

Durg Rajnandgaon Grameen Bank

Vs

Suresh Kumar Shukla and Others

Civil Appeals Nos. 2617-19 of 1998

(S. C. Agarwal, S. P. Bharucha, B. N. Kirpal JJ)

06.05.1998

ORDER

1. Special leave granted.

2. These appeals have been filed by the Durg Rajnandgaon Grameen Bank (hereinafter referred to as "the appellant-Bank") against the judgment of the High Court of Madhya Pradesh dated 21-3-1997 in Second Appeals Nos. 126 and 127 of 1997 and judgment dated 24-4-1997 in Second Appeal No. 125 of 1997. These second appeals arose out of civil suits filed by Respondents 1 to 5 wherein they had challenged the validity of the selection made on 28-7-1989 by the Selection Committee and the order of promotion dated 29-10-1989 passed on the basis of the said selection whereby, in preference to the respondents, persons junior to them were promoted as Area/Senior Manager in the appellant-Bank. The said suits were dismissed by the trial court but on appeal they were decreed by the appellate court and the second appeals filed by the appellant-Bank have been dismissed summarily by the impugned judgments.

3. Shri S. S. Javeli, the learned Senior Counsel appearing for the appellant-Bank, has pointed out that prior to the filing of the suits, which have given rise to these appeals, the plaintiffs in the said suits had filed a writ petition (MP No. 4235 of 1989) in the High Court of Madhya Pradesh and that the said writ petition was dismissed on merits by the High Court by order dated 20-9-1989 for the reasons given by the High Court in its judgment dated 20-9-1989 dismissing another writ petition (MP No. 4385 of 1989) wherein also the said promotion had been challenged. Shri Javeli has submitted that no appeal was filed against the said order of the High Court dated 20-9-1989 dismissing the writ petition and the said order has become final and that without disclosing this fact about dismissal of the earlier writ petition, the plaintiff-respondents filed the suits which have been decreed by the appellate court and which decrees have been affirmed by the High Court in second appeal. Shri Javeli has pointed out that in memorandum of second appeal filed in the High Court, the appellant-Bank had raised the plea about the suits being barred on account of the fact that the earlier writ petition filed by the plaintiff-respondents had been dismissed by the High Court on merits, but the High Court without examining the said plea has dismissed the second appeals summarily.

4. We have perused the copy of the writ petition (MP No. 4385 of 1989) which was filed by the plaintiff-respondents in the Madhya Pradesh High Court and which was dismissed by order dated 20-9-1989. Amongst the reliefs sought in the said writ petition was the following relief :

"(iii) Quash the promotion order Annexure (P-12) of Respondents (10) to (17) since they have been promoted in total violation of Regional Rural Banks (Appointment

and Promotion of Officers and other Employees) Rules, 1988 by a writ in the nature of certiorari."

5. Annexure P-12 to the writ petition was the intimation dated 29-7-1989 regarding selection of Respondents 10 to 17 by the Selection Committee on the basis of interview held on 28-7-1989.

6. In the plaints of the suits which have given rise to these appeals the plaintiff-respondents assailed the said selection that was made by the Selection Committee on 28-7-1989 and the order of promotion passed on the basis of such selection. Since in the earlier writ petition that was filed by them, the plaintiff-respondents had sought the same relief, viz., challenge to the validity of the selection made by the Selection Committee on 28-7-1989 and the said writ petition had been dismissed on merits by the High Court by order dated 20-9-1989, which order had become final, the suits filed by the plaintiff-respondents for the same relief and against the same parties could not be entertained, being barred by res judicata. The High Court, in our opinion, was in error in not entertaining the plea in this regard raised by the appellant-Bank in their second appeals. The said submission urged on behalf of the appellant-Bank must be allowed and the suits filed by the plaintiff-respondents must be dismissed.

7. The appeals are accordingly allowed, the impugned judgments of the High Court as well as that of the appellate court are set aside and the suits filed by the plaintiff-respondents are dismissed. The plaintiff-respondents shall pay costs to the appellant-Bank which are quantified at Rs. 10,000.