

S.P. Biswas And Others Etc vs State Bank Of India And Others on 27 August, 1991

Equivalent citations: 1991 AIR 2039, 1991 SCR (3) 769, AIR 1991 SUPREME COURT 2039, 1991 AIR SCW 2293, 1991 LAB. I. C. 2057, 1991 (2) UPLBEC 1333, 1991 (2) UJ (SC) 567, (1991) 6 JT 100 (SC), (1991) 3 SERVLJ 190, (1991) 2 LAB LN 805, (1991) 3 SCR 769 (SC), 1991 (2) SCC(SUPP) 354, 1991 UJ(SC) 2 567, 1991 SCC (SUPP) 2 354, 1992 SCC (L&S) 229, (1992) 2 LABLJ 108, (1992) 3 SERVLR 136, (1991) 2 UPLBEC 1333, (1991) 2 BANKCLR 607

Author: Jagdish Saran Verma

Bench: Jagdish Saran Verma, L.M. Sharma

PETITIONER:

S.P. BISWAS AND OTHERS ETC.

Vs.

RESPONDENT:

STATE BANK OF INDIA AND OTHERS.

DATE OF JUDGMENT 27/08/1991

BENCH:

VERMA, JAGDISH SARAN (J)

BENCH:

VERMA, JAGDISH SARAN (J)

SHARMA, L.M. (J)

CITATION:

1991 AIR 2039 1991 SCR (3) 769

1991 SCC Supl. (2) 354 JT 1991 (6) 100

1991 SCALE (2) 408

ACT:

Civil Service--Promotion to Middle Management Grade II
of State Bank of India-Promotion Policy dated 31. 10. 1983
read with Circular dated 13.9.1989---Procedure
mentioned--Whether arbitrary.

Bank--Service--Promotion to Middle Management Grade II
of State Bank of India----Promotion policy--Whether discrim-
inatory.

HEADNOTE:

The appellants being aggrieved by the promotion policy of the respondent-Bank dated 31.10.1983 read with the Circular dated 13.9.1989 for promotion from the cadre of Junior Management Grade-1 to Middle Management Grade-II, moved the High Courts under Article 226 of the Constitution.

The policy provides for two channels for promotion, namely, the Merit Channel and the Seniority Channel. For filling vacancies by promotion from the cadre of Junior Management Grade-1 to that of Middle Management Grade-II, 65% of the total vacancies were reserved for the Seniority Channel and the remaining 35% for the Merit Channel.

The criterion mentioned in the policy for the Merit Channel provides 40 per cent marks for written test, 10 per cent marks for seniority, 20 per cent marks for performance appraisal, 20 per cent marks for interview and the remaining 10 per cent marks for passing the examination held by the Bankers' institute.

The High Courts dismissed the writ applications, against which the appeals were filed in this Court.

The appellants contended that the marks under all other heads amounting to it maximum of 80 per cent instead of the maximum of 40 per cent prescribed for the written test should be the proper criterion to call a candidate for interview in order to make a proper selection on the basis of merit; that by taking into account the marks of written test alone there is exclusion of other meritorious candidates whose aggregate

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including the marks obtained under the other heads may exceed the corresponding aggregate of marks of candidates obtaining higher marks in written test alone. On this basis the policy for filling vacancies from the Merit Channel by promotion was alleged to be arbitrary.

The respondent-Bank, contended that the Provision for the Merit Channel for promotion was made in the policy to give accelerated promotion to the academically brilliant persons with the object of providing incentive to them and thereby improving the quality of personnel in the higher cadre; that the policy of deciding merit on the basis of written test alone has been consistently followed and the Circular dated 13.9.1989 was merely a clarification of the manner of preparation of the Select List to make the selection more objective and to yield better results by getting the most meritorious candidates from all circles.

Dismissing the appeals, this Court,

HELD: 1. Keeping in view the laudable object of attracting academically brilliant candidates into the Bank's service as officers by direct recruitment by giving incentive of accelerated promotion to the most meritorious amongst them who maintain a high standard of achievement is conducive to public interest and cannot be faulted. [773C]

2. Of the several heads under which the marks are divided for promotion to Merit Channel, written test and inter-

view are the only ones which depend on the current performance. The marks under the remaining three heads of seniority, performance appraisal and C.A.LLB. (passing of examination held by Bank's Institute) relate to past performance of the candidate which are matters of record. It is, therefore, the appraisal of the current performance by written test and interview which alone is the real part for a proper appraisal of the current performance of the candidate for the purpose of assessing his merit for promotion through the Merit Channel. In this situation, if the marks obtained in the written test alone are taken into account for preparing the Select List to call candidates for an interview depending upon the number of vacancies available in Merit Channel the criterion adopted cannot be termed arbitrary. [773C-F]

3. The marks obtained for seniority, performance appraisal and C.A.I.I.B. are based on service record and not on appraisal of the candidate by a mode independent of service record for assessing the true current worth of the candidate. Since, equal opportunity is available to all for competing through the Merit Channel, in addition to the
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prospects through the Seniority Channel, the policy adopted cannot be treated as irrational, discriminatory or arbitrary. [773F.G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1774 of 1990.

