

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No. 3042/2013

%

14th August , 2013

R.K.SADH & ORS

.....Petitioner

**Through: Mr. A.Bhardwaj and Mr. Samundra
Sain, Advocates.**

VERSUS

PUNJAB NATIONAL BANK

..... Respondents

Through: Mr. Rajat Arora, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition was filed seeking the following reliefs:-

“(A) to set-aside/quash the promotions of 139 candidates empanelled by the Respondent Bank during the year 2012-13 in SMG Scale-IV, effected under the clarificatory guidelines circulated vide Circular 88 of 8-5-2012.

(B) consider the total vacancies of 383, in the selection process of the year 2012-13 i.e 140 of Circular No. 83/2012 and 242 of Circular No. 147 of 2013.

(C) Consider the Petitioners to be eligible for promotion with effect from the year 2012-13 and maintain their inter-se seniority as per seniority list of 1-1-2012.

(D) Pass such other or further, writ, order or direction, as this Hon'ble Court may deem fit and proper after considering the nature and circumstances of the case.”

2. The issue urged by the petitioners actually was crystallized as reflected in the order dated 10.5.2013 and which was as to whether the respondent-bank was using a select list which came into existence pursuant to a circular no.88/2012 or only a new list which came into effect after the policy of April, 2013.

3. In view of the above, the following detailed order was passed on 10.5.2013:-

“CM No. 5762/2013 (Exemption)”

1. Exemption allowed subject to just exceptions.

CM stands disposed of.

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2. By the judgment of a learned Single Judge of this Court dated 8.1.2013 in W.P.(C) No. 2888/2012, the circular no. 88 dated 8.5.2012 of the respondent was quashed on 8.5.2012 with respect to Scale III to Scale IV promotions being in violation of the statutory promotion policy issued on

20.4.2012. The circular no. 88 was quashed because the same required 75% marks each service year of the employee, and which was not a requirement in the statutory policy dated 20.4.2012 for promotion of officers from MMG Scale-III to SMG-Scale-IV.

3. The respondent, thereafter, has come out with another statutory policy dated 1.4.2013. Comparison of the old statutory policy dated 20.4.2012 with the new policy dated 1.4.2013 shows that parameters for promotion for MMG Scale-III to SMG Scale-IV have been altered considerably. In the statutory policy dated 20.4.2012, following was the criteria for promotion from MMG Scale-III to SMG Scale-IV:-

“6. SELECTION PROCESS FOR MMG SCALE-III TO SMG SCALE -IV

The vacancies in SMG Scale-IV shall be filled up by promotion from MMG Scale-III through Merit channel only, as described below:-

- All the vacancies in SMG Scale-IV shall be filled up through this Channel. Under the channel, the candidates who have completed 3 years of service in MMG Scale-III and have qualified the On-Line Computer Literacy and CBS Awareness Test shall be eligible to apply.
- From amongst the applicants, the number of candidates to be called for the group discussion and interview in order of inter-se seniority shall be determined in terms of the procedure given in Clause-11 'Number of candidates to be considered for promotion.'
- The selection of candidates shall be done on the basis of the following parameters:-

PARAMETERS	MAXIMUM MARKS	REMARKS
Performance	60 Marks	
Group Discussion	20 Marks	
Interview	60 Marks/70* (*) for Technical/Specialist Officers	Minimum qualifying marks in the Interview shall be 30%
Branch Experience Marks /Branch Incumbent Experience Marks/Marks for posting in the hard area, as indentified by the Central government (Not applicable in case of Technical/Specialist Officers)	10 Marks	10 Marks- Break-up:- *Branch experience: 1 mark for each completed year of service in branch during last five years (Max. 5 marks). * Incumbent Experience/posting in hard area: 1 additional mark for each completed year of service as Incumbent Incharge of a branch/posting in the hard area, as indentified by the Central Government, during last five years. (Max. 5 additional marks) However the total marks for

		Branch Experience and Incumbent Experience/Hard Area Posting shall not be more than 10.
Total	150	

Performance (60 Marks): The marks for the performance of the 5 preceding years should be reckoned. The minimum marks for PAF provided in the promotion policy multiplied by total marks obtained in the 5 relevant PAFs divided by 500.

The weightage for PAF parameters shall be assigned as illustrated in Para 4(a) herein before.

GROUP DISCUSSION (20 Marks): All the eligible shortlisted applicants, will have to appear for Group Discussion and for interview.”

