



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

D.B. Spl. Appl. Writ No. 100/2022

1. Rahul Jain
2. Yogendra Singh Khangaroot



3. Mahendra Kumar Prajapat
4. Ashish Jatolia
5. Sushil Gupta

6. Ankit Bhardwaj

7. Ramesh Kumar Saharan

8. Mamta Yadav

9. Kavita Baroliya

10. Vikas Kumar

11. Sandeep Kumawat

12. Bharatveer Chitara

13. Himmat Singh Shakhawat

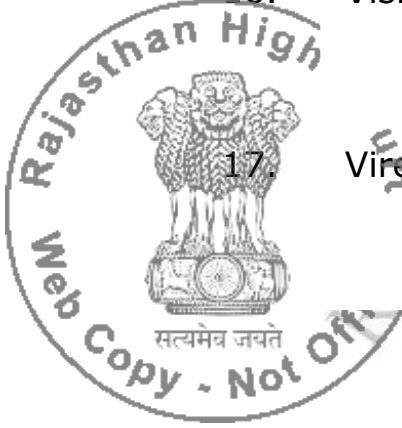


14. Anubhav Soni

15. Nitish Mishra

16. Vishal Jain

17. Virendra Pal Singh Bhati



-----Appellants

Versus

1. Baroda Rajasthan Kshetriya Gramin Bank, Head Office Presently Situated At Plot No.2343, 2Nd Floor, Aana Sagar Circular Road, Vaishali Nagar, Ajmer Through Its Chairman.
2. Rajasthan Marudhara Gramin Bank, Head Office Presently Situated At Tulsi Tower, 9Th B Road, Sardarpura, Jodhpur, 342003 Through Its Chairman
3. Institute Of Banking Personnel Selection, Ibps House, 90 Feet, D.p. Road, Near Thakur Polytechnic, Off. Western Express Highway, P.b. No.8587 Kandivali (E), Mumbai Through Its Chairman.
4. Pooja Varshney
5. Prakash Meena

-----Respondents

For Appellant(s)	:	Mr. S.P. Sharma
For Respondent(s)	:	Mr. Vipul Dharniya Mr. Anil Bhandari



HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE KULDEEP MATHUR

J U D G M E N T

PRONOUNCED ON :: :: **18/08/2022**
RESERVED ON :: :: **21/07/2022**

Reportable

BY THE COURT: (PER HON'BLE KULDEEP MATHUR, J.)

The instant intra court appeal is directed against the order dated 17.12.2021 passed by the learned Single Bench, whereby the writ petition filed by the petitioners (appellants herein) seeking a direction upon respondents to fill up 126 vacancies pertaining to Officer Scale-II (GBO) by allotting candidates as per merit and preference to Baroda Rajasthan Kshetriya Gramin Bank (hereinafter referred to as 'BRKGB') was dismissed.

Brief facts of the case are that the respondent No. 3 i.e. IBPS vide notification dated 01.07.2020 initiated Common Recruitment Process for recruitment of Officers Scale-I, II and III and Office Assistant (Multipurpose) for 43 Regional Rural Banks (RRBs)-IX (hereinafter referred to as 'CRP-RRBs-IX'). In the CRP-RRBs-IX, vacancies pertaining to Scale-II- General Banking Officers (hereinafter referred to as 'Officer Scale-II (GBO)') of BRKGB i.e. respondent No.1 were shown to be vacant. The appellants applied to the post of Officer Scale-II (GBO) under their respective categories. In the applications forms, appellants were required to give options indicating preference for RRBs in the order of 'most preferred' to 'least preferred'. The appellants indicated 'BRKGB' as their first preference. The appellants appeared for the scheduled examination on 18.10.2020 and were declared eligible for interview. Thereupon, appellants appeared for interview on the specified dates in December, 2020. A notice was issued by IBPS



dated 03.02.2021, provisionally allotting selected candidates to the post of Officer Scale-II (GBO) to RRBs on the basis of requisitioned post-wise and category-wise vacancies. In the notice dated 03.02.2021, the vacancies belonging to Officer Scale-II (GBO) in BRKGB were shown as 'nil' thereby depriving the appellants of appointment in BRKGB. On enquiry, the appellants came to know that BRKGB under the directions of sponsor bank i.e. Bank of Baroda had informed IBPS to withdraw all post-wise and category-wise vacancies requisitioned under CRP-RRBs-IX vide letter dated 28.12.2020. However, BRKGB by a subsequent communication dated 05.02.2021 asked IBPS to allot selected candidates stating *inter alia* that the sponsor bank had allowed it to continue with the recruitment for financial year 2020-21 against the following posts:

Post	Total Vacancy
Officer Scale-III	24
Officer Scale -II	126
Officer Scale -I	196
Office Assistant (M)	200

The recruiting agency i.e. IBPS declined the request dated 05.02.2021 stating that once the provisional allotment is complete, the same is final as no change or re-allotment can be made. Consequently, no candidate was provisionally allotted to BRKGB.

