

Jagathigowda, C. N. and Others

Vs

Chairman, Cauvery Gramina Bank, and Others

Civil Appeal No. 9891 of 1996

(S. Saghir Ahmed, Kuldip Singh JJ)

31.07.1996

JUDGMENT

KULDIP SINGH, J. –

1. Special leave granted.

2. A learned Single Judge of the Karnataka High Court allowed the bunch-petitions filed by the respondents and quashed the promotions made by the Cauvery Gramjna Bank, Mysore (the Bank) to the cadre of Senior Managers on the short ground that the guidelines issued to the Rank by the National Bank for Agricultural and Rural Development (the NABARD) were not followed while making the promotions. A Division Bench of the High Court upheld the judgment of the learned Single Judge. The appellants, affected officers have challenged by way of this appeal the correctness of the judgment of the learned Single Judge and that of the Division Bench of the High Court.

3. The Bank was sponsored by the State Bank of Mysore and established in October 1976 under the Regional Rural Banks Act, 1976. The NABARD was established in the year 1982 with a view to look after the agricultural and rural development in the country. The NABARD has been Issuing guidelines from " time to time regarding the conditions of service of the employees of the rural banks in the country. The NABARD issued a circular dated 31-12-1984 providing guidelines for appointments/promotions in the rural banks to the posts of Senior Managers/Area Managers and General Managers. The relevant part of the circular is as under:

"Area Managers/Senior Managers

(a) Source of recruitment.--100% by promotion from amongst officers working in bank. Promotions will be on the basis of seniority-cum- merit. If suitable officers are not available internally, these posts could be filled by taking temporarily officers of the sponsor banks and other banks/ organisations on deputation."

NABARD issued another circular dated 7-4-1986 which clarified the procedure and provided for the standard to be adopted for promotions in the rural banks in India, The relevant part of the circular is as under:

"For effecting promotions, the Board may constitute one or more staff selection committees depending on the scale of the posts for which the candidates are to be interviewed, for the purpose of selecting the employees of the bank for promotion to higher posts. The committee should have at least three Official Directors of the

Board excluding Chairman, of which one Should be from the National Bank or the Reserve Bank and one each from sponsor bank and State Government respectively, Also one member from SC/ST community should be represented in such committees as indicated in our circular letter dated 9-12-1985. The selection of the eligible candidates should be based on performance of respective candidates in the bank. The recommendation of the committees should thereafter have the approval of the Board before effecting promotions."

The Bank issued its own guidelines by the circular dated 17-7-1986 for appointment to the posts of Area Managers/Senior Managers and invited applications from eligible officers to be considered for promotion. The relevant part of the circular is reproduced hereunder:

"The question of strengthening the supervisory support at the field as well as at the Head Office level consequent on growth in the volume of business and geographical coverage has been examined by the Government of India in consultation with the NABARD. They have approved, in principle, creation of the posts of Area Managers/Senior Managers as and when required and justified by the volume and nature of business. In the light of the guidelines issued by the NABARD in this regard, the Board of Directors have approved creation of a few posts of Area Managers and upgradation of a few Managers' posts at Head Office to Senior Managers' posts.

The following guidelines have been laid down for appointment to the posts of Area Managers/Senior Managers:

SOURCE OF RECRUITMENT

- (a) 100% by promotion from amongst the eligible officers;
- (b) Seniority-cum-merit;
- (c) If suitable officers are not available internally, the posts could be filled in by the officers of the sponsor bank.

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All the eligible officers are being advised separately to appear for promotional interview."

The NABARD issued further guidelines on 1-12-1987 and 10-2-1988 but these instructions are not relevant for our purpose because the selection in dispute was held in the year 1986.

4. On 23-7-1986 the Chairman of the Bank constituted a Directors' Committee to consider the cases of eligible officers for promotion in the light of the guidelines issued by the NABARD from time to time. The Committee called for interview 32 officers in accordance with their seniority. In the interview the marks were awarded according to the performance appraisal forms. The officers who obtained 85 marks out of 150, were shortlisted for promotion. As a result of the recommendations of the Directors' Committee the promotion orders were issued on 31-7-1986.

5. The main contention of the appellants before the High Court was that the promotions were made

by the Directors' Committee primarily on the basis of the performance appraisal forms which were regularly maintained in respect of each of the officers working in the Bank. The performance appraisal comprised of matters such as dimension of work, general intelligence, job knowledge, initiative and resourcefulness etc. The performance appraisal forms were regularly maintained in the course of the service and contained a clause regarding overall suitability for promotion.

6. The appellants were promoted on the basis of the service record maintained by the Bank in the form of performance appraisal. Some of the senior officers who were not found suitable on comparative consideration of the performance appraisal, challenged the promotion on the ground that the procedure adopted by the Directors' Committee was in violation of the guidelines issued by the NABARD. The precise ground of challenge was that the promotions were not made on the basis of seniority-cum-merit but by way of selection on the basis of interview held by the Committee. A learned Single Judge quashed the promotions holding that the Bank violated the guidelines of NABARD issued in the year 1984. The learned Judge further held that the April 1986 guidelines were not applicable to promotions in the cadre of Senior Managers, It was not disputed before the learned Judge that the service record of the writ petitioners was adverse.

7. The judgment of the learned Single Judge was upheld by the Division Bench of the High Court. The Division Bench came to the conclusion that the service record of the recent past should have been taken into consideration and in case there was nothing adverse against an officer he could not be denied promotion on the ground that some other officer junior to him was more meritorious. According to the Bench the promotions were made on the basis of selection as much as marks were assigned on the basis of performance appraisal and interview.

8. We have heard learned counsel for the parties at length. We are of the view that the learned Single Judge and also the Division Bench of the High Court fell into patent error in quashing the promotions made by the Bank. The High Court has failed to appreciate that the NABARD circular dated 7-4-1986 clarified the earlier circular and specifically provided that "the selection of the eligible candidates should be based on performance of the respective candidates in the Bank". The guidelines are applicable to all the employees of the rural banks. The High Court fell into patent error in holding that the guidelines were not applicable to the impugned promotions. We are of the view that the cumulative reading of the two guidelines issued by the NABARD (quoted above) clearly shows that the promotions were to be made on the basis of the comparative assessment of the performance appraisal of the officers concerned. This has precisely been done by the Directors' Committee of the Bank. Even otherwise the procedure adopted by the Directors' Committee was just and fair. The instructions of the NABARD being in the nature of guidelines the - promotions made by the Bank cannot be set aside unless the same are arbitrary and unfair. It is settled proposition of law that even while making promotions on the basis of seniority-cum-merit the totality of the service record of the officer concerned has to be taken into consideration. The performance appraisal forms are maintained primarily for the purpose that the same are taken into consideration when the person concerned is considered for promotion to the higher rank. The High Court, with respect, was not justified in holding that the performance appraisal could not be taken into consideration by the Directors' Committee while considering the officers for promotion to the higher rank.

9. We allow the appeal, set aside the judgment of the learned Single Judge and also of the Division Bench of the High Court. We uphold the promotions made by the Bank so far as the appellants and other similarly situated persons are concerned. The writ petitions filed by the respondents before the High Court shall stand dismissed, No costs.