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K. THIMMAPPA AND ORS.

v

CHAIRMAN, CENTRAL BD. OF DIRS. SBI AND ANR.

DECEMBER 5, 2000

B

[G.B. PATTANAİK AND B.N. AGRAWAL, JJ.]

Service Law :

C *Uniformity and standardisation in the conditions of service --Held, placement of grade I officers in two different grades, on the basis of their confirmation, is not discriminatory and violative of Article 14--[State Bank of India Officers (Determination of Terms and Conditions of Service) Order, 1979]—Constitution of India—Article 14.*

D *Constitution of India—Article 226--Dismissal of Writ petitions on the ground of laches--Held, dismissal possible when there is no infraction of fundamental rights under the Constitution.*

E **In 1973 the Central Government appointed a Committee, called Pillai Committee for bringing about uniformity and standardisation in the conditions of service of officers of various Nationalised Banks. The recommendations of the Committee was adopted by Respondent State Bank of India, with the passing of State Bank of India Officers (Determination of Terms and Conditions of Service) Order, 1979 (Conditions of Service Order) which came into effect from 1.10.1979. The Conditions of Service Order deals with restructuring and placement of existing officers on the appointed date**

F **(1.10.1979) in corresponding grades and scale as per Schedule I to the Order. This resulted in bifurcation of Grade I officers into two categories, i.e. officers confirmed before 31.12.1972 and officers confirmed after 31.12.1972. Officers confirmed before 31.12.1972 were placed in Middle Management Grade Scale II in the scale of pay of Rs. 1200-2000 while the officers confirmed after 31.12.1972 were placed in the Junior Management Grade Scale I in the scale of pay of Rs. 700-1800 along with officers of Grade II prior to the 1.10.1979. The petitioners challenged the bifurcation under the Conditions of Service Order by filing Writ Petitions in different High Courts, which were transferred to this Court.**

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The petitioners contended that bifurcation of Grade I officers on the

basis of the date of confirmation is wholly irrational and choosing the date as 31.12.1972 without reasonable nexus with the object sought to be achieved is arbitrary and must be held to be violative of Article 14 of the Constitution which must be struck down. They contended that placement of some officers of Grade I with the officers of Grade II in Junior Management Grade Scale I after 1.10.79 is demotion in service, which is discriminatory and arbitrary.

The respondent-bank contended that Conditions of Service Order, 1979, is a statutory order made under the provisions of the State Bank of India Act, 1955 and the said order purports to rationalise and standardise the administrative set up of the Management cadres by restructuring and placement taking relevant and germane materials into consideration which is not liable to be interfered with by a Court of law. The cut off date *viz.* 31.12.1972 had been fixed after taking into account the probation period, entitlement of confirmation after completion of probation period, minimum requirement of six years service in the Grade and requirement of placement to be made on 1.10.1979. Unless a strong case is made out for *malafides* or for infraction of a constitutional provision, the bifurcation of officers should not be treated as discriminatory under Article 14 of Constitution. The respondent-bank further contended that the Writ Petitions filed by the petitioners should be dismissed on account of laches and should not be allowed to make stale claims and try to unsettle settled matters.

Dismissing the transfer petitions, the Court

HELD : 1.1. Article 14 of the Constitution prohibits class legislation and not reasonable classification for the purpose of legislation. If the Rule Making Authority takes care to reasonably classify persons for a particular purpose and if it deals equally with all persons belonging to a well-defined class then it would not be open to the charge of discrimination. To pass the test of permissible classification, two conditions must be fulfilled : (a) that the classification must be founded on an intelligible differentia which distinguishes persons or things which are grouped together from others left out of the group and (b) that the differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different basis and what is necessary is that there must be nexus between the basis of classification and the object under consideration. Article 14 of the Constitution does not insist that the classification should be scientifically perfect and a Court would not interfere unless the alleged classification results in apparent inequality. When a law is challenged to be discriminatory essentially, on the ground that it denies equal treatment or

A protection, the question for determination by Court is not whether it has resulted in inequality but whether there is some difference, which bears a just and reasonable relation to the object of legislation. Mere differentiation does not *per se* amount to discrimination within the inhibition of the equal protection clause. To attract the operation of the clause it is necessary to show that the selection or differentiation is unreasonable or arbitrary; that it does not rest on any rational basis having regard to the object, which the legislature has in view. If a law deals with members of well-defined class then it is not obnoxious and it is not open to the charge of denial of equal protection on the ground that it has no application to other persons. It is for the Rule Making Authority to determine what categories of persons would embrace within the scope of the rule and merely because some categories which would stand on the same footing as those which are covered by the rule are left out would not render the Rule or the Law enacted in any manner discriminatory and violative of Article 14. It is not possible to exhaust the circumstances or criteria, which may afford a reasonable basis for classification in all cases. It depends on the object of the legislation, and what it really seeks to achieve. [378-G, H; 379-A, B, C, D, E]

