

A. Subramanian Vs. Punjab National Bank Represented by Its Chairman-cum-managing Director and anr.

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Court : Chennai

Decided On : Jul-03-1997

Reported in : (1998)2MLJ233

Appellant : A. Subramanian

Respondent : Punjab National Bank Represented by Its Chairman-cum-managing Director and anr.

Advocate for Def. : Mr. S. Jayaraman

Judgement :

AR. Lakshmanan, J.

1. After hearing the learned Counsel for the appellant, the writ appeal is admitted. By consent of both parties, the writ appeal is taken up for final hearing.
2. The writ appeal is directed against the order of M.S. Janarthanam, J., dated 29.1.1993 in W.P. No. 5725 of 1984. The petitioner is the appellant.
3. The writ petition was filed for the following relief:

To issue a writ of mandamus or any other appropriate writ or direction in the nature of a writ, directing the respondents to fill up 40% of the vacancies in the

category of Junior Management Grade (Scale I), by the process of selectivity as per Circular No. 568 dated 25.3.1981 and to consider the case of the appellant for promotion in respect of vacancies in Middle Management Grade (Scale II) which arose subsequent to 16.6.1982.

4. The short facts which are relevant for the disposal of the appeal are as follows: The appellant joined the 1st respondent -- bank on 16.6.1975 as Assistant Agricultural Officer and at present he is working as Agricultural Officer in the zonal office of the 1st respondent at Madras. Originally, there were five categories of officers i.e., A, B, C, D and E, besides there being other categories of officers at senior level. During 1976, Grade E was abolished. Grades E and D generally consisted of technical officers. Pursuant to a settlement dated 23.6.1973, all sub Accountants were designated as Accountants and placed in Grade C. In exercise of the powers conferred under Section 19 read with Section 12 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970, the Board of Directors of the 1st respondent in consultation with the Reserve Bank of India and with the previous sanction of the Central Government, formulated the Punjab National Bank Officers, Service Regulations, 1979 (hereinafter referred to as the Regulations), which came into force on 1.7.1979, It inter alia provides four grades for officers and specified the scales of pay.

5. Regulation No. 7 provided for the categorization of the officers of the bank in the new grades and scales as follows:

Grade placed	in	which
Manager/Addl. General Manager	Top Executive Grade scale VII	Deputy General Managers
Top Executive Grade Scale VI	Asst. General Managers	Senior Management Grade Scale V
Regional Managers/Chiefs at High Office/Chief Manager/ Principal, Staff College	Senior Management Grade Scale IV	Grade A
Middle Management Grade Scale III	Grade B	Middle Management Grade Scale II
Grades C, D, E	Junior Management Grade Scale I	

Regulation No. 17 provided that promotion to all grades of officers in the bank shall be made in accordance with the policy laid down by the Board from time to time having regard to the guidelines of the Central Government, if any.

Based on the above Regulations, all the officers in Grades C and D were placed in the Junior Management Grade (Scale I) as per the Pillai Committee's recommendations and the Government guidelines. There were two channels of promotion from Junior Management Grade (Scales) to Middle Management Grade (Scale II). The first channel of promotion is to be made on the basis of seniority and the quota allotted was 60%. The second channel of promotion is on the basis of selection and the quota allotted is 40%. By the circular dated 25.3.1981, the bank has revised the policy of promotion, which came into operation with immediate effect except that the provision in respect of promotion from Junior Management Grade (Scale I) to Middle Management Grade (Scale II), which came into operation from 1.4.1981. The revised policy applies to all officers of the bank. Clause 2 of the revised promotion policy relates to promotion from Junior Management Grade (Scale I) to Middle Management Grade (Scale II) and the same, insofar as is relevant, runs as follows:

Promotion from Junior Management Grade -- (Scale I) to Middle Management Grade (Scale II) (Rs. 1200-70-1550-75-2000).

6. The vacancies in Scale II will be filled up by promotion from scale 1 by process of selectivity and seniority in the ratio of 40:60 respectively. Process of selection:

Eligibility: In terms of Regulation 18 (5) of the Regulations, officers promoted as officers in charge/Assistant Managers before this promotion policy came into force will rank for seniority higher than the Accountants and Technical/Specialist Officers in Scale I. Officers other than the above category of officers-in-charge. Assistant Managers in Scale I with minimum of seven years of satisfactory service as an officer will be eligible.

