IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 714 OF 2021

Lalit C. Joshi)
Age: 59 years, Occupation : Service,)
Residing at : 7/10, Arya Nagar,)
P.O. Tulsiwadi, Tardeo, Mumbai – 400 034) … Petitioner

Versus

1 The Chairman & Managing Director)
Bank of Baroda,)
Having Head Office at BCC,)
Bandra Kurla Complex, Bandra (East))
Mumbai – 400 051)

2 The Executive Director (HRM),)
Bank of Baroda,)
Having Head Office at BCC,)
Bandra- Kurla Complex, Bandra (East),)
Mumbai – 400 051)

3 The General Manager, (HRM))
HRM Department,)
Bank of Baroda,)
Having office at Baroda Bhavan)
26, Alakapuri Road, Vadodara,)
Gujarat – 390 007) … Respondents

WITH
INTERIM APPLICATION NO. 1659 OF 2025
IN
WRIT PETITION NO. 714 OF 2021

Lalit C. Joshi)
Age: 64 years, Occupation : Retired,)
Residing at : 7/10, Arya Nagar,)
P.O. Tulsiwadi, Tardeo, Mumbai – 400 034) … Applicant

Versus

1	The Chairman & Managing Director Bank of Baroda, Having Head Office at BCC, Bandra Kurla Complex, Bandra (East) Mumbai – 400 051	)))))	
2	The Executive Director (HRM), Bank of Baroda, Having Head Office at BCC, Bandra-Kurla Complex, Bandra (East), Mumbai – 400 051	)))))	
3	The General Manager, (HRM) HRM Department, Bank of Baroda, Having office at Baroda Bhavan 26, Alakapuri Road, Vadodara, Gujarat – 390 007	))))))	… Respondents

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Mr.Sanjeev Deshpande, Senior Advocate a/w Mr. Shreyash Deshpande (through video conferencing), Mr. Navin Arora for the Petitioner.

Mr.Vishal Talsania for the Respondents.

CORAM : RAVINDRA V. GHUGE
&
GAUTAM A. ANKHAD, JJ.

RESERVED ON : 4th SEPTEMBER, 2025

PRONOUNCED ON : 30th SEPTEMBER, 2025

JUDGMENT :- (PER : RAVINDRA V. GHUGE, J.)

1. This Petition was admitted by an order dated 3rd September, 2020 and the hearing was expedited. We have heard the learned Senior Advocate for the Petitioner and the learned Advocate

for the Respondents, at length. We have perused the record available before us, in the light of their submissions.

FACTUAL MATRIX

2. The Petitioner joined the Dena Bank on 6th July, 1983. He carries the qualification of B.A., L.L.B., CAIIB, DIRPM and DICM. From the position of a Clerk, he came to be promoted as an Officer in the Junior Management Grade, Scale-I from 30th August, 1993. A further promotion came his way on 22nd June, 2000 as Manager, Scale-II. On 30th June, 2012, he was promoted to the Middle Management Grade, Scale-III.

3. The Petitioner submits that above his Scale-III, lay Scale-IV available for the Chief Manager, Scale-V for the Assistant General Manager, Scale-VI for the Deputy General Manager and Scale-VII for the General Manager. Scale-IV and Scale-V mean the 'Senior Manager' and Scale-VI and Scale-VII mean the 'Top Executive'. The mode and manner of selections and promotions to these posts were laid down in the Dena Bank (Officers) Service Regulations, 1979 (hereafter referred to as the '1979 Regulations').

4. By a circular dated 3rd May, 2014, the Dena Bank invited applications for promotion from the Scale-III to the Scale-IV category. The promotional exercise comprised of an Online Test, Computer Test, Group Discussion, Interview and the Annual Performance Appraisal Report (**'APAR'**) for preceding three years i.e. 2012, 2013 and 2014.