1.2. It is well settled that even if a classification would be permissible, but unless there is any rational basis for the same, the very basis would be hit by Article 14 of the Constitution. The stand of the bank is that after taking into account the fact that the period of probation is either one year to two years in case of promotees or direct recruits and that successful completion of the probation period entitles the employee to be confirmed and minimum six years of service in the Grade, is required for being placed in Middle Management Grade Scale II, as per the guidelines issued and since placement was required to be made on 1.10.1979, which is the appointed date in the Conditions of Service Order, the Competent Authority of the bank, namely, the Central Board of the State Bank of India, has determined the date as 31.12.1972. In view of the explanations offered by the bank, it cannot be said that the date 31.12.1972 is an arbitrary date and has no rational nexus with the placement of the officers of Grade I in Middle Management Grade Scale II. If the Competent Authority on relevant and all germane factors, takes a decision in the matter of placement or fitment, whenever a restructuring of the cadre is made, then the Court will not be justified in examining the basis of such placement or fitment in a mathematical scale and would not ordinarily interfere with such decision, unless it is established beyond doubt that the decision is totally arbitrary or *malafide*. Placement of the existing officers in the new grades, as provided in Schedule I, made in

paragraph 7 of the Conditions of Service Order and placement made in respect of officers Grade I, confirmed on or before 31.12.1972 in Middle Management Grade Scale II and others in Junior Management Grade Scale I, is not hit by Article 14 of the Constitution of India. [381-A-E; 382-C] A

1.3. It is no doubt true that prior to the new structuring of the management, persons from officers Grade II were being promoted to Officers Grade I. But in suggesting restructure of the entire managerial cadre by way of standardisation, when less category of grades have been evolved, necessarily, there would be merger of different pre-existing grades, but such merger will neither amount to demotion in any manner nor would it amount to treating unequals as equals. It is in fact a part of exercise of cadre adjustment process, after taking the decision of minimising the number of grades and, consequently, such a decision having been taken by adopting the decision of expert body i.e. Pillai Committee's Report it cannot be said that the Central Board of the State Bank of India in making the Conditions of Service Orders 1979, treated the officers of Grade I, who had not been confirmed on or before 31.12.1972 with hostile discrimination. [382-F, G] B C D

1.4. The concept of categorisation, placement and fitment in the new scale of pay are three different concepts, provided in paragraphs 6, 7 and 8 of the Conditions of Service Order. If these concepts are borne in mind and the provisions contained in Schedule I is examined, there is no infirmity in placing Officers Grade I not confirmed till 31.12.1972 in Junior Management Grade Scale I, nor can it be said that it would violate the mandate contained in paragraph 6 of the Conditions of Service Order. [385-B, C] E

New Bank of India Employees' Union & Anr. v. Union of India & Ors., [1996] 8 SCC 407 and *Tarsem Lal Gautam v. State Bank of Patiala*, [1989] 1 SCC 182, relied on. F

Patwardhan, [1977] 3 SCC 399 and *Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra & Ors.*, [1990] 2 SCC 715, distinguished. G

2.1. These cases should not be thrown out on the ground of laches alone, as the placement made on 1.10.1979 was assailed in the year 1988 at the earliest and 1998 at the latest, but the same may not be brushed aside, particularly, when infraction of any fundamental right of the petitioners guaranteed under the Constitution has not been found out. [384-E] H

A *P.S. Sadasivaswamy v. State of Tamil Nadu*, [1975] 1 SCC 152, relied on.

Ramchandra Shankar Deodhar & Ors. v. State of Maharashtra & Ors., [1974] 2 SCR 216 and *B. Prabhakar Rao & Ors. v. State of Andhra Pradesh & Ors. etc. etc.*, [1985] Supp. 2 SCR 573, referred to.

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Bradbury & Ors. v. London Borough of Enfield, (1967) 3 All England Law Reports Page 434, referred to.

CIVIL ORIGINAL JURISDICTION : Transfer Case (C) No. 25 of 1998.

C

Under Article 139 A (1) of the Constitution of India.

WITH

D Transfer Petition (C) Nos. 665-668/98, Transferred Case (C) No. 30/98, 38/98 and 67/99.

R.K. Jain, P.P. Rao, S.B. Sanyal, Kapil Sibal, Shanti Bhushan, Suresh C. Gupta, A. Guneshwar Sharma, Ms. Rekha Pandey, Sanjay Kapur, Rajiv Kapoor, Ms. Shubhra Kapur, Ashok K. Mahajan, Mamita Verma and Kamal Mohan Gupta for the appearing parties.