4. In the new statutory policy dated 1.4.2013 requirement for promotion from Scale MMG Scale-III to SMG Scale-IV is as under:-

“6. SELECTION PROCESS FOR MMG SCALE-III TO SMG SCALE-IV

All the vacancies in SMG Scale-IV shall be filled up by promotion from MMG Scale-III through Merit Channel only.

- Officers fulfilling the following eligibility criteria shall be eligible to apply:-

i. The candidates who have completed 3 years of service in MMG Scale-III and

ii. have qualified the On-Line Computer Literacy and CBS Awareness Test

iii. They must have secured at least 60% marks in PAFs of each of the preceding 5 years or the period for which the candidate remained in officer cadre, whichever is lower.

- From amongst the applicants, the number of candidates to be called for the group discussion and interview in order of inter-se seniority shall be determined in terms of the procedure given in Clause-11 'Number of candidates to be considered for promotion'.

- The selection of candidates shall be done on the basis of the following parameters:-

APAR	Interview	GD	TOTAL
50	30	200	100

Performance (50 Marks): The marks for the performance of the 5 preceding years would be reckoned. The maximum marks for PAF provided in the promotion policy multiplied by total marks obtained in the 5 relevant PAFs divided by 500.

The weightage for PAF parameters shall be assigned as illustrated in Para 4(a) herein before.

GROUP DISCUSSION (20 MARKS): All the eligible shortlisted applicants, will have to appear for Group Discussion and for interview.

INTERVIEW (30 Marks): Minimum qualifying marks in the Interview shall be 30%.”

5. Therefore, there are considerable changes in 2012 statutory policy and 2013 statutory policy with respect to promotion from MMG Scale-III to SMG Scale-IV being changes of PAF to APAR marks from 60 to 50, interview marks from 60 to 30 and total marks from 150 to 100, with marks of group discussion remaining the same at 20.

6. The grievance of the petitioner is that once the April, 2013 policy came into existence, and the circular no. 88 of May, 2012 was quashed, recruitments after the April, 2013 have to be by means of conducting of fresh selections in terms of new para-6 of the April, 2013 promotion policy, however, it is stated in the writ petition that instead of conducting fresh selections as per the April, 2013 policy, the respondent is using the panel created for the April 2012 policy as modified to the 8.5.2012 circular. It is argued that this is illegal because once the April, 2013 policy comes into existence, the vacancies have to be considered as of April, 2013 with the circular no. 88 standing quashed i.e fresh selections have to take place for promotion from MMG Scale-III to SMG Scale-IV for the

vacancies as of April, 2013 taking that no promotions should take place pursuant to policy of April 2012 as modified by circular no. 88.

7. Learned counsel appearing for the respondent states that whatever promotions have been made by the respondent from MMG Scale-III to SMG Scale-IV, are by conducting fresh selections in terms of the criteria laid down for the policy of April, 2013, and it is not as if that the panel of 2012 has been considered. Of course, the old panel of 2012 could not have been considered because admittedly, the criteria for promotion from MMG Scale-III to SMG Scale-IV has completely changed.

8. Leaned counsel for the respondent accordingly, in terms of his statement will take instructions and bring an affidavit in Court on the next date of hearing that no promotion from MMG Scale-III to SMG Scale-IV has been made after the statutory policy dated 1.4.2013 came into operation for the vacancies existing on 1.4.2013 except by conducting fresh selections which meet the fresh criteria in terms of the statutory policy dated 1.4.2013.

List on 28th May, 2013.”

4. The respondent-bank has filed its affidavit pursuant to the order dated 10.5.2013. This affidavit shows that after the new policy of April 2013 came into existence, the respondent-bank has prepared a fresh panel in terms of the policy of April 2013, and has not used any other existing panel including a panel which was created in terms of the circular no.88 of 8-5-2012.

5. In view of the above, nothing survives in this writ petition and which is therefore dismissed. Since the writ petition is dismissed, application moved for withdrawal of the writ petition is also dismissed in view of the fact that the limited issue stands decided against the petitioners. It is however clarified that

if according to the petitioners they have certain rights pursuant
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to the policy of April 2013, and the petitioners seek their rights in terms of the policy of April 2013, then to that limited extent petitioners may file appropriate independent proceedings.

6. Dismissed with the aforesaid observations. Parties are left to bear their own costs. All pending applications stand disposed of accordingly.

VALMIKI J. MEHTA, J

AUGUST 14, 2013/ib