5. The Petitioner had participated in the above stated promotional exercise and appeared for the Online Test on 1st June, 2014 and the Computer Test on 7th June, 2014. The Management declared the result by a circular dated 13th June, 2014. The Petitioner's name appeared at Serial No.88. He was invited for the interview vide letter dated 13th June, 2014 and the interviews were held on 19th June, 2014. It is common understanding that the person, who has successfully passed and passed the Written Test and the Computer Test, was invited for the interviews. The final merit list was published by the Bank vide circular dated 30th June, 2014. The Petitioner's name did not appear in the select list.

6. Since the Petitioner was not given any response to his various queries, he moved an application under the Right to

Information Act, 2005 (for short 'RTI Act'), on 15th July 2014, seeking information as regards his exclusion from the final select list. He received a communication on 26th August 2014, which indicated his score, excluding APAR, as under :-

Sr. No	*Test*	*Marks Obtained*
i.	*Online Test*	*18 out of 30*
ii.	*Interview*	*25 out of 30*
iii.	*Group discussion*	*8 out of 10*
Iv	*Computer Literacy test*	*44 out of 50*
	Total	*95 out of 120*

7. Insofar as, the APAR was concerned, the Petitioner received the following scores :-

Sr. No	*Year*	*Marks Obtained*
(i)	*2012*	*55*
(ii)	*2013*	*90*
(iii)	*2014*	*75*

8. The Bank had never communicated the adverse APAR score for 2012, to the Petitioner. This was clearly established in the order of the Hon'ble Supreme Court, to which we would advert to in the later portion of this Judgment. The Petitioner had earlier scored 80 and 75 scores in the APAR for the two years of 2010 and 2011, respectively. The APAR score for the years 2013 and 2014 were communicated to the Petitioner by the Bank. The APAR score for

the year 2012, was suppressed by the Bank.

9. After the Petitioner's representation to the Bank fetched no response, he approached this Court by preferring Writ Petition No.1278 of 2015 on the Original Side. After a hearing at final stage, this Court delivered a Judgment on 5th September, 2018 and dismissed the Writ Petition. The Petitioner approached the Hon'ble Supreme Court in Civil Appeal No.8555 of 2019. By an order dated 13th November 2019, the Hon'ble Supreme Court quashed and set aside the order of the Bombay High Court dated 5th September, 2018 and ordered as under :-

> "*Leave granted.*
>
> *Heard the learned counsel for the parties.*
>
> *Admittedly, the Departmental Promotion Committee (DPC) was convened for the promotion from Scale III to Scale IV. The DPC was held on 30.06.2014, the adverse remarks for the year 2012 was not communicated to the appellant and as such could not have been taken into consideration so as to non-suit the appellant from advancement in Grade IV.*
>
> *The ACR in question was communicated later on to the appellant in the year 2014 after the date of DPC. The appellant made a representation.*
>
> *The High Court passed an interlocutory order dated 02.05.2016 allowing the appellant to make a fresh representation. The fresh representation was rejected on 21.06.2016.*

Be that as it may, we are of the considered opinion that the position of ACR was required to be considered as on 30.06.2014, the date on which DPC met admittedly as on that date adverse remarks for the year 2012 were not communicated to the appellant. Thus, it could not have been taken into consideration subsequent communication and rejection of the Representation cannot come in the way of the appellant. As such, the DPC has to reconsider the matter ignoring the adverse remarks which were not communicated to the appellant as on 30.06.2014.

Let a Review DPC be held ignoring the uncommunicated adverse remarks for 2012 in accordance with law within a period of two months from today and fresh decision be taken and communicate to the appellant as per the existing rules as on the date of the DPC i.e. 30.06.2014.

In view of the above, the impugned Judgment and orders are set aside and the appeal is allowed."

CONTENTIONS OF THE PETITIONER

10. The contention of the Petitioner is that after the Hon'ble Supreme Court directed the Review Departmental Promotion Committee R-DPC) to reconsider the Petitioner's claim for promotion by ignoring the APAR for the year 2012, within a period of two months, the Bank of Baroda came out with a novel idea. The Online Test, Group Discussion and Computer Literacy Test scores were taken into account, as they stood earlier. Shrewdly, the Bank of Baroda conducted a fresh interview and allotted a

miserably low score of 9 out of 30. It is contended that this was deliberately done by selectively resorting to the easiest mode of granting low marks to the Petitioner and destroying his chances of promotion.