E

The Judgment of the Court was delivered by

F **PATTANAİK, J.** These Transferred Cases from different High Courts relate to the common question, namely, in the matter of placement of existing officers in the new grades and scale in the State Bank of India made under State Bank of India Officers (Determination of Terms and Conditions of Service) Order 1979, (hereinafter referred to as 'The Service Order'), under Paragraph 7 of the said Order is discriminatory in nature, so far as it deals with the Officers Grade I. The Central Board of the State Bank of India in exercise of power conferred by sub-section (1) of Section 43 of the State Bank of India Act 1955 made the condition of Service Order which came into force with effect from 1.10.1979. Paragraph 7 deals with the placement of the existing officers on the appointed date in the corresponding grades and scale as per the table given in Schedule I and Paragraph 8 deals with the fitment of the said existing officers in the new grade and scale of pay. Prior to coming into force of the condition of Service Order, in the State Bank of India there were
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H different grades of officers in the organisational structure and so also in other

Nationalised and Subsidiary Banks. In the year 1973 the Government of India appointed a Committee, called Pillai Committee for bringing uniformity and standardisation in the conditions of service of the officers of various Nationalised Banks. The said recommendations of the Pillai Committee was later on applied to the State Bank of India and its Associate Banks with suitable modification having regard to their special features. So far as the State Bank of India is concerned, the entire re-structuring of its officers was made by passing the conditions of Service Order which came into force on 1.10.1979. Paragraph 6 of the Order deals with categorisation. Paragraph 7 of Order deals with the placement of existing officer on the appointed date in corresponding grades and scales. Paragraph 8 deals with fitment in the new scales of pay. The aforesaid 3 paragraphs are quoted herein-below in extenso:-

“Categorisation

6. (1) Having regard to the responsibilities and functions exercisable, every post of an officer in the Bank shall be categorised by the Central Board or the Executive Committee or the competent authority as falling in any one of the grades or scales mentioned in paragraph 4 and such categorisation may be reviewed from time to time by the Central Board or the Executive Committee or the competent authority.

Provided that the categorisation of the posts in existence on the appointed date shall be done before the expiry of two years from that date and shall, in respect of the posts in the senior management and top executive grades, be done by a committee appointed for the purpose by the Chairman of the Bank.

(2) For the purpose of categorisation of posts under sub-paragraph (1), every branch or office of the Bank shall be classified by the Bank in accordance with the criteria to be approved by the Central Board or the Executive Committee as small, medium, large, very large or exceptionally large category.

Placement of existing officers on the appointed date in corresponding grades and scales.

7. Subject to the provisions of paragraph 6, existing officers serving in the grades and scales of pay mentioned in column 1 of the table given in Schedule I to this order shall be placed as on the appointed date in the grade and scale specified there-against in column 2 of the said schedule.

A Provided that any difficulties or anomalies arising out of the above placement shall be referred to a committee of such persons as the Chairman of the Bank may appoint and the decision of that committee in this regard shall be final.

Fitment in the new scales of pay.

B 8. (1) Every existing officer placed in any of the new grades and scales of pay in accordance with paragraph 7, shall be fitted at such stage in the new scale of pay corresponding to the existing grade and scale as specified in Schedule II to this order.

C (2) Subject to sub-paragraph (3), on being so fitted in the new scale of pay, such officer shall be eligible to draw the next increment, if any, in such new scale on the first day of the month in which he would have been eligible to draw increment in terms of the provisions in this behalf prior to the appointed date.

D (3) Where two or more officers having different seniority in the scales of pay immediately before the appointed date are fitted at the same stage in the new scale of pay, different months may be fixed for the eligibility of such officers for the next increment in the new scale of pay.

E (4) the mere fact that on the appointed date an officer happens to be posted in a post categorised as that of a grade or scale higher than the one in which he is placed in accordance with the provisions of paragraph 7 will not by itself entitle that officer to any higher placement or fitment.”

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G In accordance with Paragraph 7 of the Order Schedule I has been drawn up which indicates the grade and scale immediately before the appointed date in which the officer was there and the grade and scale in which he is placed on the appointed date. In the case in hand we are concerned with officers described in Items 8 and 9 of the aforesaid Schedule. The same is extracted herein-below in extenso:-

“8. *Officers Grade I confirmed as Middle Management Scale II-Rs.1200-*
such on or before 31.12.1972 70-1550-75-2000.
Scale-Rs.500-40-620-45-755-95-850-

H 50-1050-EB-50-1150-60-1330.

9. *Other Officers Grade I. Scale-* *Junior Management Grade Scale* A
Rs.500-40-620-45-755-95-850-50-1050-EB- I. Rs.700-40-900-50-1100-EB-1200-
50-1150 60-1330. 60-1800.

and

Officers Grade II-Scale Rs. 500-40-620- B
45-980-50-1030.”