7. It is seen from the above that officers other than officers-in-charge/Assistant Manager in scale I with a minimum of seven years of satisfactory service as an officer is eligible for promotion by the process of selection. In other words, an

officer with seven years service has to be considered for promotion to Middle Management Grade (Scale II) provided his services are satisfactory. For selection, written test of 100 marks with 505 qualifying marks in each of the two papers, interview of 45 marks, performance of 45 marks were provided, besides providing mark for every completed year of service. By the circular dated 22.5.1981, the 1st respondent/bank invited applications for promotion to Middle Management Grade (Scale II) to fill up the 40% quota by selection. According to the appellant, the bank did not fill up the vacancies in Scale II by process of selectivity and the promotions were made only on the basis of seniority in spite of the specific statutory requirement that the vacancies in the Middle Management Grade (Scale II) will be filled up by promotion from scale I by process of selectivity. It is the case of the appellant that more than 500 vacancies in the Middle Management Grade (Scale II) were filled up during 1981, 1982 and 1983 under seniority quota, totally overlooking the selectivity quota.

8. According to the appellant, he has completed seven years of satisfactory service as Agricultural Officer in the Junior Management Grade (Scale I) on 15.6.1982, having joined the service on 16.6.1975. During March, 1984, the bank called Junior Management Grade (Scale I) Officers for selection to Middle Management Grade (Scale II) to fill up the seniority quota. No steps were taken to fill up the quota meant for selectivity. According to the appellant, the 1st respondent is thus acting in flagrant violation of the promotion policy introduced by the Circular No. 568 dated 25.2.1981. There were eligible officers like him who are entitled to be considered for promotion to the Middle Management Grade (Scale II) by the process of selection. According to the appellant, he has completed seven years of service and there are about 300 officers like him in scale I who are aspiring to be promoted to the category of Middle Management Grade (Scale II) by the process of selection. The respondents are obliged to fill up the vacancies in the Middle Management Grade (Scale I) by the process of selectivity and seniority in the ratio of 40:60. The promotion policy laid down by the 1st respondent is statutory in character and therefore, it is not open to them to ignore the revised promotion policy and make promotion only on the basis of seniority totally ignoring the process of selectivity.

9. According to the appellant, the action of the respondents is unconstitutional, arbitrary and violative of the constitutional guarantee under Arts. 14 and 16 of the Constitution of India. The respondents have not filled up the posts in Middle Management Grade (Scale II) by the process of selectivity subsequent to 1981. The Punjab National Bank Officers Association, Madras, has made innumerable representations to the respondents requesting them to follow the statutory regulations and fill up the quota by the process of selection. The appellant made representations on 15.3.1984 and 18.5.1984 drawing the pointed attention of the bank to this aspect of the matter. Even during March, 1984, the respondents have filled up the vacancies in Middle Management Grade (Scale II) in complete contravention of the promotion policy by failing to follow the process of promotion by selectivity and confining all promotions to the method of seniority. Thus, the appellant has filed the writ petition for a mandamus to direct the respondents to fill up 40% of the vacancies in the category of Junior Management Grade (Scale I) by the process of selectivity as per Circular No. 568 dated 25.3.1981 and to consider the case of the appellant for promotion in respect of the vacancies in Middle Management Grade (Scale II) which arose subsequent to 16.6.1982.

10. The respondents filed a detailed counter affidavit through their Zonal Manager contending as follows: After the initial selection to the position of the Middle Management Grade (Scale II), there have been several promotion policies superseding one another and the appellant has been called on every occasion for selection to the post of Middle Management Grade (Scale II). A circular was issued on 25.3.1981 by which new promotion policy was laid down and as per that circular, the selection was made on the basis of seniority alone, the reason for confining the basis of selection of seniority being that there were not enough number of officers who had satisfied the, basic requirement of seven years of service, which is one of the requisites for selection on the basis of selectivity. If the selection was based on the basis of selectivity, a separate procedure was adopted viz., selectivity, for which a written test and interview were held. According to the respondents, even at this stage the appellant has not qualified himself on many of the occasions either on the basis of selectivity or on the basis of seniority.

11. The respondents would aver in the counter that on the basis of the revised promotion policy dated 25.3.1981, the method adopted for promotion was on the basis of seniority. As per the above mentioned policy and in terms of Regulation 18(5) of the Regulations, officers promoted as officers-in-charge/Assistant Managers, before this promotion policy came into force, will rank for seniority higher than the Accountants and Technical/Specialised Officers in scale I. Other than the above category, officers in charge/ Assistant Managers in scale I with minimum of seven years of satisfactory service as officer will be eligible. The eligible candidates will be called for interview in the order of seniority, provided the number of candidates will not exceed three times the number of anticipated vacancies in a calendar year through the seniority quota. Assessment was made on the basis of performance, interview, educational qualification, seniority, additional mark, etc., the details of which have been enumerated in Clause 8 of the promotion policy. This was the policy which was adopted for the promotion from Junior Management Grade (Scale I) to Middle Management Grade (Scale II).

