2026:DHC:7779

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 9th September, 2026.

\# **CNR No. DLHC010237432019**

\+ W.P.(C) 5601/2019

RAVI KANT THAKRAL .....Petitioner

Through: Mr. Deepak K. Vijay and Ms. Neeru Sharma, Advocates.

versus

BANK OF BARODA .....Respondent

Through: Ms. Praveena Gautam, Mr. Pawan Shukla, Ms. Tissy A. Thomas, Mr. Rohan Bansla, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner was placed first in a Reserve List prepared in May 2016 for promotion from Deputy General Manager, TEG/S-VI, to General Manager, TEG/S-VII. During the currency of that list, vacancies arose in the cadre of General Manager. Therefore, the short question is: did the mere existence of such vacancies, by itself, entitle the Petitioner to promotion? In the opinion of this Court, it did not.

Factual Background

2. The Petitioner joined the Bank in April 1978 and, over the years, rose to the position of Deputy General Manager. He was promoted to that scale on 1st May, 2014 and retired on 30th April, 2018.

3. In May 2016, the Bank undertook an exercise for promotion from

TEG/S-VI to TEG/S-VII. Three officers were declared successful on 19th May, 2016. Fifteen others were placed in a Wait List for consideration against future vacancies arising up to 31st March, 2017, subject to vigilance clearance. The result of one officer, Mr. M.S. Chauhan, was kept in a sealed cover on account of pending disciplinary proceedings. In addition, a Reserve List of three officers was drawn on 16th May, 2016. The document records:

> *"Keeping in view the probability of any additional vacancies arising during the year, the following -3- additional candidates are being kept in the Reserve-List in the serial of the Merit Order."*

The Petitioner stood first in this list, at overall merit order 20. The Reserve List was stated to remain valid up to 1st April, 2017.

4. According to the Petitioner, by 30th November, 2016, all the candidates in the Selection List, Wait List and sealed-cover process had been promoted. He identifies three vacancies thereafter: one on 1st December, 2016, following the retirement of Mr. M.S. Chauhan; another on 17th February, 2017, when Mr. Neelam Damodran was appointed as ED of another bank; and a third upon the retirement of Mr. R.N. Sharma on 31st March, 2017. His case is that, being first in the Reserve List, he ought to have been promoted against the first of these vacancies with effect from 1st December, 2016.

5. The Petitioner represented to the MD & CEO on 14th March, 2017. He also participated thereafter, though unsuccessfully, in the promotion exercises held in 2017 and 2018. An earlier writ petition filed by him was disposed of on 28th May, 2018, permitting him to make a representation to the ED of the Bank against the promotion order dated 9th April, 2018. The question of territorial jurisdiction was expressly left open. Pursuant thereto,

the Petitioner made a representation, which was disposed of by the ED on 6th August, 2018.

6. This petition seeks promotion to the post of General Manager with effect from 1st December, 2016, together with consequential benefits.

Submissions

7. The Petitioner's submission is straightforward. He contends that the Reserve List was prepared precisely to take care of additional vacancies arising during the year. Once such vacancies actually arose before its expiry, there was no justification for the Bank to leave them unfilled. He also points out that, in previous years, officers from Reserve Lists had been promoted when additional vacancies arose, and relies upon this past practice as giving rise to a legitimate expectation of similar treatment in his case.

8. The Petitioner also places reliance on the Government of India's communication dated 22nd February, 2016, under which the number of GMs proposed for the Bank was increased from 43 to 46. He contends that no decision of the Board reducing this number has been produced and, thus, there was no justification for permitting the working strength to fall to 43.

9. Although the Bank does not dispute that, on earlier occasions, candidates from the Reserve List were promoted, it disputes that placement in the Reserve List gave the Petitioner any right to promotion. It points out that none of the three officers in that list was promoted. It also relies upon the discretion available to the Management under the Promotion Policy to keep vacancies unfilled and to operate, or not operate, a Wait List.

Discussion

10. Several preliminary objections have been raised, including territorial jurisdiction, delay, acquiescence arising from the Petitioner's participation

in subsequent promotion exercises, and the manner in which the order dated 6th August, 2018 has been challenged. In the opinion of the Court, it is not considered necessary to decide these objections, as the petition can be disposed of on the merits of the Petitioner's claim itself.