11. In the subsequent consideration of the Annual Confidential Report (**'ACR'**), while in service of the Dena Bank, the Petitioner scored 88% in 2015, 86% in 2016 and 90% in 2017. Therefore, he was awarded a Certificate of Appreciation on 19th November, 2019, by the Zonal Manager, Dena Bank, Mumbai, for achieving total advances and deposit targets given to the Branch for September, 2019. However, what is surprising is that, as the Petitioner was not promoted to Scale IV, he was disallowed from participating in the further promotional exercises for the Scales of IV, V and VI.

12. It is noteworthy that before the Hon'ble Supreme Court delivered its order dated 13th November, 2019 (supra), four developments took place. **Firstly**, that the Dena Bank got amalgamated/merged with the Bank of Baroda, on 2nd January, 2019. **Secondly**, the Petitioner was already subjected to the

assessment (APAR) and his ACR indicated superior scores of 88% in 2015, 86% in 2016 and 90% in 2017. **Thirdly**, he received the Certificate of Appreciation on 19th November, 2019. **Fourthly**, he was issued with a letter dated 4th January, 2020, transferring him from the Malabar Hill Branch to the City Bank Office, Mumbai. The subject indicates that he was deployed as Chief Manager, which actually falls in Scale-IV (Page No.185 of the Petition Paper Book).

Yet, by conducting a fresh interview, the Petitioner was awarded a low score, which defeated his right to promotion to Scale IV. On 13th January, 2020, the Petitioner was informed that he was not eligible for promotion to Scale-IV.

13. Considering the above developments, the Petitioner filed a Contempt Petition (C) No.367 of 2020, before the Hon'ble Supreme Court. Vide order dated 4th June, 2020, the Hon'ble Supreme Court disposed off the Contempt Petition with liberty to approach the High Court.

SUBMISSIONS OF THE RESPONDENTS

14. The Respondent/Bank has entered its affidavit in reply dated 13th August, 2020, contending therein, *inter alia,* that the Petition fails for non-joinder of party and that Dena Bank should

have been added as a Respondent. After Dena Bank merged into the Respondent/Bank of Baroda, the consideration of the Petitioner's candidature was not contrary to the directions of the Hon'ble Supreme Court, dated 13th November, 2019. The Bank of Baroda had rightly interviewed the Petitioner only to find out whether he was still capable of performing his duties. The Petitioner participated in the fresh interview on 9th January, 2020, without raising any objection. The APAR of 2012 was kept aside as per the directions of the Hon'ble Supreme Court. The Petitioner was subjected to a fresh interview, which was fair and equitable on the part of the Bank of Baroda to assess whether he had the competency to be promoted. The Bank's circular dated 13th June, 2014 mandated that the Petitioner should score well in the APAR. The Petitioner secured only 9 marks out of 30 in the interview dated 9th January, 2020, which was less than the minimum qualifying marks (50%). It was, therefore, prayed that the Petition be dismissed.

ANALYSIS AND CONCLUSIONS

15. The Respondent/Bank of Baroda has been unable to persuade us to believe that the earlier interview score of the Petitioner, which was 25 out of 30, was a score allocated to him by the Dena Bank and, therefore, BoB was required to assess his

ability, afresh. If at all the Bank of Baroda wanted to assess whether the Petitioner was capable, it could have relied upon his latest ACR scores of 2015, 2016 and 2017, which were 88%, 86% and 90%, respectively. So also, his APAR for the year 2013, 2014 and 2015, were 90%, 75% and 88%, respectively.

16. In our view, after the Hon'ble Supreme Court issued its directions, the case of the Petitioner was to be considered by the 'Review DPC' by excluding the APAR Score of 2012. The Hon'ble Supreme Court never permitted the Bank of Baroda to conduct a fresh interview. This was an act committed by the Bank of Baroda ignoring the directions of the Hon'ble Supreme Court.