12. It is also the case of the respondents that the appellant was called for interview during August, 1984, but, however, he did not qualify himself for getting promoted. So, he was not promoted. The appellant was again called for selection during November, 1985, which is again on the basis of seniority alone. the appellant did not qualify himself and his promotion was not approved. On 22.2.1988, a new promotion policy was evolved, which superseded the . earlier promotion policy. The new promotion policy had also laid down certain guidelines. As per this promotion policy, eligible candidates will be called for interview in the order of seniority provided that the number of candidates shall not exceed two times the number of anticipated vacancies in a calendar year through this channel. The appellant did not qualify either under seniority or under selectivity basis. In the meantime, the earlier promotion policy was superseded by a subsequent promotion policy on 21.3.1991 wherein the ration 40:60 on the basis of selectivity and seniority was changed to 70:30. Here also, the criteria is seven years of satisfactory service as Junior Management Grade (Scale I) is essential for being considered for promotion to Middle Management Grade (Scale II) on the basis of selectivity among other things.

13. According to the respondents, the appellant appeared for the written test held in May, 1991 under written test channel (previously known as selectivity channel). He was also called for interview under normal channel (previously known as seniority channel) in June/July, 1991. The appellant did not qualify in either of them and therefore his promotion could not be approved. He was also considered for promotion in these two channels during May/June, 1992 and May-August, 1992 respectively, but he did not qualify in either of them again and therefore he was not promoted. The above facts would reveal that the appellant never qualified himself for promotion in spite of repeated opportunities given to him under the various promotion policies. Therefore it is contended by the respondents that the appellant cannot approach this Court by invoking its jurisdiction under Article 226 of the Constitution seeking the relief as prayed for in the writ petition.

14. This apart, according to the respondents, the policy itself has been changed and the case of the appellant has been considered and rejected. There-lore, the relief which has been asked for by the appellant has already been considered on several occasions and the same has been rejected and he failed to qualify himself for promotion. The appeal preferred by the appellant to the Appellate Authority -- vide his appeals dated 28.12.1985 and 15.8.1991 with regard to his non-approval in scale II, were also rejected by the Appellate Authority by its orders dated 7.4.1986 and 11.10.1991 respectively, which were duly communicated to the appellant. Even after the rejection of these appeals, the appellant was called for the next selection, but, however, he did not qualify again. Therefore, it is submitted by the respondents that the appellant cannot have any grievance whatsoever so as to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

15. M.S. Janarthanam, J., considering the entire facts and circumstances of the case, dismissed the writ petition. Hence, the writ appeal by the petitioner. We have heard the arguments of Mr. K.M. Vijayan for the appellant and Mr. S. Jayaraman for the respondents. We have also gone through the affidavit, counter affidavit and the other connected papers.

16. The appellant has merely referred to the various promotion policies. It is unnecessary to traverse into those details. Mr. K.M. Vijayan contended that the bank has completely overlooked the selectivity quota in the year 1981, which in our opinion, is not fully correct. Since there was not adequate number of candidates having seven years of requisite service to be considered for being promoted to the next higher grade from among the pool of candidates, which should be at least three times of the number of-vacancies, the promotion, as rightly pointed out by the learned Counsel for the respondents, could not take place on the basis of selectivity method. The Government was also informed about that and since there was no reply forth coming from the Government there was no other option for the bank excepting to resort to seniority method. In fact, by the process of selection on the basis of seniority, the appellant only stands to gain because there is no written test and it proceeds purely on the basis of performance, interview and educational qualifications.

17. The appellant has averred in his affidavit that he joined the bank on 16.6.1975 as Agricultural Officer and that he has completed seven years of satisfactory service as Agricultural Officer in Scale I as on 15.6.1982. This averment was refuted by the respondents. According to them, the appellant has joined the bank as Assistant Agricultural Officer in Grade E, which was subsequently merged with scale I after coming into force of Pillai Committee's recommendations. Hence, the assertion of the appellant that he joined the bank as Agricultural Officer is wrong. He joined only as Assistant Agricultural Officer in Grade E on the said date. Similarly, he did not complete seven years of satisfactory service as Agricultural Officer as on 15.6.1982 because this period includes his service as Assistant Agricultural Officer from 16.6.1975 till the implementation of the Pillai Committee's recommendations i.e., 1.7.1989.

