

State Bank Of India And Anr vs M.R. Ganesh Babu And Ors on 16 April, 2002

Equivalent citations: AIR 2002 SUPREME COURT 1955, 2002 AIR SCW 1881, 2002 LAB. I. C. 1682, 2002 AIR - KANT. H. C. R. 1381, 2002 (2) UPLBEC 1680, (2002) 2 BANKJ 592, (2002) 3 LAB LN 1, 2002 (5) SRJ 491, 2002 (3) SERVLJ 134 SC, 2002 (4) SCC 556, 2002 (3) SCALE 682, 2002 (3) SLT 289, (2002) 4 JT 129 (SC), (2002) 101 FJR 509, (2002) 2 CURLR 309, (2002) 93 FACLR 853, (2002) 2 LABLJ 829, (2002) 2 SCT 749, (2002) 3 SCJ 416, (2002) 3 SERVLR 427, (2002) 2 UPLBEC 1680, (2002) 3 SUPREME 471, (2002) 3 SCALE 682, (2003) 1 ESC 90, 2002 SCC (L&S) 568, (2002) 2 BANKCLR 252

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Bench: S. Rajendra Babu, Ruma Pal, Bisheshwar Prasad Singh

CASE NO.:

Appeal (civil) 3769-3772 of 2000

PETITIONER:

STATE BANK OF INDIA AND ANR.

RESPONDENT:

M.R. GANESH BABU AND ORS.

DATE OF JUDGMENT: 16/04/2002

BENCH:

S. RAJENDRA BABU & RUMA PAL & BISHESHWAR PRASAD SINGH

JUDGMENT:

JUDGMENT 2002 (3) SCR 149 The Judgment of the Court was delivered by BISHESHWAR PRASAD SINGH, J. These appeals by special leave have been preferred by the State Bank of India and are directed against the judgment and order of the High Court of Karnataka at Bangalore dated 8th June. 1999 in Writ Appeal Nos. 2266-69 of 1999 whereby the appeals preferred by the appellant-Bank were dismissed and the order of the learned Single Judge upheld. By the impugned judgment the High Court held that the claim of officers under specialist cadre for grant of benefit of higher starting pay as was given to the Rural Development Officers, required consideration. The Court, therefore, directed the Bank to consider the matter keeping in view the duties and responsibilities of the writ petitioners (respondents herein) which were comparable with the duties and responsibilities of the Rural Development Officers (for short RDOs).

A few facts which are not in dispute may be noticed.

In the State Bank of India officers are classified and categorised under four grades-the Top Executive Grade, the Senior Management Grade, the Middle Management Grade and the Junior Management Grade. In the instant case we are concerned with the officers who belong to the Junior Management Grade. This grade consists of Probationary Officers, Trainee officers and other officers who are technical persons or specialists such as Assistant Law Officer, Security Officer, Assistant Engineer, Technical Officer, Medical Officer and Rural Development Officer (herein referred to as RDOs). The officers of the Bank, who generally look after the Banking business have been described as generalist officers whereas the others have been described as specialist officers who advise and undertake the work of the Bank in their respective field of specialization. There are therefore, generalist officers on the one hand and specialist officers on the other. Before the year 1979 all the officers, generalist as well as specialist, were entitled to the pay-scale prescribed for the Junior Management Grade, but apart from the pay-scale which was common, they were also entitled to the same benefit of higher starting salary by grant of advance increments. It is not disputed that they were all entitled to advance increments on appointment, so that their initial starting pay was fixed at a stage higher than the starting pay in the prescribed scale. It was stated at the Bar that all the officers were granted 4 increments when they initially joined the post on appointment.

In the year 1979 in exercise of powers conferred by sub-section (1) of Section 43 of the State Bank of India Act, 1955, the Central Board of the State Bank of India made an order determining certain terms and conditions of the appointment and service of officers in the Bank. The said order is known as the "State Bank of India Officers (Determination of Terms and Conditions of Service) Order, 1979" (hereinafter referred to as the 1979 Order). The order applied to the existing officers of the Bank, who were appointed or promoted to any of the grades mentioned in paragraph 4 of the 1979 Order and to such other employees of the Bank to whom it may be made applicable to the extent and subject to such conditions as may determined by the competent authority. Terms - "Officer", "Probationary Officer" and "Trainee Officer" have been defined in paragraph 3 of the 1979 Order as under :

"3. In this order, unless there is anything repugnant to the subject or context-

(k) "Officer" means a person fitted into or appointed to or promoted to any of the grades specified in paragraph 4 including an existing officer and shall also include any specialists or technical persons so fitted or promoted or appointed and any other employee to whom any of the provisions of this order has been, made applicable under paragraph 2;

(1) "Probationary Officer" means an officer appointed as such and fitted in the Junior Management Grade;

(o) "Trainee Officer" means a person appointed as such from the staff of the bank and fitted in the Junior Management Grade;

Paragraph 4 of the 1979 Order provides that there shall be four grades for officers with the scales of pay specified against each of the grade. We are concerned with the Junior Management Grade

entitled to Scale-I which is Rs. 700-40-900-50-100-EB-1200-60-1800. Sub-paragraph (2) of paragraph 4 provides as follows :

"(2) Notwithstanding anything contained in sub-paragraph (1), a Probationary Officer and a Trainee Officer shall, on appointment, be placed at the stage of Rs. 860 in Scale-I in the Junior Management Grade."