17. A further issue crops up, as to why did the Bank of Baroda then conduct only a fresh interview, rather than conducting fresh Online Test, Group Discussion and Computer Literacy Test. The Petitioner had earlier scored 95 out of 120 and his APAR score in 2012 was 55%, was 90% in 2013 and 75% in 2014. So also his score was 88% in 2015, 86% in 2016 and 90% in 2017. The Petitioner was selectively made to undergo the interview in which the Bank of Baroda awarded him 09 marks out of 30, as against the

25 marks that he had scored earlier. In our view, the act of Bank of Baroda in conducting a fresh interview was a result of it's ingenuity, which was not in deference to the directions of the Hon'ble Supreme Court.

18. The Petitioner has now superannuated on 28th February, 2021. Though the communication at Page No.185 issued by the Bank of Baroda on 4th January, 2020, indicates that the Petitioner was handed over the charge of the Chief Manager and the Bank of Baroda had decided to utilize his service as a Chief Manager, he was kept in Scale-III. We cannot ignore that the ACR of the Petitioner showed a consistent upward trend by scoring 86% in 2016 and 90% in 2017. A grave injustice and manifest inconvenience has been caused to the Petitioner by awarding him 9 marks out of 30 in the interview held by the Bank of Baroda, in breach of the directions of the Hon'ble Supreme Court.

19. The question, therefore, is as to how would the High Court react to undo the injustice caused to the Petitioner and to do equitable justice to him.

Apparently, on the basis of his earlier scores in various tests, coupled with the APAR scores of 2013, 2014 and 2015, it was a forgone conclusion that he should have been promoted to Scale-IV as a Chief Manager in 2015. Had this occurred, in the next two to three years, he would have risen to Scale-V considering his ACR for the successive years, when he consistently scored above 88%. He touched 90% in 2017. The Bank of Baroda has not brought anything on record to indicate that his score in the ACR or APAR had fallen in the subsequent years. In fact, considering his ability, he was given the charge of Chief Manager, when he was transferred to the City Branch, Mumbai. He was certified to have no health issues and had no family constraints or problems. In short, he had all the qualities and achievements for growing in the employer’s promotional hierarchy.

20. Having superannuated on 28th February, 2021, the Respondent/Bank of Baroda now asserts that the Petitioner has missed the bus. We are not convinced. If injustice committed by an employer is allowed to perpetuate, causing even further injustice and an irreparable damage, the High Court cannot be a silent spectator. It is expected to exercise its jurisdiction to grant equitable justice to the Petitioner.

21. Taking into account the above discussed various facets and more importantly the continued rising ACR score of the Petitioner, we deem it appropriate to hold that the Petitioner was entitled for Class-IV promotion as in 2015, followed by the promotion to Scale-V, around 2019, keeping in view his consistent high score. The possibility that he could have reached Scale VI in 2021 at the time of his superannuation, cannot be ruled out.

22. We are, therefore, of the considered view, that a golden mean can be arrived at. The record clearly indicates that the Petitioner had every chance to reach Scale VI. Nevertheless, it surely appears that he would have reached Scale V. He was unjustly deprived of Scale IV and thereafter, the BoB took a stand that he was debarred from competing in the promotional exercise for the Scales of IV, V and VI. As such, injustice has been perpetuated repeatedly for almost 6 to 7 years and the Petitioner was stagnated at Scale III.

23. In view of the above, **this Writ Petition is partly allowed**. We direct that the Petitioner would be entitled to Scale IV in 2015 and Scale V in 2018, which would continue till his

superannuation on 28th February, 2021. He would be entitled for the monetary benefits of the respective scales from 2015 and 2018, till his retirement. All such monetary benefits be calculated by the Respondents and the arrears be paid to him with simple interest @ of 5% per annum, within a period of 60 days.

24. His gratuity be calculated as per his last drawn salary, in view of the above directions and the difference of amount shall be paid with the statutory interest @ 10%, within 60 days from today. So also, his pension be recalculated as per the last drawn salary, to be paid with arrears, within a period of 60 days from today.

25. Rule is made partly absolute in the above terms.

26. Pending **Interim Application** would not survive and **stands disposed off**.

(GAUTAM A. ANKHAD, J.) **(RAVINDRA V. GHUGE, J.)**