The grievance of the petitioners, who happened to be the officers of Grade I, prior to the appointed date is that while those of them who had been confirmed before 31.12.1972 they had been placed in the Middle Management Grade Scale II in the scale of Pay of Rs. 1200-2000 while the unconfirmed officers of Grade I prior to 31.12.1972 have been placed in the Junior Management Grade Scale I in the scale of pay of Rs. 700-1800 along with officers of Grade II prior to the appointed date. According to the petitioners, treating the officers confirmed in Grade I before 31.12.1972 differently from other officers of Grade I is a hostile discrimination and the so called classification made on the basis of confirmation made prior to 31.12.1972, with unconfirmed hands is not founded on any intelligible differentia and further having the cut of date at 31.12.1972 has no rational relation with the object sought to be achieved, and as such, must be held to be arbitrary. According to the employer bank, however, taking into account the period on probation which an officer of Grade I is required to undertake on being recruited, the successful completion of the period of probation, after which an employee is entitled to be confirmed, the guidelines indicated as to the period of service, one must have for holding a post in the Middle Management Scale Grade II and all other germane factors, the decision having been taken on the question of placement, that only those confirmed prior to 31.12.72 will be placed in MMG Grade Scale II, whereas others should be placed in Junior Management Grade Scale I cannot be held to be arbitrary or irrational. C D E F

Mr. Sanyal, Mr. P.P. Rao and Mr. R.K. Jain, the learned counsel appearing for the petitioners in different sets of Transferred Petitions, raised the following contentions, in assailing the legality of Schedule I, drawn in accordance with paragraph 7 of the Conditions of Service Order, 1979 in relation to Items 8 and 9 quoted earlier in this judgment. G

- (1) In the matter of fitment and placement, bifurcating the officers of erstwhile Grade I, on the basis of their date of confirmation is wholly irrational and further, the date chosen as 31.12.1972 has no basis and is nothing but an arbitrary and capricious exercise H

- A of choosing of the date and it has no reasonable nexus with the object sought to be achieved in the matter of placement and, consequently, must be held to be violative of Article 14.
- (2) Prior to the appointed date on 1.10.1979, the officers of Grade I, having been promoted from the officers of Grade II and subsequent to the appointed date, the very fact of placing some of the officers of Grade I with the officers of Grade II in Junior Management Grade Scale I, is on the face of it, arbitrary and tantamounts to a demotion in case of those, who had already been in Grade I prior to the appointed date and this placement must be held to be arbitrary.
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- (3) In fixing 31.12.1972, as the cut of date, for the purpose of placement and fitment, the same has no reasonable nexus for the differentiation made and at any rate nothing has been indicated by the employer, and, therefore, even if a classification would be permissible, then also such classification would be hit by the provisions of Article 14 of the Constitution.
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- (4) Paragraph 7 of the Conditions of Service Order is subject to the provisions of paragraph 6. Necessarily, therefore, categorisation, having been required to be made in due consideration of the responsibility and functions exercisable, it would not be permissible under paragraph 7 to place officers of Grade I in two different grades, some in Middle Management Grade Scale II and others in Junior Management Grade Scale I inasmuch, it would contravene the mandate engrafted in paragraph 6.
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- F
- (5) Confirmation, being one of the inglorious uncertainties of Government Service, depending neither on efficiency of the incumbent nor on the availability of substantive vacancies, as has been held by this Court in *Patwardhan's case*, [1977] 3 SCC 399, and reaffirmed in the Constitution Bench decision in *Direct Recruits case*, [1990] 2 SCC 715, if such date of confirmation, cannot be the basis for the seniority of the employees in a cadre, there would be no rhyme and reason to have such confirmation as the basis for the placement of the officers when a restructuring takes place and the basis of placement being the inglorious uncertainty of confirmation, the order of placement must be held to be invalid and must be struck down.
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- (6) The Division Bench Judgment of the Andhra Pradesh High Court in case of subsidiary banks as well as the Rajasthan High Court in case of the State Bank of Bikaner, which also is a subsidiary bank, having been upheld by this Court in somewhat similar circumstances and the placement and fitment made in case of subsidiary banks, having been set aside by the High Court, the principles enunciated therein, would apply with equal force to the case in hand, and, therefore, the placement of officers of Grade I, those who have not confirmed by 31.12.72 in the Junior Management Grade Scale I along with the officers of Grade II, must be held to be arbitrary and irrational and must be struck down.

