

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP- 21528-2011 (O&M)
Date of Decision : 24.07.2015**

Ramesh Kumar

..... Petitioner

versus

State of Haryana & Ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ajay Chauhan, Advocate
for the petitioner.

Ms. Shruti Goyal, AAG, Haryana.

Mr. Deepak Balyan, Advocate
for respondent No.4.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (ORAL)

By this petition the petitioner has challenged the order of 'promotion of the respondent No.5'.

The undisputed facts are that the respondent No.5 was working as a Clerk (Seasonal Permanent) in the respondent-Sugar Mill. One post of regular clerk fell vacant. As per the Rules the post of regular Clerks have to be filled up by promotion and the category of posts from which the promotion has to be made are Kamdaar/Daftri/Chowkidar/Peon or similar equal posts. The petitioner was working as Cook-cum-Chowkidar and admittedly had the other qualifications required. It is his contention in this writ petition that the

respondent No.5 could not have been appointed to the post of Clerk because he was not an employee of the categories which are specified in the Rules. The Respondent No.5 was at one stage represented but neither any written statement nor is anybody present today on his behalf.

Learned Counsel for the respondent No.4-Sugar Mill is not in a position to deny that the post of Clerk (Seasonal Permanent) which was the post on which respondent No.5 was working was not listed among the feeder cadre post for promotion to the post of Regular Clerk. He has only sought to argue that the respondent No.5 was otherwise the senior most Clerk (Seasonal Permanent) and that is why he was promoted to the post.

In my opinion this action of Respondent No.4 is illegal. Once the Rules do not envisage the post of Clerk (Seasonal Permanent) as a feeder post for the post of clerks the promotion of the respondent No.5 can not be permitted.

Resultantly, the writ petition is allowed. The order dated 11.04.2011 promoting the respondent No.5 is set aside and the respondent No.4 is directed to reconsider the claim of the petitioner along with other candidates in accordance with Rules within a period of three months from the date of receipt of certified copy of this order.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

24.07.2015*Pooja Sharma-I***(AJAY TEWARI)
JUDGE**