The appellants approached the learned Single Bench of this court praying for a writ in the nature of mandamus directing IBPS to forward the names of qualified candidates as per merit and preference against available vacancies of Officer Scale-II (GBO) in



BRKGB. The learned Single Bench dismissed the writ petition vide judgment dated 17.12.2021 holding that recruitment process had already culminated into completion along with allotment of vacancies on 03.02.2021. Thus, the decision taken by IBPS for not including 126 vacancies of Officer Scale-II (GBO) available with BRKGB cannot be gone into under extraordinary writ jurisdiction under Article 226 of Constitution of India.

Learned counsel appearing on behalf of appellants argued that IBPS had no authority to deny allotment of suitable candidates to BRKGB against the vacancies of Officer Scale-II (GBO). Counsel further argued that IBPS is merely recruiting agency entrusted with the responsibility of conducting recruitment process to fill up various posts in Regional Rural Banks through direct recruitment and promotions. The role of a recruiting agency is confined only to identifying best suitable candidates against posts requisitioned by the employer.

Per Contra, learned counsel appearing on behalf of IBPS argued that the respondent-IBPS is a body of experts from various fields having specialisation, expertise and infrastructure for conducting examinations. The sole function of IBPS in the instant recruitment process was selecting suitable candidates for the RRBs against various posts as per their requirements. The final decision with regard to appointment/final selection/recruitment rests with the participating RRBs subject to eligibility criteria enunciated by them. Counsel submitted that in the present case, BRKGB withdrew its vacancies vide letter dated 28.12.2020 and therefore, no candidates was provisionally allotted to BRKGB on 03.02.2021 against the vacancies of Officer Scale-II (GBO). BRKGB



subsequently vide letter dated 05.02.2021 requested IBPS to provisionally allot candidates against 126 vacancies of Officer Scale-II (GBO). The request was declined as recruitment process had already consummated with the provisional allotment of candidates to the RRBs on 03.02.2021.

Learned counsel appearing on behalf of BRKGB submitted that vide letter dated 03.06.2020, BRKGB requested IBPS to initiate recruitment process for filling up various vacancies including vacant posts of Officer Scale-II (GBO). The sponsor bank after issuance of the notification dated 01.07.2020 instructed BRKGB through letter dated 18.12.2020 to withhold the recruitment process under CRP-RRBs-IX. BRKGB replied vide letter dated 22.12.2020, to the sponsor bank stating that vacancies have already been approved on 24.06.2020. Further, the recruitment process for Officer Scale-II (GBO) stood completed by IBPS and only the allotment of selected candidates was left to be made to the RRBs. Therefore, the recruitment process should be allowed to attain finality. Counsel further submitted that in the aforementioned factual background, BRKGB while awaiting response from sponsor bank, vide letter dated 28.12.2020 withdrew all the notified posts from the recruitment process under CRP-RRBs-IX. NABARD in the intervening period, vide communication dated 14.01.2021 suggested that the withdrawal of vacancies at this stage may have serious repercussions, therefore, the decision of withdrawing from recruitment process may be reconsidered in consultation with sponsor bank. Thereupon, vide letter dated 05.02.2021, the sponsor bank i.e. BOB permitted BRKGB to fill up the notified



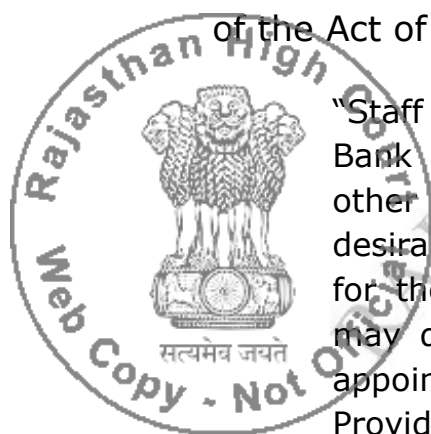
vacancies for various posts. Hence, IBPS was requested through e-mail/letter dated 05.02.2021 to allot candidates as per the vacancies intimated vide letter dated 28.10.2020. Learned counsel submitted that BRKGB and sponsor bank have no objection whatsoever if selected candidates are allotted against available notified vacancies. (Emphasis supplied.)

