

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 19465 of 1999

ORDER:

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The present writ petition came to be filed seeking issuance of writ of mandamus for the following reliefs.

1) to declare the impugned order No.FPF/CC/1130 dated 16.08.1999 issued by the General Manager of Sri Satavahana Grameena Bank, Head Office, Karimnagar,

(2) to declare the action of the first respondent in not revising the seniority of Cashier-cum-Clerks, in terms of regulations of the Bank; consequently declare the seniority indicated in Circular No.PER/07/1990-91, dated 25.05.1990, as illegal and arbitrary; and consequently set aside the same; and

3) to direct the first respondent to treat the petitioner as Senior to the unofficial respondents in the cadre of Clerk-cum-Cashier duly preparing the fresh seniority list in terms of 13 (1) (a) and 13 (3) of SSGB Employees Service Regulations and promote him as Field Supervisor.

The averments in the affidavit filed in support of the writ petition are as under:

Recruitment process which was initiated in Sri Sathavahana Grameena Bank (for short "the bank") started in Karimnagar District in the year 1983, by requisitioning the names of the candidates from the District Employment Exchange. Oral and written test were conducted in the year 1983 itself for two

branches located in the District. Basing on the need and necessity, the Bank filled up the post of Clerk-cum-Cashiers out of selected candidates. The petitioner herein was appointed as Clerk-cum-Cashier on 26.04.1984 and the un-officials respondent herein were also appointed to the said post on different dates, but the process of selection was at the same time. It is further averred that the services of the un-officials respondents were confirmed subsequent to the petitioner. Basing on the need and necessity and also availability of the candidates selected by the committee, order of appointments were issued. Certain posts of Field Supervisors were created by the Bank for which regular selection was held. The petitioner herein was selected and promoted as Field Supervisor in the month of March, 1991. One of the un-successful candidate approached this Court by way of filing a writ petition. This Court quashed all the promotions on the ground that, as per the Regulations the promoted posted etc. have to be filled up basing on seniority-cum-merit but not on merit-cum-seniority. In view of the above, the first respondent conducted fresh selection to the post of Field Supervisors and issued a circular dated 11.03.1999, wherein the un-official respondents were promoted as Field Supervisors. No rank card or list of ranking was furnished at the time of appointment, but since the petitioner was appointed prior to the un-official respondents, he claims to be treated as a senior to the un-official respondents. Relying upon Regulation 13 (3) of Sathavahana Grameena Bank Employees Service Regulations, it is contended that irrespective of the dates of appointment the un-official respondents are to be placed below all the employees including the petitioner and they have to be treated as juniors to the petitioner. It is also the case of the petitioner that the seniority

list which was communicated was only a provisional one and since the same has not been modified in terms of Regulation 13 of the Bank, the entire process of promotion is illegal. Challenging the same the present writ petition came to be filed.

Respondent Nos.2 and 3 filed their counter stating that they along with others were appointed as Clerk-cum-Cashiers on 26.04.1984; that they got more marks than the petitioner in the said selection and as such they are entitled to be treated as seniors to the petitioner herein by virtue of Regulation 13 (2) of Staff Service Regulations, 1983 of Sri Satavahana Grameena Bank. It is further stated that the date of confirmation were beyond the period of one year, as the strike period from 22.04.1985 to 02.05.1985 was treated as extraordinary leave. The averments in the counter would show that though the petitioner was a party to the proceedings in the earlier round of litigation, he never questioned the order passed by a Full Bench of this Court in Writ Appeal Nos. 119, 120, 121, 122, 123 and 124 of 1996 and as such he is estopped from questioning the same. It is stated that since the promotions were made in view of the orders passed by a Full Bench of this Court in the above writ appeals which have become final the question of interfering with the said process by this Court, would not arise.

A perusal of the record would show that a Batch of writ petitions were filed by the employees of different Grameena Banks in the State of Andhra Pradesh. The issue involved in those writ petitions relate to validity of promotions made to the cadre of Area Managers, Branch Managers, Field Supervisors and Senior Clerk-cum-Cashiers in various Grameena Banks in the State of Andhra Pradesh. Following the judgment of a

Division Bench of this Court in ***K.V.Prasanna Kumar vs. Rayalaseema Grameena Bank***^[1], a learned Single Judge allowed the writ petitions and set-aside the promotions. The Banks were directed to make fresh selections on the basis of seniority-cum-merit within the time limit prescribed in the judgment. Challenging the same, some of the Banks preferred writ appeals. The writ petitioner herein was a party to the proceedings in Writ Appeal No. 122 of 1996. At the time of admission, the Division Bench of this Court felt that the decision in ***Prasanna Kumar's case*** (1 supra) requires reconsideration in view of certain government orders and statutory rules which were not placed before the Bench which decided ***Prasanna Kumar's case*** (1 supra) and hence directed the writ appeals to be placed before a Full Bench. Meanwhile, the judgment in ***Prasanna Kumar's case*** (1 supra) was upheld by the Apex Court. Having regard to the judgment of the Apex Court in ***Prasanna Kumar's case*** (1 supra), the Full Bench of this Court, after referring to rival arguments advanced by both the parties, held as under:

“It is also worthy of note that the Supreme Court took into account the Appointment and Promotion Rules framed under the Regional Rural Banks Act. With the framing of such Rules, the circular of NABARD cannot have any sanctity except insofar as it fills up any gaps. We have, therefore, no hesitation in rejecting the contention of the learned counsel Sri A.Krishnamurthy.

It is pointed out by some of the counsel for the appellants that most of the employees who were promoted about seven or eight years back are continued and even if the revised criterion is applied as per the decision of the Supreme Court, there is likelihood of many of them getting reselection. Having due regard to this submission and in view of the fact that the reversion of the promoted respondents at this juncture is likely to dislocate the work in the Banks while at the same time not resulting in any positive advantage to the

writ petitioners, we are of the view that till the fresh selections are made, status-quo as to the positions held by the promoted officers who are either appellants or respondents in this batch of cases shall be maintained. We further direct that the process of fresh selections shall be completed in accordance with the law laid down by the Supreme Court within a period of four months from the date of receipt of a copy of the judgment.”

A perusal of the record would show that the petitioner was a party to the proceedings and he was shown as respondent No.2 in Writ Appeal No.122 of 1996 filed by M/s. Sri Satavahana Grameena Bank. The order clearly spells out that fresh selection process was directed to be completed in accordance with law laid down by the Supreme Court within a period of four months from the date of receipt of a copy of the judgment. In view of the Full Bench judgment of this Court, all the Grameena Banks in the State, who were parties to the writ appeals, completed the process of selection within the time stipulated. In the said selection process, the un-official respondents were promoted denying the benefit to the writ petitioner. The said process of selection is challenged in this writ petition on the ground that it is violative of Regulation 13 (3) of the Sri Sathavahana Grameena Bank Employees Service Regulations. But fact remains that the said selection process was made pursuant to the judgment of the Apex Court in **Prasanna Kumar** (1 supra) and also the judgment of the Full Bench of this Court in Writ Appeal Nos.685 of 1995 and Batch. If really, the petitioner was aggrieved by the process and the orders passed by this Court, he should have challenged the same before the Hon’ble Supreme Court. Having accepted the said judgment, he is now estopped from questioning the entire selection process made pursuant to the judgment of this Court, to which he was a party.

For the aforesaid reasons, this Court is of the view that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

13.10.2015
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