

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

335

CWP-5899 of 1993

Decided on : 28.11.2017

Ramesh Goyal

... Petitioner

Versus

State Bank of Patiala and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present : Mr.D.S.Rawat, Advocate
for the petitioner.
Mr.Samrat Ahuja, Advocate for the respondent-Bank.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner prayed that:-

- (i) A writ of certiorari, mandamus or any other writ, order or direction, as this Hon'ble Court deems fit and proper in the facts and circumstances of the case, may kindly be issued.
- (a) quashing the selection list, Annexure P-4, being illegal, for the reasons mentioned in the petition and in any case quashing the selection of respondents Nos.12 to 15, who could not have been included in the list of candidates to be called for the interview, being over and above four times the number of vacancies prescribed under the rule, from Group 'D' from clerical to JMGS-I;
- (b) quashing the selection list, Annexure P-4, by holding that the 33% marks for the interview are against the law laid down by the Hon'ble Supreme Court and is arbitrary and discriminatory as it can lead to pick and choose method being adopted by the official respondents;
- (c) Or in the alternative declaring that the petitioner, who

is highly qualified, well experienced and senior could not be ignored and he is deemed to be selected.

The respondents have evolved promotion policy with reference to agreement between the Associate Banks (Excluding State bank of Saurashtra) of State Bank of India and the State Sector Bank Employees' Association (Annexure P-1). There is a provision for promotion to the post of Junior Management Grade-1 among group A, B and C. The present petition is relating to promotion under Group D (Additional Promotion) which reads as under:-

“Group 'D' (Additional Promotion):

On each occasion when promotions under this Agreement are made, in addition to the vacancies filled in or proposed to be filled in under Group 'A', 'B' and 'C', further promotions between 10 and 15% of the total vacancies notified on that occasion depending on the availability of suitable candidates shall be affected. Promotions will take place under this group by interview only for which eligible employees will be called on the basis of seniority in service. For eligibility under this Group, an employee:-

- (a) Should not be more than 55 years of age;
- (b) Should have put in a minimum of 17 years of service; if necessary, in order to get the required number of candidates i.e. four times the number of vacancies, the minimum service limit under this group may be marginally reduced from 17 years to the extent required but not less than 15 years, and
- (c) a period of two years should have elapsed from the time of his previous appearance, if any, for selection under Group 'A'.

Such eligible employees equal to four times the number of

vacancies from out of those who have given consent letters will be called for interview and from amongst those called, all efforts will be made to fill up the notified vacancies. The chances for promotions under this group will be restricted to two times.”

Further the same was reiterated on 17.2.1992 (Annexure P-2) extract of policy reads as under:-

“3. With a view to filling up the vacancies that may be estimated based on review or otherwise employees four times the number of vacancies out of those who will give consent letter, will be called to appear in the interview in order of their seniority. The minimum service limit of 17 years may be reduced by the Bank to the extent required but not less than 15 years in case the employees with 17 years' service equal to four times the number of vacancies are not available. The letters of consent from employees with 15 years service may also therefore, be forwarded to us. In the case of SC/ST employees where adequate number of these employees with 17 years of 15 years of service is not available in relation to the vacancies reserved for them, the service norms in their case may be relaxed by 2 years. As such, consent letters in respect of SC/ST employees with 13 years of service may also be forwarded to us”

The respondents proceeded to fill up 13 vacancies of JMGS-

I. As per promotion policy, four times were to be called for interview for the purpose of filling up 13 vacancies of JMGS-I. The petitioner's name was not considered as he was ineligible. Thus he has presented this writ petition challenging the selection of the respondents No.12 to 15.

Learned counsel for the petitioner submitted that respondents

were bound by Annexures P-1 and P-2, promotion policy. As per the

policy, respondents were required to invite four times the number of vacancies i.e. 52 persons should have been called to fill up of 13 persons by JMGS-I. On the other hand, they have invited 68 persons beyond the four times and contrary to promotion policy. Respondents No.12 to 15 are between 52 to 68. Therefore, consideration of their name for promotion to the post of JMGS-I is contrary to the promotion policy (Annexure P-1 and P-2). Hence, selection and promotion of the respondents No.12 to 15 are liable to be set aside.

Per contra, learned counsel for the respondents while resisting the claim of the petitioner submitted that the petitioner was not eligible even assuming that if respondents No.12 to 15 selection and promotion are set aside, even otherwise petitioner could not be fit into the promotion to the post of JMGS-I having regard the merit and seniority. In other words, it was submitted that they were three persons who were senior to the petitioner within the zone of consideration who have not been promoted. Therefore, no interference is called for. It was further submitted that insofar as Sh.Raj Kumar Garg is concerned, the petitioner has made allegation that Sh. Raj Kumar Garg was not called for interview. However, he has been promoted. On this issue, respondents have stated that on earlier, Sh.Raj Kumar Garg name was over looked and later on, he has been called for interview. Therefore, there is no infirmity in promoting Sh.Raj Kumar Garg.

I have heard learned counsel for the parties.

Crux of the matter in the present petition is whether the selection and promotion of respondents No.12 to 15 to the post of JMGS-

I is in accordance with the promotion policy (Annexures P-1 and P-2) or not and further Sh.Raj Kumar Garg, promotion to the post of JMGS-I is in order or not.

Undisputedly, the respondents have violated the policy as they invited more than four times candidates for interview with reference vacancies notified. 13 vacancies were notified for which 52 persons should have been called for interview (four times) whereas 68 persons have been called for. The same is disputed to the extent that 66 of them have been called for. Respondents No.12 to 15 would fall in between 52 to 66. Therefore, inviting interview of candidates beyond 52 persons is contrary to promotion policy (Annexure P-1 and P-2). Therefore, selection and promotion of respondents No.12 to 15 are liable to be set aside. Accordingly, set aside. Insofar as the selection and appointment of Sh.Raj Kumar Garg is concerned, it is undisputed that he was not called for interview. Thereafter, it seems that he has been called for interview and his name has been inserted at serial No.46A. Perusal of the original statement of those persons who have appeared for interview and their marks read with serial No.46A which is mentioned between serial Nos.46 and 47 and after serial No.65 at both the places, the same has not been authenticated by the competent authority by putting signature and date. Therefore, it is evident that there is temper of record not even mentioned the date below the signature made by each of the interview committee members whereas, learned counsel for the respondent-bank submitted that minutes of the meeting of the interview committee held at Patiala on 9/10.11.1992 read with agenda, it is evident

that it was held on 9/10.11.1992. Perusal of these documents, there is no mention that by oversight name of Sh.Raj Kumar Garg was not called for interview and he was called for interview and not even a note.

In view of these facts and circumstances, the petition stands allowed and the concerned bank is hereby directed to reconsider the petitioner's claim restricting the interview four times as per the policy (Annexure P-1 and P-2) to the extent calling 52 persons for interview for the 13 vacancies of JMGS-I. If the petitioner is otherwise eligible, he be promoted from the date of promotion of others to the post of JMGS-I. Further consequential monetary benefits be extended to the petitioner. Since matter is of the year 1993, both petitioner and contesting respondents must have retired from service. If petitioner is promoted and extended monetary benefits in that event contesting respondents promotion be adjusted for future dates if it is permissible.

The above said exercise shall be completed within four months from the date of receipt of the order.

[P.B. Bajanthri]
Judge

28.11.2017
sd

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No