Mr. Shanti Bhushan and Mr. Kapil Sibal, learned counsel, appearing for the bank, on the other hand contended that Conditions of Service Order, 1979, is a statutory order, made in exercise of powers conferred under sub-section(1) of Section 43 of the State Bank of India Act, 1955 and the said order purports to rationalise and standardise in restructuring the administrative set up of the Management cadres and in process of such restructuring, if on consideration of relevant and germane materials, placement of the officers has been made, as provided under paragraph 7 of the Conditions of Service Order, then such placement is not liable to be interfered with by a Court of law, unless a strong case is made out, either on the ground of *mala fides* or on the ground of infraction of a constitutional provision. According to the learned counsel, when officers of a pre-existing Grade are sought to be placed in the different grades, which emanated on account of standardisation and re-structuring, then it may not be possible in a given situation to put all the officers of a particular grade to be placed in a corresponding grade or scale of pay evolved in the process of restructuring. This being the position, while grafting of these officers in the newly created grade and scale, if there is a bifurcation of officers of a particular grade into two, based on their period of service, experience and other relevant factors, such bifurcation would not tantamount to treating them discriminately, and would not attract the provisions of Article 14 of the Constitution. It was further urged under paragraph 6, what was required to be performed is to categorise the officers, on the basis of the responsibilities and functions exercisable by such officers whereas paragraph 7 deals with the placement and paragraph 8 deals with the fitment in the new scale of pay and this being the position, notwithstanding paragraph 7 is subject to paragraph 6, there would be no bar in bifurcating the officers of a particular grade and placing them in two different grades, as has been done

- A in the present case, if there is any reasonable basis for such bifurcation. According to the learned counsel, the provision for confirmation, contained in paragraph 16, would not attract the mischief of inglorious uncertainty of confirmation in the service and on the other hand, it is the satisfactory completion of training of the officers, which is determinative of the confirmation
- B in service and failure on the part of the officer, who is not found fit for confirmation by the Competent Authority, would entail termination of service in case of a direct appointee and reversion to the substantive grade in case of a promotee. This being the position with regard to confirmation, the ratio in *Patwardhan's case* as well as *Direct Recruits' case*, on which reliance has been placed by the counsel, appearing for the petitioners, would have no
- C application at all. According to Mr. Shanti Bhushan, the judgment of this Court in *Tarsem Lal Gautam v. State Bank of Patiala*, [1989] 1 SCC, 182, fully governs the present batch of cases and as such, there is no infirmity with the classification that has been made amongst the officers of Grade I on the basis of their date of confirmation, whether prior to 31.12.1972 or thereafter.
- D Mr. Sibal, further urged that it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach the Court expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters and in the case in hand, the placement that was made in the year 1979 is now sought
- E to be assailed in writ petitions filed in different High Courts, the earliest being in the year 1988 and the latest being in the year 1998 and such delay in approaching the Court disentitles the petitioners from invoking the extraordinary jurisdiction of the Court under Article 226 of the Constitution, and, therefore, these petitions are liable to be dismissed. In support of this contention, reliance was placed on the decision of this Court in the case of
- F *P.S. Sadasivaswamy v. State of Tamil Nadu*, [1975] 1 SCC 152. Before we deal with the respective contentions of the parties it would be appropriate for us to notice that what Article 14 prohibits is class legislation and not reasonable classification for the purpose of legislation. If the rule Making Authority takes care to reasonably classify persons for a particular purpose and if it deals
- G equally with all persons belonging to a well defined class then it would not be open to the charge of discrimination. But to pass the test of permissible classification two conditions must be fulfilled:-
- (a) that the classification must be founded on an intelligible differentia which distinguishes persons or things which are grouped together
- H from others left out of the group; and

- (b) that the differentia must have a rational relation to the object sought to be achieved by the statute in question. A

The classification may be founded on different basis and what is necessary is that there must be a nexus between the basis of classification and the object under consideration. Article 14 of the Constitution does not insist that the classification should be scientifically perfect and a Court would not interfere unless the alleged classification results in apparent inequality. B
When a law is challenged to be discriminatory essentially on the ground that it denies equal treatment or protection, the question for determination by Court is not whether it has resulted in inequality but whether there is some difference which bears a just and reasonable relation to the object of legislation. C
Mere differentiation does not *per se* amount to discrimination within the inhibition of the equal protection clause. To attract the operation of the clause it is necessary to show that the selection or differentiation is unreasonable or arbitrary; that it does not rest on any rational basis having regard to the object which the legislature has in view. If a law deals with members of well defined class then it is not obnoxious and it is not open to the charge of D
denial of equal protection on the ground that it has no application to other persons. It is for the Rule Making Authority to determine what categories of persons would embrace within the scope of the rule and merely because some categories which would stand on the same footing as those which are covered by the rule are left out would not render the Rule or the Law enacted in any E
manner discriminatory and violative of Article 14. It is not possible to exhaust the circumstances or criteria which may afford a reasonable basis for classification in all cases. It depends on the object of the legislation, and what it really seeks to achieve.

