



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. _____ OF 2026
(Arising out of SLP (C) Nos. 13578-13579 of 2020)

KAMAL PRASAD DUBEY

...APPELLANT

VERSUS

**THE STATE OF MADHYA PRADESH
AND OTHERS**

...RESPONDENTS

J U D G M E N T

N.V. ANJARIA, J.

Leave granted.

2. Discrimination is the other name of injustice.

2.1 The challenge in these appeals addressed by the appellant-original petitioner to the order dated 11.11.2019 passed by the Division Bench of the High Court of Madhya Pradesh, Jabalpur, allowing Writ Appeal No. 1758 of 2019, and to order dated 17.12.2019 dismissing the corresponding Review Petition No. 1665 of 2019, deserves to be considered in light of the above principle.

2.2 The appellant filed Writ Petition No. 12814 of 2016 before learned Single Judge of the High Court in which he challenged order dated 07.06.2016 passed by the Commissioner-cum-Registrar, Cooperative Societies, Bhopal-respondent No. 2 herein, whereby the request of respondent No. 5- Primary Agricultural Cooperative Society for relaxing the educational qualification of the appellant for the promotion to the post of Society Manager came to be rejected.

2.3 Learned Single Judge of the High Court, by his order dated 22.01.2019, allowed the Writ Petition, setting aside the aforementioned order dated 07.06.2016, and directed respondent No. 2-Registrar to pass order extending the benefit of relaxation in the educational qualification granting promotion to the appellant.

2.4 The Division Bench, however took the view, as per the impugned order, that the discretion to grant the relaxation was with the Board of Directors of the society, and not with the Registrar and that the appellant since did not have the necessary qualification, the Registrar was right in declining to grant the relaxation.

2.5 It may be mentioned that this Court, in the present proceedings, by order dated 05.11.2020, directed that the appellant shall not be demoted, which has continued till date.

3. Outlining the attendant facts, the appellant who is presently posted as Manager, Primary Agriculture Credit Cooperative Society, Nayagaon, Panna District-respondent No. 5, a society registered under the Madhya Pradesh Cooperative Societies Act, 1960, and has the experience of 28 years of working in the Society, came to be appointed as *Sahayak Samiti Sevak* vide order dated 02.09.1987, on permanent basis.

3.1 The service conditions of the employees of the society are governed by the service rules framed by the Registrar of Cooperative Society in exercise of powers under Section 55(1) of the Madhya Pradesh Cooperative Societies Act, 1960. It was stated that the earlier Rules framed by order dated 09.10.1990 came to be substituted with new Rules on 30.08.2013, repealing the old Rules. The appellant was appointed as *Sahayak Samiti Sevak* by order dated 02.09.1987. He had passed the Higher Secondary School

Examination conducted by the Board of Secondary Education, Madhya Pradesh, in the year 1984.

3.2 At the time when the appellant was appointed as *Samiti Sevak*, he was Higher Secondary passed, and had undergone various training programmes. By order dated 23.07.1996, he was deputed as Clerk in *Jila Sahkari Kendriya Bank*. In view of experience of the appellant, respondent No.5-Society passed a resolution dated 26.02.2014 deciding and resolving to promote the appellant from the post of *Sahayak Samiti Prabandhak* to *Samiti Prabandhak* (Society Manager).

3.3 One Mr. Sajid Ali was transferred on 19.06.2014 to respondent No.5-Society and came to be posted as *Samiti Prabandhak*, which was the post on which the appellant had already been working. In that view, when guidance was sought from the Registrar, by his communication dated 15.10.2015 the Registrar accepted the recommendation made by the Assistant Registrar and allowed the appellant to continue on the post of Society Manager, having regard to his long work experience. It was provided that reasonable

time may be given to him to acquire the necessary eligibility qualification of graduation as requisite under the new rules.