18. Mr. K.M. Vijayan would submit that the respondents have violated the provisions of the promotion policy. He also contended that the respondents have no right to revise the promotion policy and make the promotions only on the basis of seniority totally ignoring the process of selectivity. We are unable to agree with the said contentions. Even as per Act V of 1970, the Government and the Board have got powers to make regulations and also lay down policies and in fact, the

policies were revised only pursuant to representations made by the Unions and Officers' Associations and that too after detailed discussion. Therefore, the contention of the appellant that the revision of policy by the respondents is arbitrary and violative of the Constitution is wholly untenable. We are of the view that the respondents have acted in accordance with law and have laid down promotion policies taking into account the various aspects which are relevant for the same.

19. As rightly contended by the learned Counsel for the respondents, ample opportunities have been given to the appellant but he has failed to avail of them. He did not get qualified either in channel I or in Channel II i.e., seniority or selectivity on any one of the occasions. Therefore, rightly, the promotion of the appellant was not approved. It is also seen that certain guidelines were also issued by the Government in terms of the proviso to Regulation 17 of the Regulations, the important regulation being that for the purpose of promotion, various criteria has been laid down, which is explained in the promotion policy. The Board, under the Regulations, shall formulate the eligibility criteria, details of process to be employed for promotion of officers from one scale/grade to another, which would be done not later than six months from the appointed date. Till such time as a new promotion policy is formulated, the bank may, subject to the approval of the Board, confine with the existing promotion policy. Subject to the availability of vacancies, all promotions, whether from one scale to another or from one grade to another, shall be on the basis of merit with weightage, if any, for seniority, educational/professional qualifications, etc., as may be prescribed by the Board from time to time. The minimum eligibility in terms of number of years of service for promotion from one officer scale to another shall generally be as under: 'From Junior Management Grade to Middle Management Grade (Scale II) -- Seven Years of Satisfactory service'. Under Section 19 read with Section 12(2) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Board of Directors of the Punjab National Bank in consultation with the Reserve Bank of India and with the previous sanction of the Central Government, made certain regulations in the year 1979. These regulations deal with promotions also. Regulation 17(1), which deals with promotions and which is relevant for the purpose, is as under:

17(1): Promotion to all Grades of Officers in the Bank shall be made in accordance with the policy laid down by the Board from time to time, having regard to the guidelines of the Government, if any.

(2) For the avoidance of doubts it is clarified that these regulations shall also apply to promotions of any categories of employees in the Junior Management Grade.

20. Pursuant to the above regulation, as already noticed, the respondents/bank issued a notification on 25.3.1981, which deals with promotions. Certain guidelines were issued in that notification. That circular was issued in supersession of an earlier circular of the personnel Division dated 17.9.1980, which dealt with promotion policy for officers. The circular dated 25.3.1981 runs as follows:

(i) The Board shall formulate the eligibility criteria and details of processes to be employed for promotion of officers from one scale/grade to another, subject to the following provisions. This should be done not later than six months from the appointed date. Till such time as the new promotion policy is formulated, the Bank may, subject to the approval of the Board, continue with the existing promotion practices.

(ii) subject to availability of vacancies all promotions whether from one scale to another or one grade to another shall be on the basis of merit with weightage, if any, for seniority, educational/ professional qualifications, etc., as may be prescribed by the Board from time to time.

(iii) The minimum eligibility in terms of number of years of service for promotion from one officer's scale to another shall generally be as under:

(iv) From Junior Management Grade to Middle Management Grade Scale II -- seven years of satisfactory service.

In terms of the above regulations and having regard to the guidelines of the Central Government, the Board of Directors approved the promotion policy for officers on 20.8.1980.