In view of the submissions of the counsel for the parties, the first question, that arises for consideration is whether merely because the officers of Grade I have been placed in two different newly created grades, on the basis of their confirmation, would constitute discrimination amongst the same group or not? The petitioners' contention is based upon the observations of this Court in *Patwardhan's* case as well as *Direct Recruits* case, to the effect that confirmation being one of the inglorious uncertainties of Government service, could not have formed the basis for placement in two different G
grades. In *Patwardhan's* case, the *inter se* seniority between the direct recruits and promotees was being determined on the basis of the date of their respective confirmation. Under the rules in question, a ratio between the direct recruits and promotees to the cadre was being maintained at 34:66, and confirmation, necessarily, depended upon the availability of the posts in the H

- A cadre in the respective quota. Further, the promotees were to depend on the availability of substantive vacancies and then on the arbitrary discretion of the Government to confirm or not to confirm them in those vacancies. It is in that situation, when the rule of seniority was related to the date of confirmation, the Court had observed that the confirmation being one of the
- B inglorious uncertainties of Government Service, could not have become a reasonable basis for determination of *inter se* seniority. This decision in *Patwardhan's* case was reaffirmed in the Constitution Bench decision in *Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra and Ors.*, [1990] 2 SCC 715, and the Court reiterated and upheld the decision of the Court in *Patwardhan*. But what has been stated in relation
- C to a rule for the purpose of determination of *inter se* seniority, may not be applicable to all contingencies and it cannot be said that the confirmation of an employee in a particular cadre cannot form a rational basis for any purpose whatsoever. In the case in hand, under the Conditions of Service Order, a person appointed as a probationary officer or a trainee officer, is required to be on probation for a period of two years. An employee of the bank when
- D promoted as an officer to the Junior Management Grade is required to be on probation for a period of one year. In accordance with paragraph 16 of the said Conditions of Service Order, such officers on probation, shall be confirmed in the service of the bank, if the Competent Authority is of the opinion that the employee has satisfactorily completed the period of probation. The said
- E Competent Authority also has a right to extend the period of probation, if in his opinion, the officer has not satisfactorily completed the probationary period. In paragraph 16(3), on the end of the period of probation, including the period of extension, if any, if the Competent Authority is of the opinion that the officer is not fit for promotion, then the service of the direct appointee is liable to be terminated and in case of a promotee, he is liable to be reverted
- F to his substantive cadre. In view of the aforesaid statutory provision, dealing with confirmation and probation, the observation made by this Court in *Patwardhan's* case or *Direct Recruit* case, will have no application. The question of inglorious uncertainties in the matter of confirmation, does not arise in the case in hand, in view of the aforesaid statutory provisions.
- G Consequently, the main argument of the petitioner's counsel and their reliance on the two decisions, referred to earlier, will have no application and the contention on this score accordingly fails.

Notwithstanding, the aforesaid conclusion of ours, it still remains to be examined, as to whether in the matter of placement, prescribing 31.12.1972, as

H the cut of date, can be referred to any rational basis. It is too well settled that

even if a classification would be permissible, but unless there is any rational basis of the same, the very basis would be hit by Article 14. The stand of the bank is that taking into account the fact that the period of probation is either one year or two years in case of promotees or direct recruits and that successful completion of the probationary period entitles the employee to be confirmed and minimum six years of service in the Grade, is required for being placed in Middle Management Grade Scale II, as per the guidelines issued and since placement was required to be made on 1.10.1979, which is the appointed date in the Conditions of Service Order, the Competent Authority of the bank namely the Central Board of the State Bank of India, has determined the date 31.12.1972. In view of the explanations, offered by the bank as well as the averments made in the counter affidavit, we are unable to hold that date 31.12.1972 is an arbitrary date and has no rational nexus with the placement of the officers of Grade I in Middle Management Grade Scale II. If the Competent Authority on relevant and all germane factors, takes a decision in the matter of placement or fitment, whenever a restructuring of the cadre is made, then the Court will not be justified in examining the basis of such placement or fitment in a mathematical scale and would not ordinarily interfere with such decision, unless it is established beyond doubt that the decision is totally arbitrary or has been *mala fide* taken. When we examined the assertions, made by the petitioners in their writ petitions, we do not find any basis or even any pleadings of *mala fides*. In *New Bank of India Employees' Union and Anr. v. Union of India and Ors.*, [1996] 8 SCC 407, placement of officers of a particular bank, after its amalgamation with another bank was the subject matter of challenge and in that context, this Court had observed:

“The legal position is fairly settled that no scheme of Amalgamation can be fool-proof and a Court would be entitled to interfere only when it comes to the conclusion that either the scheme is arbitrary or irrational or has been framed on some extraneous consideration.”