Paragraph 6 of the 1979 Order provides categorization of officers to be done by the Central Board or the Executive Committee or the competent authority, having regard to the responsibilities and the functions exercisable. Such categorization may be reviewed from time to time.

It would thus appear that an officer appointed as a Probationary Officer or a Trainee Officer is given the benefit of being placed at the stage of Rs. 860 in Scale I of the Junior Management Grade. Probationary Officer and Trainee Officer are considered to be generalist officers and such benefit was confined to them only. RDOs and other specialist officers such as Assistant Law officers, Security Officers. Assistant Engineers, etc. were not entitled to the benefit of higher starting pay. It appears that this Scheme was evolved having regard to the recommendations of the Pillai Committee.

Advertisements were issued for recruitment of specialist officers pursuant to which respondents 1 to 4 applied and were finally selected and appointed. The advertisement issued for recruitment of Assistant Law Officers has been annexed as Annexure P-2. Respondent No. 1 was appointed as a Technical Officer on 18th June, 1984 while respondent No. 2 was appointed as an Assistant Engineer (Civil) on 3rd September, 1984. Respondents No. 3 and 4 were appointed as Assistant Law Officer on 15th February, 1985. These respondents fall within the category of specialist officers and were, therefore granted the scale provided for the Junior Management Grade.

It appears that the RDOs. who were then considered as specialist officers, in the Bank, made a grievance and claimed parity with the generalist officers contending that having regard to the duties and responsibilities shouldered by them, they were entitled to the same benefit as was extended to the Probationary and Trainee Officers, who were fitted on appointment/promotion at four stages higher in the Scale-I applicable to the officers of the Junior Management Grade. To consider their grievance a Committee was set up by the Bank known as the Bhatnagar Committee which made its recommendation in favour of the RDOs finding that they were required to shoulder, by and large, the same duties and responsibilities as Probationary Officers or Trainee Officers so far as conducting agricultural advances work was concerned. The Committee recommended that it was an appropriate case for removal of the anomaly in salary fitment and extending to the RDOs the same fitment of salary at the time of appointment, and treating them as Probationary Officers (Agricultural) and Trainee Officers (Agricultural), as the case may be. The recommendation of the Bhatnagar Committee was accepted and implemented by the Bank as would be apparent from the communication dated 25th September, 1985 (Annexure H to the writ petition.) Since the benefit of additional increments was denied to other specialist officers, they also made a grievance and claimed that the benefit of additional increments be extended to them as it had been done in the case of RDOs. Since the Bank did not concede their demand, the respondents 1 to 4 herein filed writ

petitions praying for a writ in the nature of mandamus directing the State Bank of India to give the benefit of additional increments to the petitioners from the date of their appointment as applicable to Probationery/ Trainee Officers. They also prayed for interest on the amount duty to them. Their grievance was that the Bank had not only discriminated between the officers prior to the issuance of the 1979 Order, but was guilty of hostile discrimination in granting preferential treatment by giving additional increments to the RDOs while denying the same to the writ petitioners, who belong to the same class as RDOs after implementation of the 1979 Order. In sum and substance the writ petitioners/respondents herein claimed that in all respects they perform the same duties and shoulder similar responsibilities as the RDOs and, therefore, they are entitled to the same benefit of additional increments on appointment as was extended to RDOs.

The appellant-Bank opposed the writ petitions contending that the 1979 Order came into effect as a measure of rationalization and restructuring of grades and scales in Public Sector Banks. The respondents applied for and accepted the terms of appointment and the rules governing their service, and joined the service of the Bank of their own volition. They could not be permitted to question the terms and conditions of their appointment and claim additional increments. It was further contended that the respondents could not be compared with the general cadre officers directly recruited as Probationary Officers or inducted by promotion as Trainee Officers. There is considerable quantitative as well as qualitative difference as regards work and responsibility between general cadre officers and Assistant Law Officers. Their respective duties and functions as also their eligibility criteria, process of selection, measuring of responsibility for such general cadre officers and the respondents are totally different. They are recruited from different sources. The pay differences between Probationary Officers and Trainee officers on the one hand and Assistant law Officers on the other was based on intelligible differentia and has rational nexus with the object sought to be achieved. The general cadre officers form the management cadre of the Bank. They are recruited/promoted on the basis of all India test and subjected to varied trainings, institutional and on-the- job in various fields of banking. They man the organization of the Bank. RDOs are also treated as general cadre officers performing banking functions. On the other hand specialist officers are recruited for specified advisory role. They are not exposed to operational hazards and do not take important financial - credit decisions of the bank. It was, therefore, submitted that the differential fitment of these officers was not violative of Articles 14 and 16 of the Constitution of India.