21. We have already dealt with the revised promotion policy dated 25.3.1981. It is also necessary to point out that as per the policy, separate interview committees are being constituted consisting of top officers of the bank and also outsiders for the purpose of interviewing the candidates. In the earlier part of this judgment we have mentioned about the promotion policy as on 21.3.1991 wherein the ratio of 40:60 on the basis of selectivity and seniority was changed to 70:30. Here also the criteria of seven years of satisfactory service as Junior Management Grade (scale I) is essential for being considered for promotion to Middle Management Grade (Scale II) on the basis of selectivity among other things. The number of candidates to be considered for promotion should be 3 to 4 times the number of vacancies. As per clause III of the policy. 30% of the vacancies will be filled up through the normal channel. Under this channel, officers who have completed ten years of service in management Grade Scale I shall be eligible to apply from among the applicants. The number of candidates to be called for interview in the order of inter se seniority were also determined in accordance with clause III of the policy. The parameters for selection were fixed as follows:

Performance 60 marks maximum
Interview 35 'Qualification 5 'To arrive at the marks to be allotted, separate guidelines have been framed in the policy. So far as channel 2 viz., written test channel, which was formerly known as selectivity channel, seven years of service as J.M.G. Scale I is one of the criteria for a candidate to be considered eligible under this channel. Here also certain parameters have been laid down which is as follows:

Written Test 100 marks
Performance 45 'Interview 40 'Qualification 15 'Total 200
'Under this policy, separate interview committee was constituted for promotion from J.M.G. Scale I to M.M.G Scale II.

22. The writ petition was filed for a mandamus directing the respondents to fill up 40% of the vacancies in the category of Middle Management Grade (Scale II) by the process of selectivity as per circular No. 568 dated 25.3.1981 and to consider the case of the appellant for promotion in respect of vacancies in the Middle Management Grade (scale II), which arose subsequent to 16.6.1982. From the details, particulars and narration of the facts, it will be seen that the appellant was

never qualified for promotion in spite of repeated opportunities given to him under the various promotion policies. The appellant having failed to qualify himself for promotion cannot approach this Court invoking its jurisdiction under Article 226 of the Constitution. The policy itself has been changed now and even after the change of the policy, the appellant's claim was considered and as he could not qualify himself, his claim was rejected. Therefore, the relief, which has been asked for by the appellant, has already been considered on several occasions and the same has been rejected as he failed to qualify himself for promotion. Thus, the prayer asked for cannot at all be granted and the writ petition was rightly dismissed by the learned single Judge on a consideration of the entire facts and circumstances of the case. We are in entire agreement with the views expressed by the learned single Judge.

23. After the dismissal of the Writ petition, the petitioner filed the present writ appeal and notice of motion was ordered on 28.7.1993. During the pendency of the writ appeal, in terms of the letter of the Assistant General Manager (Personnel), Personnel Division, Head Office, New Delhi, dated 21.3.1997, the name of the appellant has been approved for promotion from Junior Management Grade (Scale I) to Middle Management Grade (Scale II) in the captioned selection and has been allotted to Bihar Zone. The appellant was advised to report at the zone of allocation on 7.4.1997. However, the appellant has represented to the bank for retaining him in the southern zone instead of allotting to Bihar zone as he has already completed the requisite rural service and also he being a Technical Officer. The 2nd respondent, however, recommended to the management that the appellant's request may be considered favourably and he may be retained in the southern zone itself on his promotion to Middle Management Grade (Scale II). According to the recommendation of the 2nd respondent, the appellant being a Technical Officer, his services can be utilised in the field suitably as Manager (Agri.)/Manager in Administrative Office (s) /D.C.O, etc., and that further, by retaining him, the sanctioned strength of scale II Officer will not be affected as he is a Technical Officer. A similar representation was also made at the time of hearing by Mr. K.M. Vijayan.

24. We asked the learned Counsel for the respondents to find out whether the bank can consider the request of the appellant on being allotted to southern zone. In this connection, Mr. S. Jayaraman, learned Counsel for the respondents, placed before us a letter dated 24.4.1997 addressed to the 2nd respondent by the personnel Division of the head office wherein the head officer expressed its inability to consider the request of the appellant for change of zone as officers above him have been allotted out of zone. In the said letter, the Assistant General Manager (Personnel) has mentioned that the name of the appellant was considered for promotion to Middle Management Grade (Scale II) under channel I against refusals from the original panel approved for promotion from Junior Management Grade Scale I to Middle Management Grade Scale II (under channel I) and since a few selected candidates from the southern zone have refused to accept Bihar zone posting from the original panel, the appellant from southern zone was allocated Bihar zone as his place of posting against vacancies in Bihar arisen due to refusals. Therefore it is stated that the bank cannot consider the request of the appellant for change of zone. It is also stated that any exception will disturb the whole allotment pattern and may create administrative and legal difficulties. Thus, the bank has expressed its inability to allot the appellant the southern zone.

