

(2015) 02 KAR CK 0447

In the Karnataka High Court

Case No : Writ Petition Nos. 2313 to 2340 of 2015 (S-RES)

B.P. Kumaraswamy and Others

APPELLANT

Vs

The Bangalore, Bangalore Rural and Ramanagara District Co-operative Central Bank Limited and Others

RESPONDENT

Date of Decision : 04-02-2015

Acts Referred:

Constitution of India, 1950 — Article 14, 226, 309
Karnataka Co-operative Societies Act, 1959 — Section 70(1)(d)

Citation : (2015) 3 KarLJ 15 : (2015) 4 KCCR 3722

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

Advocate : Subramanya Jois, Senior Counsel for Shantakumar K.C., for the Appellant; H.T. Narendra Prasad, Additional Government Advocate and Somashekar, Advocates for the Respondent

Final Decision : Dismissed

Judgement

B.V. Nagarathna, J.—Petitioners, who are employees of the Bangalore, Bangalore Rural and Ramanagara District Co-operative Central Bank Limited, have assailed order dated 5-9-2012 (Annexure-A to writ petitions) issued by 1st respondent-Bank insofar as it concerns Rule 44-A of the Bangalore, Bangalore Rural and Ramanagara District Co-operative Central Bank Staff Service Rules (hereinafter referred to as "Rules", for the sake of brevity). The 1st respondent is a Co-operative Bank, which has been established under the provisions of the Karnataka Co-operative Societies Act, 1959 and the Rules made thereunder. It has its area of operation in Bengaluru, Bengaluru Rural District and Ramanagara District. By virtue of the policy in the form of the impugned order dated 5-9-2012, the eligibility criteria for appointment to various posts, promotions, salary benefits and other aspects have been enunciated. Petitioners herein have impugned the eligibility criteria prescribed under the said order for the promotion to the post of Middle Management, Junior Bank Manager/Cashier and other equivalent posts.

2. It is the contention of the petitioners that when they entered service in the 1st respondent-Bank they did so with qualification of S.S.L.C. or P.U.C., and at any rate, they do not have a graduate degree. But now, by the impugned eligibility criteria, which has been prescribed, to be promoted to a post in middle management cadre, graduate degree is a requisite qualification. As a result, petitioners, who are not graduates cannot meet that criterion and therefore, would not be promoted at all. It is in these circumstances, that they have assailed Clause 44-A of the said Government order insofar as it concerns promotion to the posts in the middle management cadre.

3. I have heard learned Senior Counsel for petitioners and perused the material on record.

4. He contended that when petitioners entered into service they did so on the basis of requisite qualification which was prevalent and which did not require them to possess a graduate degree. Now when the time has come for them to be promoted to the middle management cadre, insistence on a graduate degree is a setback, insofar as their promotions are concerned, inasmuch as petitioners do not possess a graduate degree and therefore, cannot be considered for any post in the middle management cadre. It was also contended that while prescribing the eligibility criteria, the 1st respondent- Bank has not taken into consideration that the persons would require knowledge of Accountancy, Statistics and Commerce subjects and therefore, possessing a graduate qualification in any other subject is not relatable at all to the kind of work that they would have to perform in the higher post. Therefore, for that reason also, the prescription of eligibility criteria in the form of a graduate degree is arbitrary is the submission. He contended that on account of the new policy, the career of the petitioners would be stunted and would not progress. Therefore, the matter calls for consideration of this Court having regard to the fact that prescription of the eligibility criteria is arbitrary and is in violation of Article 14 of the Constitution of India, is the submission.

5. Per contra, learned Counsel for respondent 1-Bank who is appearing on caveat has contended that these writ petitions are not maintainable as petitioners are employees of a Co-operative Bank and they can raise a dispute under Section 70(1)(d) of the Act and therefore, writ petitions are not maintainable. He also contended that having regard to the nature of work to be performed by the middle management cadre personnel, the eligibility criteria has been prescribed and this Court cannot give its opinion over the said prescription.

6. In response, learned Senior Counsel contended that having regard to the nature of the eligibility criteria prescribed, this is not a case where petitioners have to be driven to the Statutory Authority as that authority cannot say anything other than what has been stated in the impugned rules and therefore, petitioners have rightly approached this Court challenging the eligibility criteria.

7. Having heard learned Counsel for the parties and on perusal of the material on

record, at the outset, it is stated that since the petitioners have contended that the eligibility criteria prescribed by the respondent-authorities is arbitrary and in violation of Article 14 of the Constitution, they are entitled in law to approach this Court. This is because they could not have sought for striking down of the eligibility criteria before the Statutory Authority as that authority can only decide or adjudicate on the existing criteria, but would not have the jurisdiction to strike down the criteria as being arbitrary or in violation of the Constitution. Therefore, writ petitions cannot be dismissed on the ground of there being an alternative remedy.