11. The Petitioner's claim that the vacancies, which arose during the currency of the Reserve List, entitled him to promotion has to be examined in the context of the Promotion Policy itself. Clause 4.2 undoubtedly requires all vacancies likely to arise during the financial year to be taken into account for the promotion exercise. But that provision cannot be read in isolation. Clauses 11.8 to 11.10 deal specifically with the filling of vacancies and operation of the Wait List. The said provisions read as under:

> *"11.8 Where sufficient numbers of suitable officers are not available for filling up the vacancies in any year, the Management may keep the vacancies unfilled. Notwithstanding the availability of vacancies, the Chairman & Managing Director/MD & CEO may also decide to keep any vacancy/ies in any Grade / Scale unfilled or under reserve for administrative reasons.*
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> *11.9 The Competent Authority may decide to keep a waitlist of candidates found eligible for promotion to any grade/Scale out of the final merit list as mentioned above against vacancies that shall arise during the year [April-March]. Any wait list so kept shall automatically expire on 1st April of the next year.*
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> *For the purposes of drawing the waitlist, all vacancies that are arising /occurring during the year upto a cut-off-date may be taken into consideration. Additionally, waiting list may also include anticipated vacancies that may arise on account of unforeseen circumstances like death, resignation /Vol. Retirement, etc.*
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> *11.10 The Chairman & Managing Director/ MD & CEO may release the promotions from the said waitlist, as and when vacancies arise. Further, the Chairman & Managing Director/ MD & CEO may in his discretion, cancel the waitlist at any time during its validity for reasons to be recorded in writing. However, in case of waitlist maintained for promotion to TEG/S-VII, the other members of the Committee of Directors will also need to be consulted by Chairman & Managing Director/ MD & CEO before cancelling the waitlist."*
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> [Emphasis Supplied]

12. The Policy contemplates a vacancy; it also contemplates a list of eligible officers. Yet it does not make promotion from that list automatic. Clause 11.8, in fact, proceeds on the express premise that a vacancy may remain unfilled notwithstanding its availability. Clause 11.10 likewise uses the expression "may release". The Policy, therefore, leaves a measure of administrative discretion with the Bank.

13. This answers the central premise on which the petition proceeds. A Reserve List serves an evident administrative purpose; it enables the Bank to draw upon an already assessed pool of officers if an additional vacancy is required to be filled. But preparedness to fill a vacancy is not the same thing as a commitment that every vacancy which arises must be filled.

14. Much is sought to be made of the distinction between the "Wait List" contemplated by the Policy and the "Reserve List" prepared in the Petitioner's case. It is unnecessary to resolve that distinction. In the present case, we may assume, in the Petitioner's favour, that the Reserve List was an extension of the Wait List and that the protections applicable to a Wait List would equally apply to it. Even on that footing, Clause 11.10 does not confer a right to promotion merely because a vacancy arose during the currency of the Reserve List.

15. Clause 11.10 further requires reasons to be recorded in writing if the Wait List is cancelled during its currency; in the case of promotion to TEG/S-VII, consultation with the other members of the Committee of Directors is also contemplated. Even proceeding on this assumption, it is evident that the Reserve List was not cancelled. It remained operative until the date stated in it and thereafter expired. The requirement applicable to cancellation cannot, in the opinion of the Court, be construed to mean that a

separate order was required to be passed every time the Bank chose not to fill a vacancy during the currency of the list.

16. The conclusion reached on a reading of the Promotion Policy is also consistent with the settled position stated by the Constitution Bench in ***Shankarsan Dash v. UOI***[1]. The Court held that, unless the relevant rules so indicate, the existence of vacancies does not cast a legal duty upon the State to fill up all or any of them, and that even inclusion of a candidate in a select list does not confer an indefeasible right to appointment merely because vacancies exist. At the same time, the decision not to fill up vacancies has to be taken *bona fide* for appropriate reasons, and where vacancies are filled, the comparative merit of the candidates has to be respected.

17. The present Policy makes the position clearer. Unlike a case where the governing rules are silent, Clause 11.8 expressly recognises the Bank's authority to keep vacancies unfilled. The Petitioner's position in the Reserve List, therefore, did not confer upon him an indefeasible or vested right to promotion merely because vacancies arose during its currency. His position in the list would become material if the Bank decided to operate the list, but it did not oblige the Bank to do so.

