

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Spl. Appl. Writ No. 433 / 2017

The Jalore Central Co-operative Bank Ltd., Jalore, Through Its
Managing Director.

----Appellant

Versus

1. Amar Singh, Son of Shri Chandan Singh, By Caste Rajput,
Resident of 40, Maheshpura, Jalore.

2. The Registrar, Cooperative Societies, Government of Rajasthan,
Jaipur.

----Respondents

Connected With

D.B. Spl. Appl. Writ No. 461 / 2017

The Jalore Central Co-operative Bank Ltd., Jalore, Through Its
Managing Director.

----Appellant

Versus

1. Dilip Kumar Vyas, Son of Shri Mangi Lal, By Caste Brahmin,
Resident of Village Guda Balotan, Tehsil Ahore, District Jalore.

2. The Registrar, Cooperative Societies, Government of Rajasthan,
Jaipur.

----Respondents

D.B. Spl. Appl. Writ No. 462 / 2017

The Jalore Central Co-operative Bank Ltd., Jalore, Through Its
Managing Director.

----Appellant

Versus

1. Dhan Raj, Son of Shri Bhairu Lal, By Caste Sewak, Resident of
Village Karda, Tehsil Raniwara, District Jalore.

2. The Registrar, Cooperative Societies, Government of Rajasthan,
Jaipur.

----Respondents

D.B. Spl. Appl. Writ No. 464 / 2017
The Jalore Central Co-operative Bank Ltd., Jalore, Through Its
Managing Director.

-----Appellant

Versus

1. Inder Singh, Son of Shri Bhairu Singh, By Caste Rajput,
Resident of Village Bera, Tehsil Bali District Jalore.
2. The Registrar, Cooperative Societies, Government of Rajasthan,
Jaipur.

-----Respondents

D.B. Spl. Appl. Writ No. 465 / 2017
The Jalore Central Co-operative Ltd. Jalore, Through Its Managing
Director.

-----Appellant

Versus

1. Bhaira Ram, Son of Shri Ramchand, By Caste Bishnoi, Resident
of Karda, Tehsil Raniwara, District Jalore.
2. The Registrar, Cooperative Societies, Government of Rajasthan,
Jaipur.

-----Respondents

D.B. Spl. Appl. Writ No. 466 / 2017
The Jalore Central Co-operative Bank Ltd. Jalore, Through Its
Managing Director.

-----Appellant

Versus

1. Kistoora Ram, Son of Shri Hira Ram, By Caste Meghwal,
Resident of Balupura, Post Bankli, Tehsil Sumerpur, District Pali.
2. The Registrar, Cooperative Societies, Government of Rajasthan,
Jaipur.

-----Respondents

D.B. Spl. Appl. Writ No. 467 / 2017
The Jalore Central Co-operative Bank Ltd. Jalore, Through Its
Managing Director.

----Appellant

Versus

1. Chain Singh, Son of Shri Babu Singh, By Caste Rajput, Resident of Village Chandan, Post Bhanwarani, Tehsil and District Jalore.
2. The Registrar, Cooperative Societies, Government of Rajasthan, Jaipur.

----Respondents

D.B. Spl. Appl. Writ No. 468 / 2017
The Jalore Central Co-operative Ltd. Jalore, Through Its Managing
Director.

----Appellant

Versus

1. Salim Khan, Son of Jalal Khan, By Caste Musalman, Resident of Upar Kota, Jalore.
2. The Registrar, Cooperative Societies, Government of Rajasthan, Jaipur.

----Respondents

For Appellant(s) : Mr. Surendra Singh Choudhary

For Respondent(s) : Mr. Sanjay Kapoor, Ms. Kusum Rao

HON'BLE MR. JUSTICE GOVIND MATHUR

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Judgment

18/07/2017

All these appeals are barred by limitation from 160

days, except D.B. Civil Special Appeal (Writ) No.433/2017, which is barred by limitation from 144 days. Ignoring the same, we have examined merits of the case.

The respondent-petitioners while working as Managers with different Primary Agriculture Credit Cooperative Societies were appointed as Loan Supervisors. On availing such appointments, the respondent-petitioners claimed for upgradation of their basic pay as per Rule 26-A of the Rajasthan Service Rules, 1951 (for short, hereinafter referred to as 'the Rules of 1951'), being their basic pay even as Manager, Primary Agriculture Credit Cooperative Society was fixed at higher point in the running pay scale. The benefit claimed for was denied by the appellant Bank by treating the respondent-petitioners as direct recruits, thus, they preferred petitions for writ to have a direction for the employer to extend the benefit of Rule 26-A of the Rules of 1951.

Learned Single Bench after examining the entire record arrived at the conclusion that the appointment of the respondent-petitioners was by way of promotion only, therefore, they are entitled to get their pay upgraded by extending the benefit of Rule 26-A of the Rules of 1951.

In appeal, learned counsel appearing on behalf of the appellant Bank reiterated that the appointment of the respondent-petitioners was by way of direct recruitment and therefore, learned Single Bench erred while extending the benefit of Rule 26-A of the Rules of 1951, which is having application only in the case of appointment by way of promotion.

During the course of arguments, learned counsel also shown us a photocopy of the corrigendum dated 28.06.2008, wherein it is mentioned that the appointments to be made on the post of Loan Supervisor shall be by way of direct recruitment and not by promotions.

We have examined the nature of the appointments in question. It is not in dispute that at the relevant time, recruitment was made by the Bank as per order dated 09.03.2005 prescribing the mode of appointment to the post of Loan Supervisor inter alia. Clause (1) of the order dated 09.03.2005 prescribed that the educational qualification for direct recruitment as well as for promotion shall be as per Schedule A to C appended with the order. Clause (2) of the order referred above pertains to minimum and maximum age limit for appointment to different posts in different cadres of the appellant Bank. Suffice to mention that a higher maximum age limit is prescribed for the working staff with an additional relaxation of 5 years. Clause (3) of the order provides procedure for direct recruitment as well as for promotion. The order aforesaid also provides a mode to maintain seniority of the persons appointed by way of direct recruitment and by way of promotion. An important aspect of the matter is that clause (3) and (4) of the order aforesaid prescribes the constitution of Departmental Promotion Committee and the procedure that is to be followed by the Departmental Promotion Committee while considering case of a person for promotion. It is not in dispute that the appointments in question were made in

accordance with the procedure laid down in the order dated 09.03.2005. The appellant in their reply to the writ petition quite specifically stated that the Registrar has laid down the service conditions under the order dated 09.03.2005 and that was adhered while making the appointments. It is also not in dispute that the respondent-petitioners were already working as Manager with different Primary Agriculture Credit Cooperative Societies and they were eligible to be considered for appointment to the post of Loan Supervisor by way of promotion as per the order dated 09.03.2005.

It is also pertinent to notice that the orders of appointment issued in favour of the respondent-petitioners nowhere refers about the procedure that was to be adhered while making appointments through direct recruitment. No advertisement, which is necessary requirement to initiate the process of appointment through open market, too has been brought to our knowledge.

In this factual background, we are of considered opinion that learned Single Bench rightly arrived at the conclusion that the appointments were given to the respondent-petitioners by way of promotion as per the procedure given under the order dated 09.03.2005. The appeals, as such, are having no merit. Hence, dismissed.

(VINIT KUMAR MATHUR) J.

(GOVIND MATHUR) J.

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RAJASTHAN HIGH COURT



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