What has been observed in the case of amalgamation, would equally apply to a case of restructuring of the cadre and placement and fitment of the existing employees in the restructured cadre. In fact in *Tarsem Lal Gautam v. State Bank of Patiala*, [1989] 1 SCC 182, this Court was examining the legality of classification, based upon their seniority and experience for being fitted into two different grades, though originally belong to one grade, as in the present case. While upholding such placement and fitment and while coming to the conclusion that it would not amount to discrimination or violative of Article 14 of the Constitution, this Court had taken note of the fact that when new categories of posts and new scales of pay are created,

A while trying to standardise and rationalise the management cadre, some criteria have to be evolved and applied for the placement and fitment of the existing officers into the new categories of posts, which may necessitate the pre-existing cadre of officers to be fitted in two grades and so long as there exists a reasonable basis for such bifurcation, it would not be a case of discrimination, attracting Article 14 of the Constitution. Ultimately, this Court held that the principle of classification brought about by the statutory regulation, cannot be said to be unreasonable and arbitrary. The aforesaid dictum, in our opinion, would apply with full force to the facts of the present case. We are, therefore of the considered opinion that placement of the existing officers in the new grades, as provided in Schedule I, made in paragraph 7 of the Conditions of Service Order, and more particularly, placement made in respect of officers Grade I, confirmed on or before 31.12.1972 in Middle Management Grade Scale II and others in Junior Management Grade Scale I, is not hit by Article 14 of the Constitution of India.

D The next question, that arises for consideration is whether putting officers of Grade I, who had not been confirmed on or before 31.12.1972 along with the officers of Grade II in Junior Management Grade Scale I, would per se be discriminatory inasmuch as prior to the new structuring of the management, promotion was being made from Officers Grade II to Officers Grade I? According to Mr. Sanyal, this tantamounts to unequals being treated as equals, and even demotion of the officers of Grade I who had not been confirmed before 31.12.1972. We are unable to accept this submission of the learned counsel for the petitioners. It is no doubt true that prior to the new structuring of the management, persons from officers Grade II were being promoted to the officers Grade I. But in suggesting restructure of the entire managerial cadre by way of standardisation, when less category of grades have been evolved, necessarily, there would be merger of different pre-existing grades, but such merger will neither amount to demotion in any manner nor would it amount to treating unequals as equals. It is in fact a part of exercise of cadre adjustment process, after taking the decision of minimising the number of grades and, consequently, such a decision having been taken by adopting the decision of expertised body of Pillai Committee's Report, it cannot be said that the Central Board of the State Bank of India in making the Conditions of Service Orders 1979, treated the officers of Grade I, who had not been confirmed on or before 31.12.1972 with hostile discrimination. The arguments on behalf of the petitioners on this score, therefore stands rejected.

H Mr. Sibal, appearing for the Bank, no doubt has raised the contention

that gross delay on the part of the employees in filing the writ petition, disentitles them to get any discretionary relief and in support of the same, reliance has been placed on the decision of this court in *P.S. Sadasivaswamy v. State of Tamil Nadu*, [1975] 1 SCC 152. In the aforesaid case, this Court observed that even though no period of limitation is provided for the Courts to exercise power under Article 226, but it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. A B

Mr. Rao, the learned senior counsel, appearing for the petitioners, on the other hand, vehemently urged that if the treatment meted out to the petitioners is found to be discriminatory and as such violates Article 14 of the Constitution, then the Court will not throw away the petitions merely on the ground of laches. In support of the contention, reliance was placed on the Constitution Bench decision of this Court in the case of *Ramchandra Shankar Deodhar & Ors. v. The State of Maharashtra and Ors.*, [1974] 2 SCR 216. In the said case, this Court had observed: C D

“Moreover, it may be noticed that the claim for enforcement of the fundamental right or equal opportunity under Article 16 is itself a fundamental right guaranteed under Article 32 and this Court which has been assigned the role of a sentinel on the *qui vive* for protection of the fundamental rights cannot easily allow itself to be persuaded to refuse relief solely on the jejune ground of laches, delay or the like.” E

Mr. Rao also relied upon the observation of this Court in the case of *B. Prabhakar Rao and Ors. etc. v. State of Andhra Pradesh and Ors. etc. etc.*, [1985] Supp. 2 SCR 573, wherein Chinnappa Reddy, J, speaking for the Court observed thus: F

“.....the burden of establishing the reasonableness of a classification and its nexus with the object of the legislation is on the State. Though no calamitous consequences were mentioned in any of the counter-affidavits, one of the submissions strenuously urged before us by the learned Advocate-General of Andhra Pradesh and the several other counsel who followed him was the oft-repeated and now familiar argument of ‘administrative chaos’. It was said that there would be considerable chaos in the administration if those who had G H

A already retired are now directed to be re-inducted into service.”

A passage from the judgment of *Lord Denning in Bradbury and Ors. v. London Borough of Enfield*, (1967) 3 All England Law Reports Page 434, was also pressed into service by Mr. P.P.Rao, which it is worth-while to quote hereunder:

B “It has been suggested by the Chief education officer that, if an
injunction is granted, chaos will supervene. All the arrangements have
been made for the next term, the teachers appointed to the new
comprehensive schools, the pupils allotted their places, and so forth.
C It would be next to impossible, he says, to reverse all these
arrangements without complete chaos and damage to teachers, pupils
and the public. I must say this: if a local authority does not fulfil the
requirements of the law, this Court will see that it does fulfil them. It
will not listen readily to suggestions of “chaos”. The department of
education and the council are subject to the rule of law and must
D comply with it, just like everyone else. Even if chaos should result,
still the law must be obeyed; but I do not think that chaos will result.
The evidence convinces me that the “chaos” is much over-stated.”

