

Mahadav Kalekar and Others

Vs

State Bank of Hyderabad and Others

Civil Appeal No. 3863 of 1990

(K. Ramaswamy, N. M. Kasliwal JJ)

10.08.1990

JUDGMENT

N. M. KASLIWAL, J. -

1. Special leave granted.

2. Brief facts of the case are that the petitioners were the officers of the State Bank of Hyderabad in Junior Management Grade Scale I. They had joined the bank service as Award Staff on various dates and were as such governed by the settlements/agreements arrived at between the management of the Bank and the recognized Union/Association of the employees of the Bank. In the year 1976 an agreement on Promotion Policy of the Award Staff was entered into between the managements of subsidiary banks (excluding the State Bank of Saurashtra) of State Bank of India and the State Sector Bank Employees' Association in which State Bank of Hyderabad and its employees union were also parties. The said agreement was circulated through circular dated February 2, 1976 as modified subsequently and circulated under Circular No. PER/15 of 1977. Under the said Promotion Policy the number of vacancies in Officers Grade II arising in the year were to be estimated and intimated to the employees' union and steps were required to be taken for filling them within a period of six months from the date of such notification. Such notified vacancies were to be filled up by promotion in the manner stated under each of the groups namely viz. Group 'A', Group 'B' and Group 'C'. The number of vacancies to be filled in under each of the above groups was as under :

#Group 'A' - 55 out of 100 (Seniority Channel)Group 'B' - 25 out of 100 (Merit Channel)Group 'C' - 20 out of 100 (Direct Recruitment)##

The said agreement on Promotion Policy contained detailed eligible conditions and other requirements for effecting the above Promotion Policy.

3. It was also agreed between the management of the associate banks including the State Bank of Hyderabad and the employees union that as per the agreed terms of the Promotion Policy, promotions under Group 'C' should be finalised first, followed by promotions under Group 'A' and 'B' either simultaneously or one after the other in that order. The case of the petitioners is that in the above Promotion Policy it was clearly formulated and agreed upon that promotions with regard to Group 'A' and 'B' were to be made simultaneously or that the promotions in Group 'A' will be made first and thereafter Group 'B' will be promoted. In support of this contention a copy of the letter/circular dated May 5, 1977 recording the proceedings of the meeting dated April 14, 1977 has been annexed as Annexure P-2.

4. The case of the petitioners further is that in pursuance of the abovementioned Promotion Policy, the State Bank of Hyderabad held examinations for both Group 'A' and Group 'B' channels simultaneously on May 30, 1982. The results of Group 'B' were announced on December 15, 1982 but the results of Group 'A' candidates including that of the petitioners were withheld and not declared till August 1, 1984. On the basis of the results of Group 'B' candidates they were given promotions with effect from December 27, 1982. The reason for not declaring the results of Group 'A' candidates was that some of the candidates belonging to SC/ST category had filed a writ petition in the High Court of Andhra Pradesh seeking reservation benefits and the High Court had passed an order restraining the bank from announcing the results of Group 'A' candidates. The said Writ Petition No. 3469 of 1982 was disposed of by the High Court on June 11, 1984 recording the consent of both the parties in terms of a circular dated July 25, 1983. It may be mentioned at this stage that the above writ petition by SC/ST candidates was filed against the bank, however the present petitioners were not impleaded as parties to the said writ petition. After the disposal of the above writ petition on June 18, 1984, the results of Group 'A' candidates including that of the petitioners were announced on August 1, 1984. The grievance of the petitioners is that according to the Promotion Policy the Group 'A' and Group 'B' candidates were to be promoted simultaneously or the promotions in Group 'A' ought to have been made first and thereafter Group 'B' candidates. Their contention is that Group 'B' candidates were given promotions with effect from December 27, 1982 and there was no justification in not giving simultaneous promotion to Group 'A' candidates also from the said date i.e. December 27, 1982. The contention of the petitioners is that there was no fault on the part of the petitioners and they should not be deprived of their right of simultaneous promotion with Group 'B' candidates on a fortuitous circumstance of the stay granted by the High Court in a writ petition filed by the SC/ST candidates against the bank. The petitioners pursued their remedy with the bank by making representations but having not received any response from the bank the petitioners contacted the State Bank of Hyderabad Officers' Association and requested them to take up their cause and pursue the same with the bank. The matter was then pursued by the Association and was discussed at length with the management of the Bank on several occasions till December 24, 1988 but no relief was given to the petitioners. The management neither rejected nor took any decision in favour of the petitioners and when proposed to make further promotions to Middle Management Grade Scale II (the next higher post), the petitioners filed writ petition in the High Court. Learned Single Judge dismissed the writ petition on the ground of laches. On appeal the Division Bench of the High Court took the view that all the persons belonging to the category of the petitioners had been given seniority with effect from August 1, 1984 and as such no case was made out for interference on the writ side. In these circumstances the petitioners have now filed the present appeal.

5. We have heard learned counsel for the petitioners and the counsel for the bank. There is no controversy so far as the facts are concerned. Learned counsel for the bank opposed the appeal on the ground of laches. In our view the claim of the petitioners could not have been thrown out by the High Court merely on the ground of delay. The petitioners were pursuing their remedy and having not received any relief, the matter was taken up by the Association. The petitioners have annexed Annexure P-9 record of discussions held with the representative of Associate Banks Officers' Association Unit (SBH) at Hyderabad on December 1, 1988 in which the issue regarding notional seniority to Group 'A' promotions of 1984 batch was one of the issues to be considered in the aforesaid meeting. Thus it cannot be said that the petitioners were not pursuing their remedy and we are satisfied that the petitioners have explained the period from 1984-89 till the writ petition was filed in the High Court. It may be further noted that the petitioners were not at all at fault and it was only on account of a general stay granted by the High Court in the writ petition filed by the SC/ST

candidates that promotions in entire Group 'A' were stayed. Learned counsel for the bank was unable to satisfy us as to why the petitioners and other officers in Group 'A' should not be granted notional promotion from December 27, 1982 when officers in Group 'B' were granted promotion. The promotion policy placed on record is abundantly clear according to which either the promotions both in Group 'A' and Group 'B' candidates were to be made simultaneously or otherwise the promotions in Group 'A' were to be made first and thereafter Group 'B' candidates as Group 'A' was shown above Group 'B' in the order mentioned in the Promotion Policy.

6. Mr. Ramaswamy appearing on behalf of the Bank submitted that during the intervening period a large number of officers have been promoted and in the absence of such officers being impleaded as parties in the present case, their rights in respect of seniority will be affected. We find no force in the above contention inasmuch as we are not deciding the question of seniority in the present case. The Bank is free to decide the question of seniority inter se between the parties according to law. The only relief to which the petitioners are praying and in our view rightly that they should be granted notional promotion from December 27, 1982 the date from which the promotions were given to officers of Group 'B'. So far as this relief is concerned, we do not find that there is any necessity of impleading any other parties in the case.

7. In the result we allow this appeal, set aside the order of the High Court and direct that all Group 'A' officers including the petitioners of the State Bank of Hyderabad who had appeared in the test held in May 1982 and were declared successful shall be given notional promotion in Grade Scale II from December 27, 1982. After giving the notional promotion to the abovementioned officers, the Bank would be free to decide the question of seniority in accordance with law.

8. In the facts and circumstances of the case there will be no order as to costs.

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