8. This takes me to the contention that has been urged by learned Senior Counsel, on the prescription of the educational qualification for the purpose of promotion to the post in the middle management cadre. One cannot lose sight of the fact that 1st respondent is a Co-operative Bank and is engaged in doing business in the Banking sector, which in today's world, depends almost totally on computerisation. That apart, the posts to which, petitioners have been considered as promotees are in the middle management cadre where they would be Junior Branch Managers, Cashiers, Supervisors and other such posts. The skills that are required to discharge the duties in such posts have been taken note of by the 1st respondent-Bank. Based on those skills and duties, 1st respondent has prescribed that the persons to be recruited or promoted to the said middle management cadre post must possess a graduate degree. The object and purpose of prescribing graduate degree as a minimum educational qualification cannot be lost sight of. It may be that persons like petitioners who do not possess a graduate degree have the requisite experience to discharge their duties, but when it comes to posts in the middle management cadre, what is required is not just the experience and the skill in discharging their duties, the personality of the Bank Manager/Branch Manager is an important aspect that has to be considered. One of the aspects to ensure that an able person heads a branch or discharges the duties of the middle management cadre is based on educational qualification. One cannot doubt the fact that a person, who has a University Degree or has passed through University has a totally different outlook towards life and personality as compared to a person, who does not have University education. That is the object with which the 1st respondent has prescribed a degree from recognised University as a minimum qualification.

9. In that view of the matter, it cannot be held that the prescription of a degree from a University does not have a bearing on the posts to which promotions have to be made or as to the nature of duties that have to be discharged. Consequently, a person who occupies the position in the middle management cadre must be sufficiently educated and therefore, the 1st respondent-Bank has thought that a degree from a recognised University is a basic qualification. This Court cannot sit in judgment over what has been prescribed by the 1st respondent-Bank in its wisdom. In fact, there are innumerable decisions of the Hon'ble Supreme Court, wherein it has been held that in matters of prescription of eligibility criteria and educational qualifications for a particular post, they must

ultimately rest with the wisdom of the recruiting agency or employer and not the Court which can sit in judgment over such matters in a petition filed under Article 226 of the Constitution. In this context, reliance could be placed on a decision of the Hon"ble Supreme Court in Chandigarh Administration through the Director Public Instructions (Colleges), Chandigarh Vs. Usha Kheterpal Waie and Others, AIR 2011 SC 2956 : (2011) 10 JT 427 : (2011) 9 SCALE 591 : (2011) AIRSCW 5265 , wherein it has been held as follows:

"22. It is now well-settled that it is for the rule-making authority or the Appointing Authority to prescribe the mode of selection and minimum qualification for any recruitment. The Courts and Tribunals can neither prescribe the qualifications nor entrench upon the power of the concerned authority so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of Constitution, statute and Rules. (See J. Ranga Swamy Vs. Government of Andhra Pradesh and Others, AIR 1990 SC 535 : (1989) JT 426 Supp : (1990) 1 LLJ 526 : (1989) 2 SCALE 1405 : (1990) 1 SCC 288(1) : (1990) 1 SCC 288 : (1990) 1 UJ 424 and P.U. Joshi and Others Vs. The Accountant General, Ahmedabad and Others, AIR 2003 SC 2156 : (2003) 2 SCC 632 : (2003) SCC(L&S) 191 : (2002) 5 SCR 573 Supp : (2003) 1 UJ 647 : (2003) AIRSCW 272 : (2003) 1 Supreme 501 . In the absence of any rules, under Article 309 or Statute, the appellant had the power to appoint under its general power of administration and prescribe such eligibility criteria as it is considered to be necessary and reasonable. Therefore, it cannot be said that the prescription of Ph. D. is unreasonable."

10. For the aforesaid reasons, it can also be held that a degree in Commerce or Accountancy or Statistics is not a necessity for discharging the duties in the middle management cadre. Ultimately, it is the person, who, has, a University education, in the eyes of the respondent-authority has sufficient education and qualification to handle such duties, which is of importance. Therefore, even if a person has a graduate degree in any discipline apart from Commerce, Accountancy or Statistics, it does not matter when it is to do with discharge of duties as Branch Manager. After all such person would have acquired experience by working in the Bank for several years prior to promotion, but when it comes to handling of duties as in the middle management cadre respondent-Bank has prescribed graduate degree from a recognised University, which cannot be termed as an over prescription or a criterion which cannot be met by the petitioner-employees.

11. In that view of the matter, educational qualification prescribed by 1st respondent cannot be found fault with. I do not find any infirmity in Clause 44-A of the policy order or Rules dated 5-9-2012. There is no merit in these writ petitions. Writ petitions are dismissed.