

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

% *Date of Decision : May 21, 2015*

+ **LPA 285/2015**

D.K.SOOD & ANR.Appellants

Represented by: Mr.Ashok Bhalla, Advocate

versus

PUNJAB NATIONAL BANKRespondent

Represented by: Mr.Jagat Arora, Advocate

LPA 289/2015

K.K.MALHOTRA & ORS.Appellants

Represented by: Mr.Ashok Bhalla, Advocate

versus

PUNJAB NATIONAL BANKRespondent

Represented by: Mr.Jagat Arora, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J.

1. By a common order dated March 18, 2015 four writ petitions, two of which were filed by the appellants have been dismissed by the learned Single Judge.
2. The appellants are employees of Punjab National Bank and were in the clerical cadre. All of them became eligible to be promoted to the Officer Cadre in JMG Scale I and as a matter of fact were found suitable

to be promoted to the officer cadre. The grievance of the appellants before the learned Single Judge was to a policy decision notified on August 02, 2014 issuing revised guidelines for placement of candidates promoted from the clerical cadre to the officers' cadre in JMG Scale-I.

3. On July 22, 2014 a circle allocation policy was notified containing guidelines for placement of officers in JMG Scale-I on promotion from clerical cadre and relevant parts thereof read as under:-

<i>GUIDELINES FOR PLACEMENT OF OFFICERS IN JMG SCALE-I ON PROMOTION FROM CLERICAL CADRE (SELECTIVITY CHANNEL 2014)</i>		
<i>1.</i>	<i>Guidelines for allocation</i>	<i>All the candidates approved for promotion are required to give options for 10 Circles in HRMS, in line with the following placement guidelines, in order of preference for allocation.</i> <i>Allocation of candidates shall be done in order of their merit. The options exercised by the candidates higher in the merit shall be first exhausted before considering the options exercised by the next candidate in merit.</i> <i>The following placement guidelines should be kept in view while exercising options:-</i>
	<i>a)</i>	<i>x x x</i>
	<i>b)</i>	<i>x x x</i>
	<i>c)</i>	<i>x x x</i>
	<i>d) Exceptions</i>	<i>A. The following category of candidates shall be considered as special category candidates:-</i> <i>i. Physically Handicapped candidates.</i> <i>ii. Candidates having mentally retarded children.</i> <i>iii. Candidates of more than 57 years of age as on 30.6.2014.</i>

		<i>B. Such candidates, in order of preference as above may be retained in their parent Circles, subject to availability of vacancy(ies), before effecting inter-circle transfers. Such candidates may therefore submit their parent circle as first option.</i> <i>C. Special category candidates may submit any other Circle as first option which will be considered subject to availability of vacancy(ies), before effecting inter-circle transfers. In case no vacancy is left for the Circle opted by the special category candidates, they will be retained in parent Circles.</i> <i>D. The special category candidates of the Circles within the jurisdiction of FGMO Delhi and HO Divisions shall however be allocated to any Circle within the jurisdiction of FGMO Delhi/HO Divisions subject to availability of vacancies. Such candidates may submit Delhi/Noida as first option.</i>
2.		x x x
3.		x x x

4. We note that vide clause (d) of Column 1 of the policy an exception was carved out concerning allocation of promoted personnel, who would otherwise on promotion be posted keeping in view their order of merit and option in the 10 circles of the bank. Of the three exceptions carved out, one was that if the candidate had crossed the age of 57 years as on June 30, 2014, the candidate would have a right to be retained in the parent circle but subject to availability of a vacancy.