We have carefully considered and analysed the rival contentions advanced by the counsel for the parties and perused the material available on record.

The Regional Rural Banks Act, 1976 (hereinafter referred to as the Act of 1976) was enacted by the Parliament for incorporation, regulation and winding up of Regional Rural Banks with a view to developing the rural economy by providing, for the purpose of development of agriculture, trade, commerce, industry and other productive activities in the rural areas, credit and other facilities, particularly to the small and marginal farmers, agricultural labourers, artisans and small entrepreneurs and for matters connected and incidental thereto. Section 2(f) of the Act of 1976 defines RRBs as Regional Rural Banks established by a notification in the official Gazette as provided under sub Section (1) of Section 3 of the Act of 1976. The Sponsor Bank has been defined under Section 2(g) of the Act of 1976 in relation to a Regional Rural Banks to mean a Bank by which Regional Rural Banks has been sponsored. Sub Section (3) of Section 3 of the Act of 1976 mandates the Sponsor Bank to aid and assist the Regional Rural Banks by subscribing to the share capital of Regional Rural Banks; training personnel of Regional Rural Banks; and providing such managerial and financial assistance as may be mutually



agreed between the Sponsor Bank and the Regional Rural Banks. Section 8 of the Act of 1976 provides that the management of the RRBs vests in the Board of Directors constituted under Section 9 of the Act of 1976. Further, Section 17 of the Act of 1976 empowers RRBs to appoint such number of officers and other employees as it may consider necessary and desirable. Section 17 of the Act of 1976 is reproduced below for ready reference:-



"Staff of Regional Rural banks- (1) A Regional Rural Bank may appoint such number of officers and other employees as it may consider necessary or desirable [in such manner as may be prescribed] for the efficient performance of its functions and may determine the terms and conditions of their appointment and service:

Provided that it shall be lawful for a Sponsor Bank, if requested so to do by a Regional Rural Bank sponsored by it to send such number of officers or other employees on deputation to the Regional Rural Bank as may be necessary or desirable for the efficient performance of its functions:

Provided further that the remuneration of officers and other employees appointed by a Regional Rural Bank shall be such as may be determined by the Central Government, and, in determining such remuneration, the Central Government shall have due regard to the salary structure of the employees of the State Government and the local authorities of comparable level and status in the notified area.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force, no award, judgment, decree, decision or order of any industrial tribunal, court or other authority, made before the commencement of this Act, shall apply to the terms and conditions in relation to the persons appointed by a Regional Rural Bank.

(3) The officers and other employees of a Regional Rural Bank shall exercise such powers and perform such duties as may be entrusted or delegated to them by the Board".

Section 29 of the Act of 1976 empowers the Central Government to make Rules in consultation with the National Bank



and Sponsor Banks, by notification in official Gazette, for carrying out provisions of this Act.

In exercise of the powers conferred by Section 29 read with Section 17 of the Act of 1976 and after due consultation with the National Bank and Sponsor Banks, the Central Government framed the Regional Rural Banks (Appointment of Officers and Employees) Rules, 2017 (hereinafter referred to as the Rules of 2017). The Rules of 2017 empowers the Board of Directors of the RRBs to create such number of posts as are necessary and may determine the number of vacancies to be filled up by direct recruitment or promotion, keeping in view the provisions of these Rules and guidelines issued by Central Government from time to time. According to Rule 6 of Rules of 2017, the Chairman of RRBs shall be the appointing authority in respect of Group 'A' posts and the General Manager shall be the appointing authority in respect of Group 'B' and Group 'C' posts, if so authorised by the Board of concerned Regional Rural Banks.

The definition of 'approved agency' provided under Rule 2 (1)

(b) reads as under:-

- "2. Definition:- (1) In these rules, unless the context otherwise requires,-
- (b) "approved agency" means the Institute of Banking Personnel Selection or any other agency approved by the Central Government for-
- (i) conducting examination (written or on-line) and interview for selection of the candidates by direct recruitment to the Group 'A' posts specified in column (3), against serial numbers 1, 2 and 3 of the First schedule; and
- (ii) for conducting examination (written or on-line) to Group 'B' posts specified in column (3), against serial number 6, of the First Schedule;"



The approved agency i.e. the Institute of Banking Personnel Selection (IBPS) in the present case after conducting examination in accordance with the provisions of the Rules of 2017 forwarded the provisional list of candidates for appointment to the concerned RRBs.

