messenger  
SBI, Chennai Main Branch  
Accounts Division

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5.S.Gunaneedhi  
General Attendant  
SBI, Chennai Main  
Accounts  
6.C.Varadarajan  
Messenger  
SBI, Chennai Main Branch  
Accounts  
7.M.Arivazhagan  
Lift Operator  
State Bank of India  
Commercial Branch  
Guindy, Chennai 600 032.  
(RR3 to 7 impleaded as per  
order dt.4.11.2004 in  
WPMP 32521/2004)

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents 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 respondent bank in the year 2001.

For Petitioners : Mr.Jeyesh Dolia  
for M/s.Aiyar & Dolia  
For Respondents : Mr.B.Rajendran for RR1 & 2  
Mr.Kamatchi Sundaresan  
for RR3 to 7

ORDER

Seeking a writ of mandamus, the petitioners have brought forth this writ petition seeking a direction to the 2<sup>nd</sup> 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 2<sup>nd</sup> 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 67<sup>th</sup> selected candidate had obtained the marks equal to the marks obtained by the 66<sup>th</sup> 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.

Sd/-  
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

nsv/

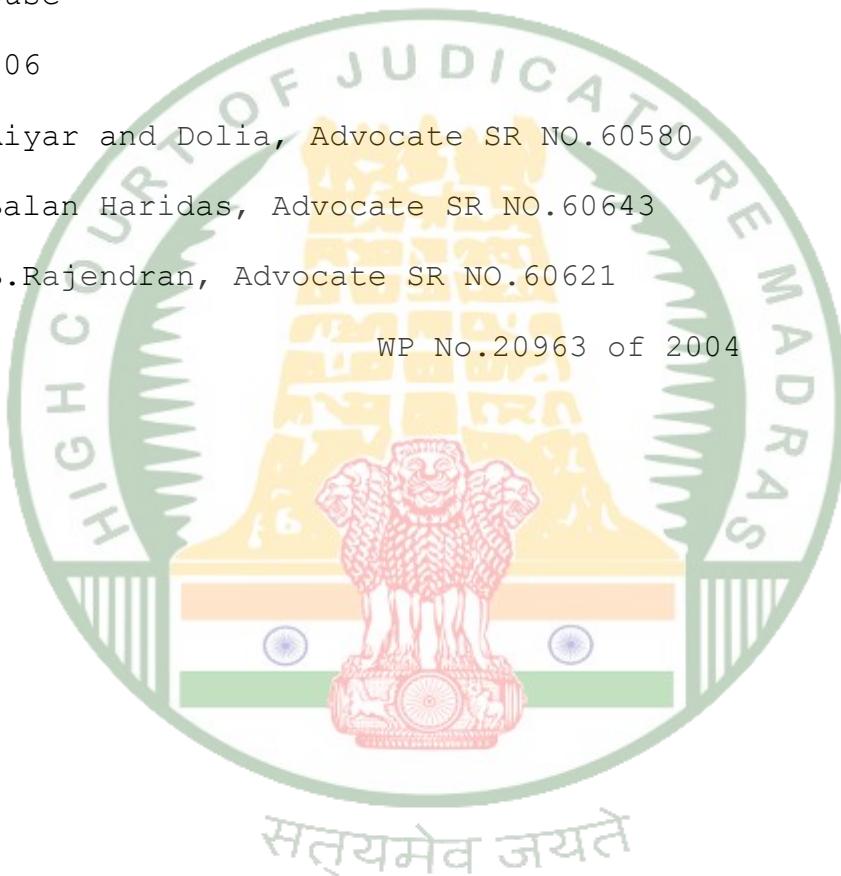
To:

1. The Chairman  
Madam Cama Road  
State Bank Bhavan  
Mumbai
2. Chief General Manager  
State Bank of India  
No.16, College Lane  
Circle Top House  
Nungambakkam  
Chennai 600 006

+ 1 CC To M/s.Aiyar and Dolia, Advocate SR NO.60580  
+ 1 CC To M/s.Balan Haridas, Advocate SR NO.60643  
+ 1 CC To Mr. B.Rajendran, Advocate SR NO.60621

WP No.20963 of 2004

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