

directing promotion to be given to the Writ Petitioners with effect from a specified date on the hypothesis that those Writ Petitioners were admittedly senior to respondents 6 to 25, who are the beneficiaries of the judgment of the Andhra Pradesh High Court.

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Mr. Vaidyanathan, the learned senior counsel appearing for the Bank contended before us that either in accordance with the promotion policy, that was in vogue prior to 1979 or under the policy that came to be enforced with effect from 1.4.1980, for the purpose of promotion from scale 1 to scale 2 or scale 2 to scale 3, question of inter-se seniority on the countrywide basis is not the relevant consideration, and therefore the High Court committed serious error in issuing the Mandamus in question on the basis that respondents 6 to 25 must be held to be junior to the Writ Petitioners, and therefore the Writ Petitioners were entitled to promotion with effect from the date those respondents 6 to 25 had got promotion pursuant to the judgment of the Andhra Pradesh High Court. Mr. Raju Ramachandran and Mr. P.P. Rao, the learned senior counsel appearing for the employees, on the other hand, contended that promotion policy having been interpreted and held in a particular way by the Andhra Pradesh High Court, the ratio of the said judgment should be applicable to the case of the Writ Petitioners also, and as such the High Court did not commit any error in granting the relief sought for, on the basis of the aforesaid judgment of Andhra Pradesh High Court, which has got the approval of this Court by way of dismissal of the Special Leave Petition against the said judgment.

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In view of the contentions raised, the relief sought for in the Writ Petition and the direction given by the High Court, which is impugned in the present appeal, the only question that arises for our consideration is whether in accordance with the promotion policy, that was in force prior to 1979 or in accordance with the promotion policy that has come into force with effect from 1.4.1980 subsequent to the nationalisation of the Bank, are the petitioners entitled to claim promotion from management scale 1 to scale 2 and from scale 2 to scale 3 on the basis of their relative seniority throughout the country or not? It is too well settled that a Mandamus can be issued only if the Court comes to the conclusion that certain rights of the employee have been infringed and certain obligation of the employer has not been performed. The so-called promotion policy that was in existence prior to 1979 or that has come into force with effect from 1.4.1980 had not been assailed before the Court, and the only basis of claim was the judgment of Andhra Pradesh High Court. We have examined the promotional policy that had come into force with effect from 1.4.1980, more particularly clause 1.3 thereof. We have also taken into consideration the fact that prior to aforesaid policy under the pre-existing policy, that was in force in the year 1979, there was no question of any seniority of an employee throughout the country, and the promotion was being given effect to within the State itself. Under 1.3 of the policy

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that had come into force with effect from 1.4.1980, it is crystal clear that the area of selection for promotion from scale 1 to scale 2 would be the State, and for promotion from scale 2 to scale 3 would be the zone, and therefore the

question of considering their seniority on the basis of a countrywide seniority list for promotion from either scale 1 to scale 2 or scale 2 to scale 3 is misconceived. Under the policy, that was in existence prior to 1979 as well as the policy that had come into force with effect from 1.4.1980, non-promotion of the employees on hypothesis that he is senior to somebody else at some other place is wholly unsustainable. In that view of the matter, the impugned judgment dependent upon the judgment of the Andhra Pradesh High Court cannot be sustained. It has not been brought to our notice on the basis of any material that in implementing the promotion policy that has come into force with effect from 1.4.1980 or even prior to that, there has been any departure by the employer. In the aforesaid premises, the impugned direction of the Calcutta High Court cannot be sustained. We accordingly set aside the same and the appeal is accordingly allowed.

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.....J.
(G.B. PATTANAIK)

New Delhi,
April 11, 2001

.....J.
(U.C. BANERJEE)

.....J.
(S.N.VARIAVA)