5. The appellants had crossed the age of 57 years as on June 30, 2014.

6. On August 02, 2014 the policy was changed and the revised guidelines issued read as under:-

REVISED GUIDELINES FOR PLACEMENT OF OFFICERS IN JMG SCALE-I ON PROMOTION FROM CLERICAL CADRE (SELECTIVITY CHANNEL 2014)		
1.	Guidelines for allocation	All the candidates approved for promotion are required to give options for 10 Circles in HRMS, in line with the following placement guidelines, in order of preference for allocation. Allocation of candidates shall be done in order of their merit. The options exercised by the candidates higher in the merit shall be first exhausted before considering the options exercised by the next candidate in merit. The following placement guidelines should be kept in view while exercising options:-
	a)	x x x
	b)	x x x
	c)	x x x
	d) Exceptions	A. The following category of candidates shall be considered as special category candidates:- i. Physically Handicapped candidates. ii. Candidates having mentally retarded children. B. Such candidates, in order of preference as above may be retained in their parent Circles, subject to availability of vacancy(ies), before effecting inter-circle transfers. Such candidates may therefore submit their parent circle as first option. C. Special category candidates may

		<i>submit any other Circle as first option which will be considered subject to availability of vacancy(ies), before effecting inter-circle transfers. In case no vacancy is left for the Circle opted by the special category candidates, they will be retained in parent Circles.</i> <i>D. The special category candidates of the Circles within the jurisdiction of FGMO Delhi and HO Divisions shall however be allocated to any Circle within the jurisdiction of FGMO Delhi/HO Divisions subject to availability of vacancies. Such candidates may submit Delhi/Noida as first option.</i>
2.		x x x
3.		x x x

7. It is to be noted that the revised policy excluded from the exceptions the benefit conferred by the earlier policy of candidates who had crossed the age of 57 years as on June 30, 2014.

8. The promotions were made after the revised guidelines were issued and the grievance of the appellants is that the respondent did so under pressure from a few persons.

9. The prayer before the learned Single Judge was to quash the revised guidelines dated August 02, 2014 in so far they excluded candidates having crossed the age of 57 years on June 30, 2014 from the exception clause.

10. While dismissing the writ petitions the learned Single Judge has held that on matters concerning administrative decisions the bank would be the best Judge to determine how its branches would be administered.

11. The grievance in the appeals continues to be that the bank acted at the behest of some persons.

12. The argument would therefore be that the decision lacks bona-fide and under the cover of a policy decision the bank is colourably exercising its power.

13. The argument of the appellants overlooks the fact that along with the counter affidavit filed the bank had referred to a settlement between the management and the representatives of the employees concerning how personnel in the clerical cadre would be promoted in the officers' cadre in JMG Scale-I and in what manner they would be allocated in the 10 circles of the bank. The said settlement did not envisage any right to be created in favour of employees in the clerical cadre who had crossed the age of 57 years. Being of the opinion that such clerical cadre employees who had crossed the age of 57 years and had only three years' service left because age of retirement was 60 years may face a domestic problem if deputed outside their circle the bank took a bona-fide decision to carve out an exception in the allocation policy for this category of employees, but immediately was confronted by the employees union which wrote a letter on July 23, 2014 raising an objection to the guidelines notified on July 22, 2014. This became the reason for the management of the bank to delete the beneficial exemption for employees who had crossed 57 years as of June 30, 2014.

14. It is trite that settlements arrived at between the representatives of the employees and the management would bind both and if either wants to terminate the settlement the procedure has to be followed. If the settlement between the representatives of the employees of the bank and the management of the bank did not envisage any exemption and upon the management of the bank carving out an exemption but being met with an opposition from the representatives of the employees resulting in the

management withdrawing the exemption, we see no colourable exercise of power.

15. For the facts noted above we are satisfied that the respondent/bank acted fairly and as per law. It is obviously a case where the representative decision taken by the Union of Bank Employees was that irrespective of the age all clerical cadre employees who were promoted in the officers' cadre should be subjected to a uniform criteria of posting based on their merit position cum option without any exception carved out for employees who had crossed 57 years of age. The bank only honoured the representative decision taken by the representatives of the employees.

16. The appeals are dismissed but without any orders as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

MAY 21, 2015
mamta