3.4 Respondent No. 5-Society in its meeting held on 02.07.2015 passed a resolution recommending the grant of relaxation in the educational qualification of the appellant for the purpose of promotion to the post of Society Manager, in light of the fact that under the old Rules, an employee possessing the educational qualification of Higher Secondary was eligible and that the appellant possessed such qualification, and further he had a long work experience. The General Body of the Society ratified the aforesaid resolution of the Board of Directors, in the General Body meeting held on 28.09.2015. However, the Registrar rejected the proposal made by the Board of Directors which was also approved by the General Body, taking a stance that relaxation could not have been granted.

3.5 It is the case of the appellant, based on admitted facts, that one Sushil Kumar Tripathi, who also held the qualification of Higher Secondary, was promoted by order dated 29.02.2016. Similarly, another employee named Ram Swaroop Pandey, also a Higher Secondary pass, came to be

appointed as Society Manager on 12.12.2014, who had 20 years' work experience as against the work experience of more than 28 years to the credit of the appellant.

3.6 As stated, under the old rules prevailing at the time of the appointment of the appellant, the educational qualification prescribed for the purpose of promotion to the higher post of *Samiti Prabandhak* (Society Manager) was Higher Secondary. In the new Rules which came into force on 30.08.2013, any additional qualification for the promotion to the said post was not prescribed.

4. Heard learned advocate on record Ms. Ruchi Gupta with learned advocate Mr. Anirudh Sharma for the appellant and learned advocate Mr. Yashraj Singh Bundela for respondent Nos.1 to 4 and 6 and learned advocate Mr. Chand Qureshi for respondent No.5.

5. It is to be noted that when in the meeting of the Board of Directors of respondent No.5-Society passed resolution dated 02.07.2015 to consider the case of promotion of the appellant to the post of *Samiti Prabandhak* from the post of *Sahayak Samiti Prabandhak* and

recommended him for promotion, several relevant considerations were taken into account as could be seen from the proceedings of the meeting figuring on record. It was noted in decision No.3 corresponding to proposal No.3 that no employee of the cadre of *Samiti Prabandhak* has been posted during the last 5 months and that due to the same, the work of the institution had been suffering.

5.1 It was noted that the appellant had been working in the Institution since last 26 years, having been appointed on 02.09.1987, and that his track record was clean and no charge of irregularities of any kind was levelled against him. Further, it was recorded that as the society had been receiving satisfactory services since last 26-27 years from the appellant, who was the senior-most employee, he was unanimously recommended for promotion in the interests of smooth conduct and working of the society.

5.2 While ratifying the recommendation of the Board of Directors, the General Body in its meeting held on 28.09.2015 expressly noted that the proposal of the Board of Directors to promote the appellant on the basis of his long work experience was justified, that he was rendering regular

services for the last 28 years, and looking to his seniority, competence, and experience, the relaxation given in educational qualification was justified. It was unanimously decided by the General Body to submit the recommendation to the Commissioner-cum-Registrar, Cooperative Societies for his approval.

5.3 It is to be noticed that the Registrar, by his communication dated 07.06.2016, which was the decision impugned in the writ petition, without assigning any reason and in a cryptic manner, rejected the proposal of the Board of Directors and the General Body for granting relaxation in the educational qualification to promote the appellant.

5.4 The said communication dated 07.06.2016, whereby the proposal was filed, is extracted hereunder in its relevant part,

To,

The Chairman,

Primary Agriculture Credit Cooperative Society

Nayagaon District Panna M.P.

Subject: Regarding grant of relaxation in educational qualification to Shri Kamal Prasad Dubey posted as Samiti Prabandhak in the Society.

Reference:-Your Office Letter Number Q dated 15/10/2015,

Please peruse the letter under reference under the above mentioned subject. By the letter under reference, proposal to grant relaxation in the educational qualification to Shri Kamal Prasad Dubey Samiti Prabandhak as per the proposal number 5 Decision number 5 dated 02/07/2015 of the Board of directors has been forwarded.