The learned Judge before whom the writ petitions came up for disposal noticed the 1979 Order and the grievance of the writ petitioners (respondents herein). The learned Judge also noticed the fact that the RDOs were given the same benefit as was extended to the generalist officers. The submission urged on behalf of the Bank that the RDOs were given such benefit on the basis of the recommendations of the Batnagar Committee was also noticed. What, however, impressed the learned Judge was that some of the RDOs who did not opt for absorption in the generalist cadre and continued to be RDOs under specialist cadre, were also extended the benefit of higher starting pay, whereas the said benefit was denied to the other officers in the specialist cadre. The learned Judge concluded by observing:

"6. If a person working as RDO not opted for absorption continued under specialist category and any benefit was given to such of those RDOs the same is required to be given to persons who come under the specialist category. Therefore, it is a matter to be considered by the Bank keeping in view the duties and responsibilities of the Petitioners which are comparable to the duties and responsibilities of the RDOs."

Appeals preferred against the judgment of the learned Single Judge were dismissed by the Division Bench of the High Court by order dated 8th June, 1999. However, it was left open to the Bank to consider the case of the respondents in the light of the observations made by the learned Single Judge.

Special Leave Petitions were preferred before this Court by the State Bank of India and by order dated 10th July, 2000 special leave was granted. When the matters had earlier come up before this Court on 10th April, 2000, while adjourning the matters, the Court had granted liberty to the petitioner (appellants) to consider the matter afresh.

As earlier noticed, on the recommendations of Bahatnagar Committee, the RDOs were granted the benefit of advance increments as was admissible to the generalist officers, namely Probationary Officers and Trainee Officers under the Order of 1979. The grant of benefit of such additional increments to RDOs has not been challenged before us. Indeed the respondents contend that they should be given the same benefit. We shall, therefore, proceed on the assumption that the RDOs were properly found to fall in the same class as the generalist officers, having regard to their duties, responsibilities and nature of work etc. and this was done after an Expert Committee had gone into the matter and recommended parity with generalist officers. We do not attach much significance to the fact that some of the RDOs opted to continue in the specialist cadre and yet the benefit was extended to them, because whether they are borne on the generalist cadre or specialist cadre, the benefit is extended to them having regard to the duties performed and responsibilities shouldered by them.

The questions that arises in the instant appeals is whether the respondents can claim to fall in the same class or category as generalist officers, namely the Probationary Officers and Trainee Officers. Respondents invoke the principle of equal pay for equal work and contend that having regard to the nature of work and the responsibilities shouldered by them, and taking into consideration all relevant facts in this regard, they are entitled to the same benefit of additional increments as has been extended to the Probationary Officers, Trainee Officers and subsequently to the RDOs.

The principle of equal pay for equal work has been considered and applied in many reported decisions of this Court. The principle has been adequately explained and crystalised and sufficiently reiterated in a catena of decisions of this Court. It is well settled that equal pay must depend upon the nature of work done. It cannot be judged by the mere volume of work, there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the irresponsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made

bonafide, reasonably on an intelligible criterion which has a rational nexu with the object of differentiation, such differentiation will not amount of discrimination. The principle is not always easy to apply as there are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. Differentiation in pay scales of persons holding same posts and performing similar work on the basis of difference in the degree of responsibility, reliability and confidentiality would be a valid differentiation. The judgment of administrative authorities concerning the responsibilities which attach to the post, and the degree of reliability expected of an incumbent, would be a value judgment of the authorities concerned which, if arrived at bona fide reasonably and rationally, was not open to interference by the court.

Since the plea of equal pay for equal work has to be examined with reference to Article 14, the burden is upon the petitioners to establish their right to equal pay or the plea of discrimination, as the case may be. (See [1988] 3 SCC 91 : Federation of All India Customs and Central Excise Stenographers (Recognised) and Ors., v. Union of India and Ors., [1993] 1 SCC 539; State of Madhya Pradesh and Anr., v. Pramod Bhartiya and Ors., [1996] 11 SCC 77; State of Haryana v. Jasmer Singh, [1998] 1 SCC 422 and State of U.P. and Ors. v. Ministerial Karamchari Sangh.

