

(2001) 02 KAR CK 0039

In the Karnataka High Court

Case No : Writ Petition No"s. 8509-514 of 1999

Krishnamurthy B.S. and Others

APPELLANT

Vs

National Bank for Agriculture and Rural Development and
Others

RESPONDENT

Date of Decision : 01-02-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16

National Bank for Agriculture and Rural Development Act, 1981 — Section 38 (1)

Citation : (2002) 1 LLJ 1035

Hon'ble Judges : Mohamed Anwar, J

Bench : Single Bench

Advocate : Pramod Kathavi, for M.L.N. Reddy, for the Appellant; Sunderaswamy Ramdas and Anand for Respondent No. 2 and Deshraj and R. Chengalaraya Reddy for Respondent No. 17, for the Respondent

Final Decision : Dismissed

Judgement

Mohamed Anwar, J.—Heard the arguments of the learned counsel on both sides.

2. The undisputed and admitted facts of the dispute are that at the material time all the petitioners herein were working as "Field Supervisors" and respondents 3 to 19 were working as "Officers" in the respective Gramin Banks which are Regional Rural Banks (RRBs). These Banks are created and established under the Regional Rural Banks Act, 1976 ("the Act of 1976" for short) and are governed by the provisions thereof in their functioning. There were different cadres of service in these Banks viz., Junior Clerks, Senior Clerks, Field Supervisors, and Officers. The Award dated April 30, 1990 came to be passed by the National Industrial Tribunal (NIT) granting pay parity to all the employees of the RRBs with the pay-scales of the employees of their respective Sponsor Banks i.e., Nationalised Banks, with effect from September 1, 1987. As regards equation of posts and fixation of pay-scales and other service benefits for the employees of the RRBs, the matter was left to be decided by the Government of India. Then an

Equation Committee was constituted on October 5, 1990 by the Government of India for this purpose which submitted its report dated January 16, 1991 recommending the mode and manner for equation of posts and fixation of pay-scales, etc. in respect of the employees of RRBs in terms of the said Award dated April 30, 1990 of the NIT. That Award and the report dated January 16, 1991 of the Equation Committee were accepted by the Central Government which accordingly, acting u/s 17(1) of the Act of 1976, issued instructions under Circular dated February 22, 1991 to all the RRBs for implementation of the same. As a result, the posts of Field Supervisors and the posts of Officers/Managers: working in the RRBs were merged together and the same were equated to the posts of "Junior Management Grade Scale-I" ("JMG Scale-1" for short) of the Sponsor Banks with retrospective effect from September 1, 1987. ;

3. Thereafter, a common seniority list vide Annexure-C dated February 16, 1996, of the employees in the said new posts of JMG Scale-I working in the concerned Banks where petitioners and R-3 to R- 19 had been working, came to be prepared and published. In the list at Annexure-C, petitioners" group has been given the ranking position next below the group of R-3 to R- 19, fixing the inter se seniority of each of group members on the basis of the length of their respective service. Since the position of the petitioners in the seniority list at Annexure-C is shown below that of the group of Respondent 3 to Respondent 19, the former have now filed these writ petitions seeking its quashment on the ground that regard being had to the longer period of service of each of the petitioners which they had been put in the pre-merger cadre of Field Supervisors vis-a-vis the length of service of R-3 to R-19 in their pre-merger cadre of Officers, they should have been placed above R-3 to R-19 therein. This is the solitary ground on which the validity of the common seniority list vide Annexure-C is impugned by them.

4. The document at Annexure-D, the legality of which also is sought to be assailed, is the official communication dated March 20, 1993 of the National Bank for Agriculture and Rural Development (NABARD) which was sent to all the sponsor Banks and the RRBs. The particular portion of Ex. D-1 with which petitioners are said to have been aggrieved pertains to the opinion of NABARD given at paragraph 25 thereof which reads:

"25.

It has been decided that as on February 22, 1991, all the Branch Managers/ Officers should rank above the Field Supervisors in the combined seniority list....."

It is a mere opinion of the NABARD furnished to all the sponsor Banks and RRBs, which the NABARD was entitled to furnish in discharge of its obligation u/s 38(1) of the NABARD Act, 1981.

5. Reiterating the aforestated petition ground, learned counsel for petitioner, Mr. Pramod Kathavi, sought to draw support from a decision of the Supreme Court in

Nirmal Kumar Choudhary v. State of Bihar, : (1988)ILLJ540SC .