25. Mr. K.M. Vijayan has also made certain submissions on the appellants justification for retaining him in the southern zone on promotion. He argued that the appellant challenged in the writ petition the failure on the part of the respondents to follow both the selection process viz., seniority and the selectivity in their recruitment' since 1984 and also obtained interim direction to keep one post vacant. Thereupon, the writ petition was dismissed on the ground that much water had flown between the date of the writ petition and the date of its final decision. Thereafter, the appellant preferred the present appeal on the ground that the respondents' defence for not following the other process of promotion on the basis of pendency of some writ petitions in the High Court of Punjab, etc., is unsustainable. In the writ appeal, this Court issued notice of motion and finally it came up for hearing during March, 1997. By that time, the appellant got his promotion, but quite strangely, in order to harass the appellant, he was promoted and posted in Bihar zone. The appellant made a plea before this Court that he

should be retained in Southern zone on the ground that his promotional post is a technical post (Agricultural Officer). We directed the respondents to find out whether the appellant can be retained in the southern zone in his promotional post. The respondents in their letter stated that the appellant is a promotee in the vacancy created by promotees who had not accepted the Bihar posting and hence he could not be accommodated in southern zone.

26. Mr. K.M. Vijayah contended that the plea of the respondents is false for the following reasons:

(a) The appellant being a technical officer (Agricultural Officer), his promotion is not against the declared vacancy of posts and hence the vacancy that arises on all India basis in respect of the regular cadre is not applicable to the appellant.

(b) The appellant's promotion is a mere designated promotion without any office attached to it. Otherwise, it is a promotion in his own discipline and hence his promotion against the vacancy in Bihar is unsustainable.

(c) Notwithstanding the above, the 2nd respondent had, in fact, recommended strongly that the appellant shall be retained in the southern zone on his performance and other considerations.

(d) There are several instances of past precedence that the respondents had retained the technical officer promotees in the same zone and in the same place. For illustration, retention of Mr. Thirigudanathan and Mr. Natarajan on their promotion in southern zone.

(e) In so far as the technical officer posts is concerned, the respondents retained them even upto the higher level viz., Grade III officers in the same zone. So, the stand taken by the respondents that they could not accept the request of the appellant is nothing but to sustain their obstinate stand. Hence, Mr. K.M. Vijayan submitted that this Court may be pleased to direct the respondents that this being a technical post and no vacancy having been declared on all India basis, the appellant can be retained in the southern zone as per past practice.

27. In reply to the above submissions, the learned Counsel for the respondents argued its justification for not retaining the appellant in the southern zone on promotion. As pointed out by Mr. S. Jayaraman, the contention of the appellant cannot be accepted as correct. The number of vacancies of managers are arrived at on all India basis for all categories of officers. Technical Officers are also promoted within the declared vacancies only and they are not promoted over and above the declared vacancies. It is a fact that if the appellant is promoted, he will continue in the same technical discipline. But, for this purpose it is not necessary that he should be promoted within the zone. Allocation of zone for the promotees is done based on the merit list. The appellant was selected for promotion not in the first list of promotees but only from the second list i.e., wait-listed candidates. Some of the promotees from the first list were also allotted to Eastern Zone based on their position in the merit list. Therefore, according to Mr. S. Jayaraman, the request of the appellant for retention in the southern zone, who is further down in the merit list, is devoid of any merit.

28. The learned Counsel for the respondents would further submit that the appellant, on selection and posting to eastern zone, submitted a representation for retention in the southern zone, which was duly forwarded to the head office viz., the competent authority, for consideration. It does not mean that the Zonal Manager has recommended to the head office for violating the norms and rules set by the head office. Other officers from the earlier promotee batches might have been retained in the zone under different circumstances. Such instances cannot be quoted as a precedence, which is not at all applicable for the appellant's case.

29. According to Mr. S. Jayaraman, the prayer in the writ petition as well as in the writ appeal is only a promotion from scale I to scale II and now that the appellant has been promoted, he is trying to take advantage of the situation and ensure a posting within the zone, which is against the set rules and principles. As rightly pointed out by Mr. S. Jayaraman, the retention within the zone is not at all there in the original writ petition as well as in the writ appeal. Since the appellant has been offered promotion, which has not been accepted, the remaining request of the appellant regarding retention in the same zone, as argued by the learned Counsel for the respondents, is unjustified.

30. For the foregoing reasons, we hold that there are no merit in the writ appeal. The writ appeal fails and is dismissed. However, there will be no order as to costs. Consequently, C.M.P.No. 9595 of 1993 is also dismissed as no longer necessary.

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