It was submitted before us on behalf of the appellants that pursuant to the liberty granted by this Court by order dated 10th April, 2000, the case of the respondents has been considered by the appellant Bank. A copy of the decision dated 3rd June, 2000 under the signature of the Chairman of the Bank has been placed before this Court. The order contains the reasons for the conclusion reached by the appellant bank that the duties and responsibilities of the respondents are not comparable to the duties and responsibilities of the RDOs or the Probationary Officers and the Trainee Officers and, therefore, their claim for parity with them in salary fitment on appointment cannot be accepted. A copy of the aforesaid order was given to the respondents. They have also made their submissions and challenged the correctness of this said decision. In a sense, the impugned judgment and order has been complied with but with a view to avoid future controversy, we permitted the parties to address us at length so that we may examine the correctness of the decision of the appellant Bank which has not found it possible to accept the claim of the respondents for parity in salary fitment with Probationary Officers and Trainee Officers.

We have carefully perused the order of the Bank and find that several reasons have been given for non acceptance of the respondents' claim. It has been high-lighted that the Probationary Officers/Trainee Officers are being recruited from market/promoted from clerical staff by the bank by means of all India written test and interview to get the best talent from the market and within, with a view to man the Bank's top management in due course. Leaned counsel for the respondents submitted that the same is also true of specialist officers. However, it is contended on behalf of the appellant Bank that the generalist officers are exposed to various assignments including mandatory rural assignments. Unlike them, the services of Assistant Law Officers are utilized as in-house advisors on legal matters in administrative officers. The duties and responsibilities of Probationary Officers/Trainee Officers are more onerous while the specialist officers are not exposed to operational work/risk. It is, therefore, quite clear that there exists a valid distinction in the matter of work and nature of operations between the specialist officers and the general category officers. The

general category officers are directly linked to the banking operations whereas the specialist officers are not so linked and they perform the specified nature of work. RDOs were given similar fitment as the generalist officers since it was found that they were required to shoulder, by and large, the same duties and responsibilities as Probationary Officers and Trainee Officers in so far as conducting Bank's agricultural advances work was concerned. This was done on the basis of the recommendations of the Bhatnagar Committee and keeping in view the fact that the decision has been taken that there would be no future recruitment of RDOs and the existing RDOs were proposed to be absorbed in general banking cadre. The recruitment of RDOs has been discontinued since 1985. Taking into account the nature of duties and responsibilities shouldered by the respondents the Bank has concluded that the duties and responsibilities of the respondents are not comparable to the duties and responsibilities of the RDOs, the Probationary Officers or the Trainee Officers.

Learned counsel for the respondents submitted that specialist officers are also recruited from the open market and are confirmed after successfully completing the probation of 2 years. Before the Order of 1979 came into force, they were similarly being granted benefit of additional increments at the time of appointment in the same manner as the generalist officers. However, after the order of 1979 they have been deprived of this benefit. Subsequently that benefit was extended to RDOs but not to the respondents and others like them. We have earlier noticed that the RDOs were given the benefit of advance increments on the basis of the report of an Expert Committee which justified their classification with the generalist officers, having regard to the nature of duties and responsibilities shouldered by them. However, on consideration of the case of the respondents, the Bank has reached a different conclusion. The Bank has found that their duties and responsibilities are not the same as those of Probationary Officers/Trainee Officers/RDOs. It is no doubt true that the specialised officers render useful service and their valuable advice in the specialised fields is of great assistance to the bank in its banking operations. The officers who belong to the generalist cadre, namely the officers who actually conduct the banking operations and who take decisions in regard to all banking works are advised by the specialist officers. There can be no doubt that the service rendered by the specialist officers is also valuable, but that is not to say that the degree of responsibility and reliability is the same as those of the Probationary Officers, the Trainee Officers, and the RDOs, who directly carry on the banking operations and are required to take crucial decisions based on the advice tendered by the specialist officers. The Bank has considered the nature of duties and responsibilities of the various categories of officers and has reached bonafide decision that while generalist officers take all crucial decisions in banking operations with which they are directly linked, and are exposed to operational work and risk since the decisions that they take has significant effect on the functioning of the bank and quality of its performance, the specialist officers are not exposed to such risks nor are they required to take decisions as vital as those to be taken by the generalist officers. They at best render advice in their specialized field. The degree of reliability and responsibility is not the same. It cannot be said that the value judgment of the Bank in this regard is either unreasonable, arbitrary or irrational. Having regard to the settled principles and the parameters of judicial interference, we are of the considered view that the decision taken by the bank cannot be faulted on the ground of its being either unreasonable arbitrary or discriminatory and therefore judicial interference is inappropriate.

These appeals are accordingly allowed and the impugned judgment and order dated 8 the June, 1999 is set aside and the writ petitions preferred by the respondents are rejected. There will be no order as to costs.