After examining the same, the aforesaid proposal is filed.

(Approved by the Commissioner Cooperative)

Sd/- Illegible
Additional Commissioner
Cooperative, Madhya Pradesh

5.5 At this stage, Rule 19-A of the *Prathmic, Krishi Saakh Sahakari Sanstha, Vrihattakar Saakh Sahakari Sanstha, Adim Jati Sewa Sahakari Sewa Sanstha, Krishak Sewa Sahakari Sanstha Karmchari Sewa (Niyojan, Nibandhan, Tatha Karya Stithi) Niyam, 2013* may be considered with relevance. It *inter alia* provided that upon acquiring the prescribed qualification, promotion to the various classes of posts shall be granted to the employees. It was stated that from Class II to Class I, promotion to the post of *Samiti Prabandhak* from the post of *Sahayak Samiti Prabandhak/Accountant* would be granted. It was stated that for the purpose of promotion, minimum 5 years' tenure on the present post and acquiring of the prescribed

educational qualification shall be compulsory requirement and that the criteria of promotion shall be seniority-cum-merit.

5.6 Proviso to said Rule 19A becomes relevant in the facts of the case, which reads as under,

‘Provided that on the basis of employee's special experience/competence/seniority, relaxation in the educational qualification for promotion may be granted by the Registrar.’

5.7 Rule 11 of the aforesaid Rules, however, mentioned about eligibility criteria. It required that a person should have a graduation degree along with diploma/degree in computer application and further that a person holding graduation in Commerce and diploma/degree in Cooperative Management will be given preference. At the same time, as mentioned above, Proviso to Rule 19A contemplated about relaxation in the educational qualification to promote the employee on the post of *Samiti Prabandhak* on the basis of employees’ special experience/competence/seniority.

6. Recollecting at this stage the relevant facts, when the appellant was appointed as an Assistant Society Manager in

the year 1987 by the Board of Directors of respondent No. 5-Society, the educational qualification necessary for the purpose of appointment to the Society Manager was Higher Secondary. This was as per the Rules in force at that time. From 30.08.2013 in the new Rules, the qualifications for the post of Society Manager were revised to requirement of graduation with diploma in computer, and it was further provided that the relaxation in such educational qualification could be granted by the Registrar to the employees who had been working for more than 5 years.

6.1 In light of the appellant's experience of work, his case was recommended for promotion to the post of Society Manager by the Board of Directors and was approved and furthered by the General Body. The Registrar, by order dated 07.06.2016, did not grant the relaxation in educational qualification, refusing the recommendation of the Board of Directors and the General Body.

6.2 There is no gainsaying that at all material times, the power to grant relaxation was available and was vested with the Board of Directors. In the case of the appellant, it was the Board of Directors which passed the resolution granting

the relaxation to the appellant, exercising the powers duly vested in it. The Registrar could not have disapproved the resolution, once it was validly passed by the Board of Directors, which was a competent authority exercising its powers.

7. In the entire scenario, what becomes conspicuous is that during the same period, two other employees named Sushil Kumar Tripathi and Ram Swaroop Pandey were recommended for promotion by the Board of Directors of the society and that the Registrar accepted those recommendations by his order. Both the above employees named Sushil Kumar and Ram Swaroop possessed the same qualification of Higher Secondary as that of the appellant at the time they were approved by the Registrar to be promoted upon recommendation by the Board of Directors.

7.1 Sushil Kumar and Ram Swaroop could be grouped together to be the homogeneous class of persons to be approved for promotion, without inviting a breach of any law or statutory rule. The relaxation in educational qualification was permissible and the Board of Directors extended the same to the appellant in view of his long-standing service

and work experience. The Registrar, in approving two other employees for promotion and negating and discarding the case of the appellant though all the three cases were attended by similar circumstances, acted arbitrarily.