From the Judgment and Order dated 14.2.1990 of the Delhi High Court in C.W.P. No. 13 of 1990.

WITH CIVIL APPEAL No. 4457 of 1990. , D.V. Sehgal, A.K. Goel, Mrs. Sheela Goel and K.K. Mohan for the Appellants.

Shanti Bhushan, S.S. Sharma, R.P. Kapur and Sanjay Kapur for the Respondent.

The Judgment of the Court was delivered by VERMA, J. These appeals by special leave are disposed of by this common judgment since they involve common questions. Civil Appeal No. 1774 of 1990 is against the judgment of the Delhi High Court while Civil: Appeal No. 4457 of 1990 arises out of a similar judgment Of the Punjab & Haryana High Court.

The appellants in both these appeals are aggrieved by the promotion policy of the respondent, the State Bank of India contained in Annexure 'A' ,dated 31.10.1983 read with the Circular dated 13.9.1989 for promotion 'from the cadre of junior Management Grade-1 (Rs. 1175-2675):to Middle Management Grade-II (Rs. 1825-2925). The policy provides for two channels for promotion, namely, the Merit Channel and the Seniority Channel. For filling vacancies by promotion from the cadre. of Junior Management Grade-1 to that of Middle Management Grade-II,

65% of the total Vacancies were reserved for the Seniority Channel and the remaining 35% for the Merit Channel. The challenge in these appeals is to the filling by promotion of the vacancies through the Merit Channel. The criterion mentioned in the policy for the Merit Channel provides 40 per cent marks for written test, 10 per cent marks for seniority, 20 per cent marks for performance appraisal, 20 per cent marks for interview and the remaining per cent marks for passing the examination held by the Bankers' Institute called C.A.I.I.B. The procedure adopted- for taking into account the marks obtained in the written test alone for shortlisting or screening instead of total of marks under all heads except interview for calling a candidate for interview is challenged as arbitrary. It is contended that the marks under another heads amounting to a maximum of 80 per cent instead of the maximum of 40 per cent prescribed for the written test should be the proper criterion to call a candidate for interview in order to make a proper selection on the basis of merit. It is urged on behalf of the appellants that by taking into account the marks of written test alone there is exclusion of other meritorious candidates whose aggregate including the marks obtained under the other heads may exceed the corresponding aggregate of marks of candidates obtaining higher marks in written test alone. On this basis the policy for filling vacancies from the Merit Channel by promotion is alleged to be arbitrary. This is the common grievance in both these appeals. An additional point urged in Civil Appeal No. 1774 of 1990 alone is that unfair means were adopted by some candidates at some centres in a particular circle where written tests were held which has vitiated the result of the written test.

On behalf of the respondent-Bank, all the relevant documents were produced to negative both these submissions. It was urged by learned counsel for the respondent that the provision for the Merit Channel for promotion was made in the policy to give accelerated promotion to the academically brilliant persons with the object of providing incentive to them and thereby improving the quality of personnel in the higher cadre. He pointed out that the policy of deciding merit on the basis of written test alone has been consistently followed and the Circular dated 13.9. 1989 was merely a clarification of the manner of preparation of the Select List to make the selection more objective and to yield better results by getting the most meritorious candidates from all circles. This mode of preparation of Select List was adopted in 1989 also to overcome the deficiencies pointed out in the earlier years. The object of choosing the most meritorious persons through this channel is better achieved by adopting the performance in the written test as the predominant factor for selection on the basis of merit. One of the attendant benefits achieved thereby is also to attract more brilliant people into the Banking service with the prospects of accelerated promotion to the more meritorious persons. The entry point for officers by direct recruitment in the State Bank of India being the Junior Management Grade-1, the prospect of the very first promotion being accelerated for academically brilliant persons provides greater incentive to the brilliant persons joining the service. This is the justification given for adopting the policy of reserving 35 per cent of the promotional vacancies to the next higher cadre through Merit Channel. The object sought to be achieved in this manner and the making of such a provision to achieve the object of such a provision was rightly not assailed before us. The only challenge was to the criterion of marks obtained in the written test alone being the guiding factor to choose candidates who were to be called for interview. We heard both sides at length and also closely scrutinised the Bank's records relating to the formulation and implementation of the impugned promotion policy. Our conclusion is that no infirmity rendering this policy arbitrary and, therefore, assailable on that ground is disclosed.

