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**(1999) 11 AHC CK 0139**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 31454 of 1997**

Sunil Kumar Sharma and another APPELLANT  
Vs  
Chairman, Muzaffar Nagar Kshetriya Gramin Bank and others RESPONDENT

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**Date of Decision :** 17-11-1999

**Acts Referred:**

Kshetriya Gramin Bank (Staff) Service Regulation, 1984 — Regulation 13(1)

**Citation :** (2000) 1 AWC 556 : (2000) 1 UPLBEC 82

**Hon'ble Judges :** B. Dikshit, J;Aloke Chakrabarti, J

**Bench :** Division Bench

**Advocate :** A. K. Srivastava, for the Appellant; K. L. Grover and S.C., for the Respondent

**Final Decision :** Dismissed

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## Judgement

Aloke Chakrabarti, J.—Petitioners have challenged the seniority list and relief in respect of their seniority position.

2. Contentions have been made in the writ petition that the petitioners were appointed in the year 1985 as Field Supervisors and respondent Nos. 4 to 17 (hereinafter referred as private respondents) were appointed as Officers in the year 1989. At the time of appointment of petitioners, their service conditions were governed by Muzaffar Nagar Kshetriya Gramin Bank (Staff) Service Regulation, 1984 and in terms of definition of "Officer" Field Supervisors and Officers both were included and, therefore, they belong to the same cadre. Relevant two seniority lists dated 1.6.1992. one for Field Supervisor and other for Officers have been annexed to the writ petition at Annexures-2 and 3 to the writ petition. After the Circular dated 25.3.1991 was issued following the award of the National Industrial Tribunal, the posts of Field Supervisors and Officers were merged with effect from 1.9.1987. Following the same, a combined seniority list (Annexure-4 to the writ petition) was published in year 1993 wherein petitioner Nos. 1 and 2 were shown at serial Nos. 24 and 30 respectively, the positions below the private respondents. The petitioners filed

their objection but no relief was granted. Again in year 1997, a further combined seniority list was published, a copy of which is enclosed at Annexure-6 to the writ petition, showing the petitioners' position further down at serial Nos. 33 and 39. It is contended that a Circular dated 20.3.1993 (Annexure-8 to the writ petition) was issued on the basis of aforesaid award.

3. Respondents filed counter-affidavit, supplementary counter-affidavit and rejoinder-affidavits was also filed.

4. Mr. A. K. Srivastava, learned counsel for the petitioners contended that the authorities have fixed seniority putting the petitioners below the private respondents on a wrong interpretation of Circular dated 20.3.1993 as would appear from paragraph No. 25 thereof. It is contended on behalf of the petitioners that the said provision was made only for interregnum period between 1.9.1987 and 22.2.1991 and therefore did not apply to the petitioners who admittedly were appointed in year 1985. It is contended that in respect of aforesaid position, applying the provision of Regulation 13 (1) the petitioners being senior to the private respondents by reason of earlier appointment, cannot be placed below the said respondents in the seniority list. Law has been referred to in this connection as decided in the case of Ram Janam Singh v. State of U. P. 1994 (1) UPLBEC 216 ; Union of India Vs. S.S. Uppal and another, ; State of Maharashtra Vs. Purshottam and Others, ; S. Jamaldeen and others etc. Vs. High Court of Madras and others, for the purpose of contending that for deciding seniority, Rules are to be followed. Reference was also made to the case of B.V. Sivaiah and Others etc. Vs. K. Addankl Babu and Others etc., for showing the principles relating to promotion when criterion is seniority-cum-merit.

5. Mr. K. L. Grover, learned counsel for the respondent Bank authorities contended that he does not dispute the proposition of law relied on by the petitioners.

6. On behalf of respondents, it has been stated that Field Supervisors were the posts below the Officers prior to the Award and Circular issued and promotions were to be made from the posts of Field Supervisor to the posts of Officer. In support of such contention reliance has been placed on paragraph Nos. 6, 17 and 25 of the said Circular as also the statements made in paragraph 8 of the writ petition.

7. It is also contended that the position is clear that the posts of Field Supervisors were below the Officers according to the staffing pattern before award and Circular and merger of posts of Field Supervisors with the posts of Officers. In terms of said award and circular, Field Supervisors are to be en block Junior to the Officers as benefits of their past services have already been given when they were promoted and no further benefit as regards seniority is available. It is further contended that such seniority position was provided in the list published in year 1993 and petitioners neither protested nor moved any Court of law seeking their relief. Therefore, further seniority list in year 1997

does not entitle the petitioners to any relief.

8. We have considered the contentions of the respective parties. The facts that the petitioners were appointed as Field Supervisors in the year 1985 and private respondents were appointed as Officers in the year 1989 are admitted. The petitioners claim that the seniority lists of 1993 and 1997 have been wrongfully prepared putting them below the private respondents as paragraph No. 25 of the Circular has been wrongly interpreted. It is contended that the said paragraph dealt with the appointments of supervisors and officers in the interregnum period between 1.9.1987 and 22.2.1991 and it could not be applied in case of petitioners appointed earlier. The respondents denied the same. A perusal of the said Circulars clearly indicate that in paragraph 6 of the Circular of 1993, the circumstances, prevailing earlier had been narrated. It appears that in April, 1980, the posts of Accountants and Field Officers were merged with that of Branch Manager and created one combined posts of Officers and posts of Field Assistants were merged with Field Supervisors.

9. Staffing pattern in the Regional Rural Banks is appearing from the said circular of 1991 at Annexure-I which indicates that prior to the said award in the category of "Officer staff there were three categories, viz.. Field Supervisor, Officer/Branch Manager and Area Manager/Senior Manager. Admittedly. after the award and the Circular the posts of Field Supervisors and Officers were merged as OJM-1. Therefore, there were two different cadres before such merger, one having Field Supervisors and other having the Officers. From paragraph 6 of the Circular, we are convinced that change was brought in April. 1980 for having one cadre of Officers wherein Accountant, Field Officer and Branch Manager were merged and other cadre of Field Supervisors on merger of Field Assistants with Field Supervisors. It also appears from paragraph 25 of the Circular that prior to Circular and award, there were promotion from Field Supervisor to Officer. This indicates that Field Supervisors were subordinate to Officers. We also find from paragraph 17 of the Circular that such merger resulted in promotion of Field Supervisors to Officers and principle has been laid down that the services rendered by the Field Officers in the lower cadre before such promotion has been rewarded by promotion itself and their past services cannot once again be taken into consideration for the purpose of fitment.

10. From the aforesaid materials. we are convinced that prior to the said Circular, the posts of Field Supervisors were subordinate to the posts of Officers and. therefore, we are of the opinion that upon merger, the Field Supervisors got benefit of promotion and in such circumstances in the seniority list, they had been shown as junior to the private respondents who were admittedly Officers.

11. Moreover, changes in 1993 were reflected in seniority list of 1993 and petitioners admittedly did not challenge the same before any Court of law. Therefore when fresh seniority list was published in 1977, the petitioners cannot be allowed to challenge such seniority originally fixed in the year 1993.

12. In view of aforesaid findings, we do not find any irregularity in the matter of seniority list complained against. The writ petition is therefore dismissed.