On consideration of the aforesaid legal position, though, we are inclined
to agree with Mr. P.P. Rao that these cases should not be thrown out on the
E ground of laches alone, inasmuch as the placement made on 1.10.1979 was
assailed in the year 1988 at the earliest and 1998 at the latest, yet the same
may not be brushed aside, particularly, when we have not been able to find
out any infraction of any fundamental right of these petitioners, guaranteed
under the Constitution.

F So far as the argument advanced on the interpretation of paragraph 7,
on the ground that it is subject to the provisions of paragraph 6, we are of
the considered opinion that paragraph 6 of the Conditions of Service Order
indicates as to how categorisation has to be made. In fact on the basis of the
adoption of the recommendations of the Pillai Committee, the officers have
G been categorised into four different categories with nine different scales of
pay; Top Executive Grade with three scales, Senior Management Grade with
three scales, Middle Management Grade with two scales and Junior
Management Grade with one scale and categorisation has to be made taking
into account the responsibilities and functions exercisable by the officers
concerned. After such categorisation, as provided in paragraph 6, the officers
H are required to be placed in corresponding grades and scale. In other words,

in the case in hand, Grade I officers, confirmed on or before 31.12.1972 on being categorised as Middle Management Grade Scale II, other officers of Grade I, not confirmed till 31.12.1972 are categorised into Junior Management Grade Scale I, and further, on categorised as Middle Management Grade, while officers Grade I are being placed in Scale II thereof but Staff Officers, Grade III, enumerated in Item No. 7 of Schedule I are placed in Middle Management Grade Scale III. The concept of categorisation, placement and fitment in the new scale of pay are three different concepts, provided in paragraphs 6, 7 and 8 of the Conditions of Service Order. If this concept is borne in mind and the provisions contained in Schedule I is examined, we see no infirmity in placing officers Grade I not confirmed till 31.12.1972 in Junior Management Grade Scale I, nor can it be said that it would violate the mandate contained in paragraph 6 of the Conditions of Service Order. The said contention of Mr. Rao, therefore, is rejected.

The only other contention that survives for our consideration is the Division Bench decision of the Andhra Pradesh High Court, which was upheld by this Court as well as the decision of the Rajasthan High Court in the State Bank of Patiala's case, which was also upheld by this Court. Both in the Andhra Pradesh case as well as the Rajasthan High Court case, it was the officers of the subsidiary bank, who had approached the Court for certain relief and no doubt the observations made by the learned Judges of the Andhra Pradesh High Court would support the contention of the petitioners in this batch of cases to a great extent. But the judgment of this Court, dismissing the bank's appeal against the same, does not contain any discussion, though it cannot be denied that dismissal was on merits. But it transpires that the earlier judgment of this court in *Tarsem Lal Gautam's* case, [1989] 1 SCC 182, had not been brought to the notice of the Court and when a Contempt Petition had been filed for non-implementation, when the Bank asked for variation of the order and brought to the notice of the Court the judgment in *Tarsem Lal Gautam's* case, [1989] 1 SCC 182, the Court observed that the judgment in Civil Appeal must be confined to its own facts and as such the judgment of the High Court has now to be implemented. What has been observed by this Court in disposing of the contempt application, when the decision of the Court in *Tarsem Lal Gautam's* case had been brought to the notice, would apply equally to the case in hand, more so, as against a detailed discussion of law in *Tarsem Lal Gautam's* case, there has been no discussion at all, while dismissing the Bank's appeal against the judgment of the Andhra Pradesh High Court as well as Rajasthan High Court. Consequently, we are of the considered opinion that the observations of the Andhra Pradesh

- A** High Court, while disposing of the writ petitions, filed by the officers of the subsidiary banks will not have any application to the case in hand, as had already been observed, while disposing of the contempt application, that it would only be applicable to the facts of that case and more so, in the present case, when we have already considered the contentions raised by the petitioners in detail, and have not been persuaded to accept the same.

B

In the aforesaid premises, all the contentions raised, having failed, these transferred cases/petitions, stand dismissed and the writ petitions filed by different petitioners in different High Courts stand dismissed.

C

For the grounds stated in the application for condonation of delay in filing the substitution application in Transfer Petition (Civil) No. 665-668/98, in the interest of justice, the delay is condoned and the substitution application is allowed. The Legal Representatives of the deceased respondent No. 12 are brought on record.

D

B.S.

Transferred cases and petitions dismissed.