Keeping in view the laudable 'object of attracting academically brilliant candidates into the Bank's service as officers by direct recruitment by giving incentive of accelerated promotion to the most meritorious amongst them who maintain a high standard of achievement is conducive to public interest and cannot be faulted. Of the several heads under which the marks are divided for promotion to Merit Channel, written test and interview are the only ones which depend on the current performance. The marks under the remaining three heads of seniority, performance appraisal and C.A.I.I.B. (passing of examination held by Bank's Institute) relate to past performance of the candidate which are matters of record. It is, therefore, the appraisal of the current performance by written test and interview which alone is the real part for a proper appraisal of the current performance of the candidate for the purpose of assessing his merit for promotion through the Merit Channel. In this situation, if the marks obtained in the written test alone are taken into account for preparing the Select List to call candidates for an interview depending upon the number of vacancies available in Merit Channel, the criterion adopted cannot be termed arbitrary. As earlier indicated, the marks obtained for seniority, performance appraisal and C.A.I.I.B. are based on service record and not on appraisal of the candidate by a mode independent of service record for assessing the true current worth of the candidate. Since, equal opportunity is available to all for competing through the Merit Channel, in addition to the prospects through the Seniority Channel, the policy adopted cannot be treated as irrational, discriminatory or arbitrary. No doubt there is always room for improvement and so also in the mode of implementation of this policy. The learned counsel for the respondents assured us that the Bank is vigilant and active in making any improvement which is called for as a result of experience or suggestions from any quarter. The Bank's endeavour to make the assessment of merit as objective as possible is also indicated by its efforts in that direction. The record of the Bank placed before us does satisfy us about the genuineness and bona fides of the Bank's endeavour in this direction. It may also be indicated that the Circular dated 13.9.1989 for preparation of the Select List which was applied to the examination held thereafter in 1989 was an exercise in the same direction. We are inclined to agree with this submission of the learned counsel for the respondents. One of the arguments of the learned counsel for the appellants that this circular was applied retrospectively was not substantiated by the facts since preparation of the list according to this circular in the examination held in 1989 was made subsequent to the issuance of this circular and it was an exercise in improvement of the mode of selection.

We do not, therefore, find any merit in the submission on behalf of the appellants that the policy framed and the mode of its implementation for filling some of the promotional posts through the Merit Channel is discriminatory or arbitrary. This contention is, therefore, rejected. We may, however, add that if there be any suggestion for a further improvement in the mode of implementation of this policy the same can be given to the management of the respondent-Bank and we have no doubt, as assured by Shri Shanti Bhushan, the learned counsel for the respondent-Bank that the worthwhile suggestions, if any, would be adopted by the Bank for future examinations.

The only other point which is confined to Civil Appeal No. 1774 of 1990 is the allegation of unfair means adopted at some centres where written test was held in the Delhi Circle. We have scrutinised all the documents including a Report dated 1.9.1989 of Mr. V.D. Bhog on which strong reliance was placed on behalf of the appellants. We are satisfied that no ground for any interference on this basis

is made out. The relevant records disclosed that an honest attempt was made on the part of the management of the Bank to examine all the points raised in the Report of Mr. V.D. Bhog and otherwise and in cases where an element of use of unfair means was found, necessary action was taken. The Report dated 7.12.1989 by the General Manager (Operations) is relevant in this context and the materials placed before us show that necessary action was taken by the Bank to exclude the possibility of the results being affected by use of unfair means by any candidate and this was done even before filing of the writ petition by the appellants. The ultimate results of the candidates at these centres who appeared for written test at these centres also assures us that neither was there any mass copying at these centres nor is the final result shown to have been influenced by use of unfair means by any candidate. It is also disclosed by the records that the complaint which led to the report by.

Shri V.D, Bhog was made by twenty-seven candidates out of whom twenty-four had obtained high marks themselves and. out of them twelve were actually selected by inclusion in the final list of selected candidates. This additional ground urged on behalf of the appellants in Civil Appeal No. 1774 of 1990 also cannot be accepted.

Consequently; both these appeals fail and are dismissed. No costs.

V.P.R.
missed.

Appeals dis-