

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

SB Civil Writ Petition No. 13515/2009

Banna Lal Sharma

Vs.

Baroda Rajasthan Gramin Bank and anr.

DATE OF ORDER : 30/10/2009

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Rajesh Mootha, for petitioner.

Petitioner, who is substantively holding the post of Messenger-cum-Farrash in the respondent-Bank, has filed this writ petition with the grievance that once he is eligible for promotion against 10% vacancies reserved for the post of Clerk-cum-Cashier/Clerk-cum-Typist, he has a legal right to be called to appear in the written examination which is to be held under Pradeshik Gramin Bank (Appointment and Promotion of Officers and Employees) Rules, 1998.

Under the scheme of the Rules, the post of Clerk-cum-Cashier/Clerk-cum-Typist has to be filled 90% by open selection and 10% by promotion amongst the members of Class IV which includes Messenger-cum-Farrash as well. So far as promotion exercise is concerned, the procedure under the Rules is to fill the vacancies after holding written examination followed by

interview.

In the present process which the respondents initiated vide their circular Anx. 5 dt. 18/06/2009, 9 vacancies were determined against 10% quota. Under the scheme of Rules, applicants/employees upto the four times of the number of vacancies were called to appear in the written examination and with their relative merit in the written examination were to be called for interview. It has not been controverted by the petitioner that his name does not fall within four times of number of vacancies which are to be called to appear in the examination and it has been informed to this Court that 36 eligible employees in the cadre of Class IV have been called to appear in the written examination strictly as per seniority which is maintained by the respondent-Bank and name of the petitioner in the seniority list finds place at No. 183.

The contention of counsel for the petitioner is that the rule does not stipulate that the candidates, who are called to appear in the written examination upto four times of the available number of vacancies only as per seniority and he has further assailed the

validity of the provisions on the premise that once the petitioner is eligible, he has a legal right to participate in the selection process initiated by the respondents and such restrictions made under the scheme of the Rules is in violation of Article 14 of the Constitution of India.

The submissions made by counsel for petitioner is without merit for the reason that when the process of selection is based on written examination followed by interview, it is always for the authority to take decision that what number of applicants against the available vacancies are to be permitted to participate. If the rule making authority took decision to call four times of number of vacancies, it cannot be said to be arbitrary or violative of the mandate of Article 14 of the Constitution of India. So far as filling of vacancies is concerned, suffice it to say that if for four times of number of vacancies, eligible employees are to be called to appear in the written examination, it goes without saying that it has to be in order of seniority amongst eligible employees as already observed and it has not been controverted by the petitioner that his name does not find place in

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four times of number of vacancies in the order of seniority and in such circumstances, he has rightly not been considered and permitted to participate.

The writ petition, being devoid of merit, is dismissed.

[AJAY RASTOGI], J.