18. The record also does not disclose any discriminatory operation of the Reserve List. No officer below the Petitioner in that list was promoted. The entire Reserve List remained unoperated. There was, thus, no departure from the Petitioner's *inter se* merit position or any instance of a less meritorious candidate being preferred over him.

19. The reference to Mr. M.S. Chauhan does not alter this position. Mr. Chauhan was not an officer below the Petitioner in the Reserve List. His

result formed part of the preceding promotion exercise and had been kept in sealed cover on account of disciplinary proceedings. The Bank states that he was promoted after the Wait Listed candidates had been accommodated. The validity of Mr. Chauhan's promotion is not directly in issue in the relief sought in the present petition, nor is he a party to these proceedings. His case, therefore, furnishes no basis for directing the Petitioner's promotion.

20. The submission founded upon the figure of 46 General Managers also proceeds too far. The communication dated 22nd February, 2016 did propose 46 GMs for the Bank. But the same communication expressly permitted banks to act prudently and conservatively and to fix the number of GMs below the prescribed number according to actual requirements and the best interests of the Bank. It further advised the banks to take appropriate action with the approval of their respective Boards.

21. The Petitioner stresses that no Board decision reducing the figure from 46 to 43 has been produced. That, however, does not take his case far enough. Even if 46 is accepted as the relevant cadre strength for the period in question, it does not follow that all 46 posts had to remain occupied at every point of time. The Bank's Promotion Policy itself permits an available vacancy to remain unfilled. A question concerning cadre strength cannot therefore be converted into an individual right in favour of the Petitioner to occupy one of those posts.

22. The plea of *mala fides* is equally unsubstantiated. The Petitioner alleges that his representation caused displeasure to the Management and affected his subsequent prospects. But no material has been produced which connects the decision not to operate the Reserve List with any such

[1] (1991) 3 SCC 47.

consideration. None of the three officers on that list were promoted and it is not a case of selective non-operation of the Reserve List. An allegation of *mala fides* cannot rest merely upon the fact that an administrative decision operated adversely to the person making the allegation.

23. The Bank has referred in its Counter Affidavit to certain earlier incidents concerning the Petitioner's service. Those matters need not enter this adjudication. The Petitioner was permitted to participate in the 2016 exercise and was in fact placed in the Reserve List. His claim fails not because this Court has formed any view on his suitability or service record, but because his position in that list did not carry the legal consequence which he attributes to it.

24. Reliance by the Petitioner upon ***K. Manjusree v. State of A.P. & Anr.***[2], ***Umesh Chandra Shukla v. UOI & Ors.***[3] and ***Hemani Malhotra v. High Court of Delhi***[4] is misplaced. In *K. Manjusree* and *Hemani Malhotra*, an additional requirement was introduced after the selection process had commenced, thereby impermissibly changing the rules on which the selection had proceeded. In *Umesh Chandra Shukla*, the field of competition was impermissibly enlarged by including candidates who had not initially qualified under the governing Rules. No such change has occurred in the present case. Clauses 11.8 to 11.10 formed part of the Promotion Policy before the 2016 promotion exercise itself. The Bank's decision not to operate the Reserve List, therefore, cannot be characterised as a change in the criteria governing the selection or as a change in the rules of the game.

25. It is apposite to refer to the decision of the Supreme Court in ***State***

[2] (2008) 3 SCC 512.
[3] (1985) 3 SCC 721.

Bank of India v. Mohd. Mynuddin[5]. The Court, while dealing with promotion to a selection post, held that an officer cannot claim promotion as a matter of right and that the assessment of his suitability for the higher post is ordinarily to be left to the management or the Selection Committee. The Court further held that, in the absence of bias, *mala fides* or any other similar vitiating circumstance, judicial interference with such assessment is not warranted.

Conclusion

26. The Petitioner, therefore, cannot claim a right to promotion with effect from 1st December, 2016 merely on the ground that vacancies arose during the currency of the Reserve List. His position as the first candidate in the Reserve List gave him precedence if the list was operated, but did not oblige the Bank to operate it.

27. The writ petition is, accordingly, dismissed.

SANJEEV NARULA, J

SEPTEMBER 9, 2026

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[4] (2008) 7 SCC 11.

[5] (1987) 4 SCC 486.