7.2 It is not that said Sushil Kumar and Ram Swaroop were not eligible to be promoted and yet they were promoted. In the same way stands the case of the appellant who was also otherwise qualified and eligible, by extending the provision for relaxation in educational qualification, to be promoted to the post of Society Manager to sail in the same boat with the said two similarly situated employees. Thus, the case of the appellant is not one that the appellant seeks parity and equality for promotion with ineligibles or that he is not fit to be promoted. No concept of negative equality is attracted that the appellant is to be given equal treatment with those persons who are not eligible.

8. Learned Single Judge could rightly notice the equality aspect as observed thus,

‘9. ...The respondents have also not denied the fact that other two persons namely Sushil Kumar Pandey and Ramswaroop Pandey, whose appointments have been placed on record as

Annexure P-16 and P-17 have been given relaxation in their educational qualification. In view of the same this Court does not find any reason or justification to uphold the impugned order passed by the respondent No.2 as reproduced herein above which is cryptic in nature and does not disclose any reason for rejection of relaxation in petitioner's educational qualification for the post of Society Manager as has been recommended by the respondent No.5 in their resolution. Thus on merits as also on the ground of parity, the petitioner is entitled for relaxation in his educational qualification for his promotion to the post of Society Manager.'

8.1 Even as the discriminatory treatment writ large in case of the appellant, the Division Bench, for no good reason, did not approve the finding of the learned Single Judge regarding discrimination. It was observed in paragraph 11 of the impugned order by the Division Bench that since the appellant did not have the necessary qualification to be promoted, the Registrar, Cooperative Societies, was well within his powers in declining to grant the relaxation, overlooking the fact that the relaxation was permissible under the rules itself.

8.2 While on one hand, the Division Bench of the High Court in its impugned order recorded that the Registrar was within his jurisdiction to refuse the relaxation, it specifically

observed in the previous paragraph 10 of the impugned order that at the relevant time, the discretion for granting relaxation was vested with the Board of Directors of the society and not with the Registrar. The reasoning in the impugned order amounted to a clear contradiction.

9. While the Division Bench of the High Court in its impugned order misdirected itself in its approach and reasoning to reverse the judgment of Learned Single Judge for all the aforesaid facts, reasons and circumstances, the non-acceptance of the case of the appellant for promotion to the post of Society Manager, does not stand to reason, defies rationale, smothers reasonableness and does not hold good on merits.

9.1 The equal treatment came to be denied to the appellant to his discrimination. The facts obtained strikingly attract the tenets of Articles 14 and 16 of the Constitution, to violate the fundamental concept of equality in law and equal treatment in the matters of employment. Substantive justice and real justice is always subserved by applying the doctrine of equality.

9.2 In the year 2019, new Rules came into force. The educational qualification for the post of Society Manager came to be reframed to be lowered again and the requirement was re-enacted to Higher Secondary with one-year diploma in computer education. Order dated 01.11.2019, whereby the aforesaid qualification was provided for, figures on record, having been produced by the appellant. It further contemplated that if the person concerned does not possess the computer-related qualification, he would be granted one-year period to acquire such qualification.

9.3 It is to be noted that the appellant has attained the said qualification in the year 2020. The appellant now holds the degree of M.A. and has also successfully completed the diploma in computers.

10. In view of the foregoing reasons and discussion, the impugned order passed by the Division Bench of the High Court of Madhya Pradesh, Jabalpur is rendered unsustainable in law. Resultantly, order dated 11.11.2019 passed by the Division Bench of the High Court of Madhya Pradesh, Jabalpur in Writ Appeal No.1758 of 2019 and

order dated 17.12.2019 in Review Petition No.1665 of 2019,
are hereby set aside.

11. The Appeals stand allowed.

In view of the disposal of the Appeals, the
interlocutory applications, as may be pending, shall not
survive.

.....,J.
[PRASHANT KUMAR MISHRA]

.....,J.
[N.V. ANJARIA]

**NEW DELHI;
APRIL 10, 2026.**