6. Per contra, Mr. Ramdas, learned senior counsel for R-2, argued in support of the impugned seniority list, vide Annexure-C, as also Annexure D contending that by reason of the merger of the said two posts, petitioners' service interest was least affected and on the other hand, in fact, they were much benefited by it since as a result of equation of the post of Field Supervisor with that of JMG Scale-I w.e.f. September 1, 1987 pursuant to Central Government's Circular dated February 22, 1991, the petitioners' cadre from that post got automatically accelerated to the next higher cadre of the post of the "Officer" which post was equated with the post of JMG Scale-I and in which cadre Respondent 3 to Respondent 19 were working prior to this equation.

7. On a careful consideration of the rival contentions of both sides, I find sufficient force and weight in the contention of Mr. Ramdas, senior counsel for Respondent 2. Admittedly, the cadre of Field Supervisor to which all the petitioners belonged prior to its merger with the post of JMG Scale-I was inferior to and next below the cadre of the "Officers" to which Respondent 3 to Respondent 19 belonged. It is an undisputed fact that had the merger of these two posts equating them with the new post of, JMG Scale-I not taken place by virtue of the award dated April 30, 1990 of the NIT the Equation Committee's report dated October 5, 1990 and the direction of the Central Government to implement the same given under its Circular dated February 22, 1991, all the petitioners had to still wait for a considerable length of period for their respective promotion to the next higher cadre of the "Officers" in due course of their service. As a sequel of the merger of their posts, having taken place pursuant to Central Government's Circular dated February 22, 1991, with retrospective effect from September 1, 1997, all the petitioners who were working in the lower grade of Field Supervisors stood, automatically promoted wholesale to pre-merger higher cadre of the "Officers" of Respondent 3 to Respondent 19 which post was also merged and equated with the post of JMG Scale-I without any such service benefit accruing to Respondent 3 to Respondent 19.

8. No service rule was brought to my notice by learned counsel for either party which regulates the ranking to be shown in the combined seniority list of the members of the said two respective groups in different cadres on their amalgamation. Considering these material aspects, the authorities of respondent Bank have prepared a common seniority list at Annexure-C placing therein the petitioners next below Respondent 3 to Respondent 19.

This yardstick employed by them in gradation in the common seniority list of both groups of petitioners and Respondent 3 to Respondent 19 bears a reasonable classification and nexus with the respective pre-merger official positions held by them at the time of amalgamation and equation of their posts with JMG Scale-I. In the situation obtainable, I find this as the most reasonable and equitable basis for the purpose of preparation of the common seniority list dated February 16, 1996 vide Annexure-C. This was not the situation obtainable

in the case of Nirmal Kumar Choudhary, (supra), which was sought to be relied upon by the learned counsel for petitioners to support their case. In that case of Nirmal Kumar Choudhary, three wings of Overseers/Supervisors working in one and the same Department of Agriculture on permanent and temporary basis were merged in the cadre of Junior Engineers and their integrated seniority list was prepared. When that list was challenged before the High Court, it was held that the combined seniority of the Engineers in the merged category should have been fixed on the basis of confirmation of the posts instead of determining the same on the length of service of permanent and temporary Engineers. When the decision of the High Court was taken in appeal before Supreme Court, it came to be disposed of holding:

"4. In the absence of rules, the more equitable way of preparing the combined gradation list would be to take the total length of service in the common grade as the basis for determining inter se seniority. We would like to add that in regard to the Supervisors (now called Junior Engineers serving in the three wings there is no dispute of the grade being the same. While we do not agree with the High Court that confirmation should be the basis and would substitute it by the length of service test, we would uphold the direction that in fixing the combined gradation list the inter se seniority of the incumbents in their respective departments would not be disturbed....."

Obviously, it was not the case therein that various groups of Supervisors in respect of whom common gradation list was prepared, were holding different grades of post as was the situation, in the present case when their common seniority list was prepared. Because of this distinguishing factor, the case of Nirmal Kumar Choudhary is of little help to the petitioner's case. In that view of the matter, the impugned seniority list at Annexure-C cannot be stated as violative of either Article 14 or 16 of the Constitution.

9. Hence, all the petitions are dismissed. Rule discharged.