A SRI JAGATHIGOWDA C.N. AND ORS.

v.

CHAIRMAN, CAUVERY GRAMINA BANK AND ORS.

JULY 31, 1996

B [KULDIP SINGH AND S. SAGHIR AHMED, JJ.]

Service Law :

Regional Rural Banks Act, 1976—Guidelines issued by NABARD—
C *Promotions to the post to Senior Managers—Selection based on comparative performance of respective candidates in Bank—On the basis of guidelines issued—Held, cannot be set aside unless it is shown to be arbitrary.*

The Cauvery Gramina Bank, Mysore, a rural Bank sponsored by the State Bank of Mysore was established in 1976 under the Regional Rural
D **Banks Act, 1976. The NABARD which was established in 1986 with a view to look after the agricultural and rural development in the country issued various circulars between 1984 and 1986 providing guidelines for promotions/appointments in the rural banks to the posts of Senior Manager/Area Managers and General Managers. The circular issued in April 1986 indi-**
E **cated that a Director's committee shall be constituted for effecting promotions, and the selection of the eligible candidates should be based on performance of respective candidates to the Bank. The Bank issued its own guidelines in July 1986, based on circulars issued by NABARD and called for eligible officers to the post of Senior Manager and constituted a Director's Committee. In the interview, marks were awarded according to**
F **the performance appraisal forms.**

The Respondents-unsuccessful employees of the rural Bank preferred writ petitions before the Single Judge of the Karnataka High Court for quashing the promotions to the post of Senior Managers. The
G **respondents contended that the procedure adopted by the Director's Committee was in violation of the guidelines issued by NABARD; and 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 constituted by the Banks. The Single Judge allowed the writ petition and quashed the promotions holding that the Bank violated the guidelines of the NABARD**
H **issued in the year 1984 and that the guidelines issued in 1986 by NABARD**

were not applicable to promotions in the cadre of Senior Managers. The appeal filed by Appellants were dismissed on the ground that the service record of recent past should have been taken into consideration and in case there was nothing adverse against an officer he could not be denied on the ground that some other officer junior to him was more meritorious. The Division Bench held that the promotions were made on the basis of selection in as much as marks were assigned on the basis of performance appraisal and interview.

Allowing the Appeal, this Court

HELD : 1. The Single Judge as also the Division Bench of the High Court fell into patent error in quashing the promotions made by the Bank. [195-D]

2. The 1986 guidelines issued by NABARD 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. [195-E]

3. The cumulative reading of the two guidelines issued by NABARD clearly shows that the promotions were to be made on the basis of the comparative assessment of the performance appraisal of the Officers concerned as has been done by the Director's committee of the Bank. 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. [195-E-F]

4. The High Court was not justified in holding that the performance appraisal could not be taken into consideration by the Director's Committee while considering the Officers for promotion to the higher rank. The promotions made by the Bank are upheld in so far as the Appellants and other similarly situated persons are concerned. [195-H; 196-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9891 of 1996.

From the Judgment and Order dated 5.2.92 of the Karnataka High Court in W.A. No. 1854 of 1991.

Ashish Dholakia, Tripurari Ray for Vineet Kumar for the Appellants.

A M.L. Verma, S.N. Bhat, (S.K. Kulkarni) for M.T. George and M.M. Kashyap for the Respondents.

The Judgment of the Court was delivered by

B **KULDIP SINGH, J.** Special leave granted.

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 Gramina Bank, Mysore (the Bank) to the cadre of Senior Managers on the short ground that the guidelines issued to the Bank by C 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.

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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 E 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 December 31, 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 :

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> "*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, G these posts could be filled by taking temporarily officers of the sponsor Banks and other banks/organisations on deputation."

NABARD issued another circular dated April 7, 1986 which clarified the procedure and provided for the standard to be adopted for promotions in H 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 the 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 Govt. 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 July 17, 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;

A c. If suitable officers are not available internally, the posts could be filled-in by the officers of the sponsor bank.

.....

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

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

C On July 23, 1986 the Chairman of the Bank constituted a Director's 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 interview the marks were awarded according to the perfor-
D mance appraisal forms. The officers who obtained 85 marks out of 150, were shortlisted for promotion. As as result of the recommendations of the Director's Committee the promotion orders were issued on July 31, 1986.

The main contention of the appellants before the High Court was
E that the promotions were made by the Director's 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
F service and contained a clause regarding overall suitability for promotion.

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
G the procedure adopted by the Director's 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 vio-
H lated 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.

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 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.

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 April 7, 1986 clarified the earlier circular and specifically provided that "the selection of the eligible candidates should be based on performance of 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 Director's Committee of the Bank. Even otherwise the procedure adopted by the Director's 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 Director's Committee while considering the

A officers for promotion to the higher rank.

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
B before the High Court shall stand dismissed. No costs.

V.M. Appeal allowed.