

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 4088 of 2005

Date of Decision : February 18, 2015

Ragbir Singh and others Petitioners

Vs.

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. G. S. Bal, Senior Advocate
with Mr. Mohan Singla, Advocate
and Mr. R. K. Arora, Advocate
for the petitioners.

Mr. K. K. Gupta, Addl. A. G., Punjab.

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DEEPAK SIBAL, J. :

Through the present writ, the petitioners challenge Appendix-B attached to the Punjab Labour (Group-B) Service Rules, 2005 (hereinafter referred to as – the Rules) to the extent of deletion of the quota of 10% provided for promotion to the post of Labour-cum-Conciliation Officer from amongst the Scrutiny Inspectors/Field Investigators working in the

Department of Labour and Employment. The petitioners further pray for the issuance of a writ in the nature of mandamus directing the respondents to consider and promote the petitioners to the post of Labour-cum-Conciliation Officer against the 10% quota provided under the Rules, which were in operation prior to the impugned amended Rules.

The only issue raised by the learned senior counsel appearing on behalf of the petitioners was that through the impugned amendment, the quota had been shifted from the posts of Field Investigators/Scrutiny Inspectors i.e. the posts being held by the petitioners, to the posts of Superintendents Grade I and Legal Assistants. Learned senior counsel would submit that the change has been brought about by the respondents on the ground that the Labour and Conciliation Officers do a lot of legal work, of which the Field Investigators/Scrutiny Inspectors like the petitioners have no experience. It was submitted that the nature of work being done by the petitioners and the Superintendents Grade I and Legal Assistants was similar and thus, there was no reason in law or in fact to exclude the petitioners from the quota for promotion purposes.

This being the only issue raised on behalf of the petitioners, it would not detain us for long from considering and rejecting the same. It is settled law that it is up to the employer to prescribe the qualifications for the posts it intends to fill up. The Courts generally do not interfere in such decisions unless perversity or mala fide in the same is proved or it is shown

that such action is violative of Articles 14 and 16 of the Constitution of India. No such perversity or violation of either any provision of the Constitution of India or any other statutory provision has been shown.

On behalf of the State of Punjab, it has been stated that the impugned amendment has been made after considering the recommendations of the Fourth Pay Commission. It is further stated that the Labour-cum-Conciliation Officers deal with legal issues and Legal Assistants and Superintendents Grade I, through their experience in the service, are better equipped to deal with legal issues. It is still further submitted that the Field Investigators/Scrutiny Inspectors have no experience on the legal side, and therefore, the Legal Assistants and Superintendents Grade I have been given the quota, which was earlier earmarked for the Field Investigators/Scrutiny Inspectors like the petitioners. It is further argued that even after the impugned amendment, the petitioners have their own channel of promotion to the post of Statistical Officer, which is in the pay scale equivalent to the post of Labour-cum-Conciliation Officer. From the post of Statistical Officer, a channel of promotion is further provided to the post of Deputy Labour Commissioner.

We find the above stand taken on behalf of the respondent-State to be reasonable, warranting no interference on our part. The impugned amendment has been made by the respondents after considering

the recommendations made by the Fourth Pay Commission, as also the need of the Department in question. As no perversity, contravention of any provision of the Constitution of India or any other law and also no mala fide has been shown, we are not persuaded to interfere in the impugned amendment so carried out by the respondents.

Resultantly, finding no merit in the present petition, the same is ordered to be dismissed with no order as to costs.

(SATISH KUMAR MITTAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

February 18, 2015
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