

Binod Kumar Vs. Ranchi Kshetriya GramIn Bank and ors.

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Court : Jharkhand

Decided On : Mar-18-2004

Reported in : [2004(2)JCR218(Jhr)]

Judge : M.Y. Eqbal, J.

Acts : Service Law; [Constitution of India](#) - Article 226

Appeal No. : C.W.J.C. No. 2023 of 2001

Appellant : Binod Kumar

Respondent : Ranchi Kshetriya GramIn Bank and ors.

Advocate for Def. : Ajit Kumar,; M.M. Pal and; Rajesh Lala, Advs.

Advocate for Pet/Ap. : R.P. Gupta,; Anita Sinha,; V. Shivrath,;

Disposition : Petition dismissed

Judgement :

M.Y. Eqbal, J.

1. In CWJC No. 2023 of 2001 the petitioner has prayed for quashing the combined seniority list dated 9.4.2001 wherein petitioner has been shown junior to respondent No. 3 Ravi Shankar Prasad and further for quashing the order of promotion of respondent No. 3 of the Officer cadre of Grade I.

2. In 1984 the petitioner along with others including respondent No. 3 appeared at Banking Service Recruitment Examination and after qualifying the written test and interview a list of successful candidates in accordance with merit was forwarded to respondent No. 1 for appointment on the post of Clerk-cum-Cashier, In the said merit list petitioner was placed above respondent No, 3. It is alleged by the petitioner that he was appointed on 21.1.1985 and was posted at Head Office, Ranchi. The respondent No. 3 Ravi Shankar Prasad also joined as Clerk-cum-Cashier pursuant to letter of appointment dated 21.1.1985. In 1988 by office order dated 15.7.1988 a seniority list of Clerk-cum-Cashier was prepared wherein petitioner was placed at Sl. No. 27 and respondent No. 3 was placed at Sl. No. 28. In 1987 National Bank for Agriculture and Rural Development (NABARD) issued a notification with regard to promotion to the post of Field Supervisors on the basis of seniority-cum-merit. In 1990 a notification dated 20.11.1990 was issued giving promotion to various clerk-cum-cashier who were junior to the petitioner. The petitioner challenged the order of promotion in CWJC No. 160/1991(R), While the writ petition was pending a Division Bench of this Court decided the criteria for promotion in LPA Nos. 208 and 209 of 1991 (R). Following the Division bench judgment the notification dated 20.11.1990 giving promotion to other persons was set aside by the learned Single Judge in CWJC No. 160/1991 and the respondent Bank was directed to consider all eligible candidates including the petitioner if otherwise found eligible for promotion. It is contended by the petitioner that the respondents without giving any notice and without hearing him prepared a combined seniority list of eligible candidates for promotion. In the said combined seniority list dated 9.4.2001 the petitioner was placed at Sl. No. 32 while respondent No. 3 was placed at Sl. No. 31. On the basis of the said combined seniority list the respondent Bank arbitrarily promoted respondent No. 3 ignoring the case of the petitioner.

3. The case of the respondent-Bank in the counter-affidavit is that the impugned combined seniority list has been prepared in compliance of the judgment passed in CWJC No. 160/1991. It is contended that the petitioner joined the service as Clerk-cum-Cashier on 22.1.1985 while respondent No. 3 joined the said post on 21.1.1985 and accordingly petitioner and respondent No. 3 have been placed at Sl. No. 32 and 31, respectively. The respondents further ease is that the combined

seniority list has been prepared and published on the basis of the date of joining. So far promotion given to respondent No. 3 is concerned it is contended that petitioner could not qualify as he failed to get the minimum qualifying mark for the purpose of promotion.

4. Respondent No. 3 Ravi Shankar Prasad in his counter-affidavit has taken similar stand that the petitioner joined his service on 22.1.1985 where as he joined on 21.1.1985 and accordingly he is senior to the petitioner. It has further been contended that the combined seniority list was prepared in view of the judgment of this Court in CWJC No. 160/91 (R) and the previous seniority list dated 15.7.1988 has been rectified.

5. In CWJC No. 2024 of 2001 the petitioner Emanuel Ekka has challenged the notification dated 9.4.2001 issued by the Chairman of the Bank whereby petitioner has been reverted back to the post of Clerk and further for quashing the notification dated 9.4.2001 whereby respondent No. 3 has been promoted to the post of Officer cadre. Petitioner's case is that he joined the service of the bank in the year 1985 and he was promoted to the post of Field Supervisor in 1990. In 1998 a seniority list was published in which he was shown senior to respondent No. 3. Surprisingly on the basis of judgment passed in CWJC No. 160/1991 the impugned notification has been issued reverting the petitioner to the post of Clerk-cum-Cashier. The contention of the petitioner is that neither he was party to the said writ petition being CWJC No. 160/1991 nor he was given any show cause notice or opportunity of hearing before reverting him to the clerical cadre. In this case also the respondent-Bank have took the stand that the impugned notification has been issued in compliance of the judgment passed in CWJC No. 160/1991. It is slated by the respondent that as many as 19 officers including the petitioner has been reverted to clerical cadre and the question of notice or hearing was not necessary as the promotion order itself was set aside.

6. I have heard learned counsel appearing for the petitioners and learned counsel appearing for the respondents.

7. It is well-settled that the government or its instrumentality have every right to correct or amend the seniority of the employees if inadvertently or advertently

committed any error in preparing the seniority list. It is equally well-settled that government can amend or correct the seniority list because of the decision of the Courts.

8. So far CWJC No. 2023 of 2001 is concerned admittedly the petitioner and respondent No. 3 were appointed on the basis of merit list of successful candidates was prepared wherein the petitioner was shown above respondent No. 3. In the seniority list prepared in 1988 the petitioner was placed at Sl. No. 27 and respondent No. 3 at Sl. No. 28, However, in 1990 when petitioner was not given promotion he approached this Court in CWJC No. 160 of 1991 and this Court directed the respondents to consider the eligible candidates including the petitioner if otherwise found eligible for promotion. It is the specific case of the respondent that the case of the petitioner was considered but he did not qualify as he failed to obtain the minimum qualifying mark for the purpose of promotion. In that view of the matter I am of the opinion even if petitioner was above respondent No. 3 in the seniority list he did not qualify for promotion. Consequently in the combined seniority list dated 9.4.2001 the petitioner has been shown below respondent No. 3. In my opinion, therefore, I do not find any illegality in the seniority list which is under challenge.

9. In CWJC No. 2024 of 2001 the only grievance of the petitioner is that he has been reverted back to the post of Clerk without giving him show cause notice and opportunity of hearing. As noticed above the matter regarding seniority and promotion was considered by a Division Bench in LPA Nos. 208 and 209 of 1991 and following the Division Bench judgment the notification dated 20.11.1990 giving promotion to several person was set aside in CWJC No. 160 of 1991. The respondent-Bank was directed to consider all eligible candidates afresh and take a decision. Consequent upon the direction a fresh decision was taken by the respondents. The contention of the petitioner that he was reverted to the clerical cadre without giving show cause notice does not arise as the promotion given to the petitioner and other persons was set aside by this Court. Consequently the petitioner was placed to his original post of clerical cadre. It cannot be said to be reversion from higher post to lower post.

10. For the aforesaid reasons I do not find any merit in this writ petitions which are accordingly dismissed.

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