After scrutinizing various provisions of the Act of 1976 and Rules of 2017, the position that emerges is that each Regional Rural Bank has been clothed with the powers to appoint such number of officers and other employees as it may deem necessary/desirable for efficient performance of its functions, on such terms and conditions as may be determined from time to time. The Sponsor Bank does not have any role in the matters relating to recruitments in the RRBs other than extending aid and assistance to RRBs by subscribing to share capital and training the personnel working in connection with the affairs of the RRBs.

Also it can be safely concluded that the role of recruiting agency i.e. IBPS is limited to the extent of conducting examinations (written or on-line) and interviews for selecting candidates by direct recruitment to the Group 'A' posts and for conducting examination (written or on-line) to Group 'B' posts as specified in the schedule annexed to the Rules of 2017.

Reverting to the facts of the case, the BRKGB conveyed its post-wise and category-wise vacancies for various posts including Officer Scale-II (GBO) category for direct recruitment to IBPS. Thereafter, a notification dated 01.07.2020 was issued i.e. CRP-RRBs-IX for filling up various posts available with RRBs. The appellants submitted options in the online application forms indicating BRKGB as their first preference for appointment. After



commencement of the selection process, the Sponsor Bank vide letter dated 18.12.2020 instructed BRKGB to cancel direct recruitment under CRP-RRBs-IX for the current and next financial year. Consequently, no candidate was provisionally allotted to BRKGB on 03.02.2021. After deliberations between sponsor bank, NABARD and BRKGB, the matter was reconsidered and the decision to withdraw vacancies notified on 01.07.2020 was annulled. BRKGB vide letter dated 05.02.2021, requested IBPS to allot candidates as per the vacancies intimated vide letter dated 28.10.2021. IBPS turned down the said request stating that successful candidates as per the final merit of Officer Scale-II (GBO) had been provisionally allotted to the RRBs.

The IBPS being a recruiting body consisting of experts acts as a link between suitable candidates with required eligibility for banking services and participating banks/financial institutions/other organisations searching for prospective candidates as per the operational requirements. The action of IBPS in declining to allot the candidates against advertised vacancies of BRKGB on the ground that provisional allotment of candidates to RRBs in order of merit and preference had already been made cannot be said to be justified. The Recruiting Agency cannot deny allotment of eligible candidates to participating RRBs arbitrarily especially when sufficient number of candidates are available with it. The whole exercise cannot be reduced to a farce. The Hon'ble Supreme Court in the case of **Shankarsan Dash v. Union of India, (1991) 3 SCC 47**, held as under:

"It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the



successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied, Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this court, and we do not find any discordant note in the decisions in State of Haryana v. Subhash Chander Marwaha, (1974) 1 SCR 165; Miss Neelima Shangla v. State of Haryana, (1986) 4 SCC 268 and Jitendra Kumar v. State of Punjab, (1985) 1 SCR 899."



Similarly, in the case of **East Coast Railway and another v. Mahadev Appa Rao & others** (2010) 7 SCC 678, the Hon'ble Supreme Court observed as under:

"The State does not enjoy an unqualified prerogative to arbitrarily refuse appointment. The validity of the State's decision not to make an appointment is a matter which is not beyond judicial review. As the State does not have the license of acting in an arbitrary manner, the least which candidates, who were otherwise eligible for appointment and who have appeared in the examination that constitutes a step-in-aid of a possible appointment in their favour, are entitled to is to ensure that the selection process is not allowed to be scuttled for malafide reasons or in an arbitrary manner."

We may hasten to add that if the decision of IBPS not to include 126 vacancies of BRKGB in the recruitment process in question is upheld then it will not only deprive the appellants from appointment in their preferred RRB indicated in the online



application form i.e. BRKGB but will also hinder prospective candidates from seeking appointment on the post of Officer Scale-II (GBO) available in RRBs in order of merit. IBPS cannot refuse to recommend names of eligible and suitable candidates to fill up all notified vacancies if the candidates of desired merit are available. Any delay occasioned in filling up the notified vacancies may render many eligible candidates ineligible to participate in next recruitment process.

In the light of above discussion, the special appeal is allowed. IBPS is directed to allot 126 candidates against the post of Officer Scale-II (GBO) to BRKGB in order of merit and preference. The seats falling vacant thereof due to aforesaid exercise in participating RRBs, shall be filled in by recommending suitable candidates to RRBs in order of merit and preference. The entire exercise indicated above shall be completed within a period of three months from the date of this order.

No order as to costs.

(KULDEEP MATHUR),J

(SANDEEP MEHTA),J

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