

14.01.2025

rpan/04-05

MAT 1884 of 2024

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IA No.: CAN 2 of 2024

Ali Mukhopadhyay (Ganguly) & Others

– *Versus* –

Arijit Biswas & Others

With

MAT 1846 of 2024

+

IA No.: CAN 1 of 2024

Paschim Banga Gramin Bank & Others

– *Versus* –

Arijit Biswas & Others

Mr. Soumya Majumder, Ld. Sr. Adv.,

Ms. Surasri Baidya

... for the Appellants in MAT 1884 of 2024

&

Respondent nos.2 to 5 in MAT 1846 of 2024.

Mr. Baidurya Ghosal,

Mr. Sourav Mukherjee

Mr. Saikat Mukherjee,

Ms. Anupama Biswas,

... for the Appellants in MAT 1846 of 2024

&

Respondent Nos.2-7in MAT 1884 of 2024/Bank.

Mr. Indranath Mitra,

Mr. Siddhartha Ruj

... for the Writ Petitioner/

Respondent No.1 (in both the appeals).

The appeal, being MAT 1884 of 2024 has been preferred challenging an order dated 1st August, 2024 passed by the learned single Judge in the writ petition, being WPA 16267 of 2024 filed by the private respondent nos.7 to 10 in the said writ petition. The other appeal, being MAT 1846 of 2024 has been preferred by the Paschim Banga Gramin Bank (hereinafter referred to as

the said bank) and its functionaries, being the respondent nos.1 to 6 in the writ petition. As in both the appeals the same order has been challenged, the appeals are taken up for analogous hearing.

Records reveal that the said bank issued a notification dated 19th December, 2023 for filling up of vacancies in different category of posts including the post of Officer Middle Management (Scale – IV). In response thereto, the writ petitioner, namely, Arijit Biswas (hereinafter referred to as Arijit) as well as the appellants in MAT 1884 of 2024 applied. However, as in the order of promotion dated 1st April, 2024, the name of Arijit did not feature, he was constrained to prefer the writ petition *inter alia* praying for setting aside the said memo and for issuance of necessary directions upon the said bank not to pay and release the salary of the respondent nos. 7, 8, 9, and 10 in the writ petition commensurate to the post of Officer Middle Management (Scale-IV).

Upon contested hearing, learned single Judge was pleased to set aside the notification dated 19th December, 2023 in respect of the post at serial no.5, i.e., the post of Officer Middle Management (Scale-IV) directing that the said bank shall make fresh publication and undertake the exercise of promotion in respect of the said post upon observing *inter alia* that the notification dated 19th December, 2023 is in variance with the Regional Rural Banks (Appointment of Officers and Employees) Rules, 2017 (in short, the said Rules) and that the qualifying

years of service has to be on the date or a date prior to the advertisement being published.

Mr. Majumder, learned senior advocate appearing for the appellants in MAT 1884 of 2024 and the respondent nos. 2 to 5 in MAT 1846 of 2024 submits that though Arijit had completed four years of service in the feeder post, he was suspended on 20th December, 2023 and a charge sheet was issued against him on 20th March, 2024. Furthermore, Arijit's name did not feature in the list of candidates disclosed in the order of promotion dated 1st April, 2024 as he was an unsuccessful candidate. In the said conspectus, Arijit did not come within the zone of consideration and as such, he could not have challenged the promotion for the post of Officer Middle Management (Scale-III) to the post of Officer Middle Management (Scale-IV).

He argues that as per Rule 5(5) of the said Rules the minimum years of service for promotion to Group - 'A' post is four years and the appellants had already become eligible for the said post before 1st April, 2024 which was the cut-off date for the purpose of eligibility criteria as per the notification dated 19th December, 2023.

Mr. Mitra, learned advocate appearing for Arijit denies and disputes the contention of Mr. Majumder and argues that Arijit fulfilled the eligibility within the time as specified in the notification dated 19th December, 2023. In the promotion list, the bank did not disclose the marks obtained by the appellants in MAT 1884 of 2024. The

promotion process had been conducted in derogation to the said Rules, particularly, Rule 5(5) of the said Rules. As per the said Rules, the date for fulfillment of eligibility criteria would be on the date or a date prior to the date of issuance of the notification dated 19th December, 2023.

According to him, upon a conjoined reading of the said notification and Rule 5(5), the learned single Judge rightly arrived at a finding that the qualifying service for being eligible has to be as on the 1st April of the particular year in which the vacancies had arisen. From the first paragraph of the said notification dated 19th December, 2023 it would be explicit that the vacancies occurred in the year 2023 and the private respondent nos. 7 to 10 in the said writ petition as on 1st April, 2023 did not have the qualifying years of service.

Mr. Ghosal, learned advocate appearing for the bank and its functionaries being the appellants in MAT 1846 of 2024 submits that there had been no infirmity in the promotion process. The same had been conducted strictly in consonance with the said Rules. Arijit secured lesser marks than the candidates, whose names feature in the promotion order dated 1st April, 2024. The learned single Judge misinterpreted the provisions of Rule 5(5) of the said Rules and incorrectly held that the cut-off date for acquiring qualifying service would be 1st April, 2023.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Rule 5(5) of the said Rules runs as follows:

‘The minimum years of service for promotion to the Group ‘A’ posts specified in column (3), against serial numbers 1, 2, 3, 4 and 5 of the First Schedule and Group ‘B’ posts specified in column (3) against serial number 6, of the First Schedule shall be reckoned as on the 1st day of April of the year in which the vacancy is expected to arise or has actually arisen.’

In the notification dated 19th December, 2023 it has been categorically stated in the second paragraph that the vacancies through promotion would be filled up as per the relevant provision of the said Rules and its subsequent amendment thereof. In the said notification it has also been recorded that *‘The cutoff date of the eligible criteria would be 1st April, 2024.’*

The contents of the said Rules need to be considered together and not in isolation. A particular clause cannot be taken up and highlighted. A perusal of Rule 5(5) of the said Rule would reveal that the promotion process is required to be for the vacancies *‘expected to arise or has actually arisen’*. From the notification dated 19th December, 2023 it would be explicit that the said bank was under an obligation to conduct the promotion process in strict consonance with the said Rules. It was also stated therein that the cut-off date of the eligibility criteria would be 1st April, 2024. In view thereof, a conjoined reading of the provisions of Rule 5(5) of the said Rules and the notification does not in any manner support the finding of

the learned single Judge that the promotion ought to have been restricted to only those persons who acquired the eligibility criteria on the first day of April of the year of notification.

In view thereof, the finding of the learned single Judge that as per Rule 5(5) the vacancies shall be reckoned as on 1st day of April of the year in which the advertisement was published, is not acceptable to us and on the rudiments of such finding the promotion process pertaining to the post of Officer Middle Management (Scale-IV) could not have been set aside and quashed by the learned single Judge *moreso* at the instance of the Arijit, who was an unsuccessful candidate.

For the reasons discussed above, the order impugned in both the appeals is set aside.

With the above observations and directions, the appeals along with the connected applications are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)