IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 23707 of 2011 (O&M)
Date of Decision: 16.02.2015.

Kanchan Pandeya --Petitioner

Versus

The State of Haryana & another --Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. D.S. Nalwa, Addl. A.G., Haryana.

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TEJINDER SINGH DHINDSA.J

The petitioner while serving on the post of Senior Scale Stenographer under the Excise & Taxation Department, Haryana has filed the instant writ petition praying for the issuance of a Writ of Mandamus for directing the respondents to promote her to the post of Assistant Excise & Taxation Officer.

Learned counsel for the parties have been heard at length.

As per pleadings on record, the petitioner was initially appointed as a Steno-typist on the recommendations of the Subordinate Service Selection Board. Thereafter, she has earned promotions to the post of Junior Scale Stenographer and still further to the post of Senior Scale Stenographer in the month of May, 2001.

The entire case made out on behalf of the petitioner is that under the Haryana Excise & Taxation Department (Group-B) Service Rules, 1988 for purposes of promotion to the post of Assistant Excise & Taxation Officer 6.2/3% quota for promotion from amongst the Assistants and Senior Scale Stenographers had been carved out. Still further, as per Appendix 'B' to Rule 7 the academic qualifications and experience for appointment other than by direct recruitment, were laid down and as per which the requirement was of being a graduate and possessing 10 years experience as Senior Scale Stenographer.

Precise argument raised is that as per Rule 9 governing the method of recruitment to the post of Assistant Excise & Taxation Officer, wherein quota of 6.2/3% from amongst the Assistants and Senior Scale Stenographers for the post of Assistant Excise & Taxation Officer having been stipulated and the petitioner being eligible in terms of possessing the requisite academic qualifications and experience under Appendix 'B' under Rule 7, she was vested with a right to be considered for promotion as Assistant Excise & Taxation Officer.

During the course of arguments, learned State counsel has referred to a Division Bench judgement dated 21.2.2013 in **CWP No.242 of 1999 L.R. Bahmani and others Vs. State of Haryana & others** and another connected petition, wherein challenge was to the vires of the specific rule i.e. Rule 9 (i) (b) (ii) of the 1988 Rules, whereby a quota of 6.2/3% promotions from amongst Assistants and Senior Scale Stenographers to the post of Assistant Excise & Taxation Officer had been provided. In the judgement rendered in **L.R. Bahmani's** case (supra) the offending rule has been found to be unreasonable, arbitrary and violative of Article 14 of the Constitution of India and has been struck down.

Accordingly, since the very rule upon which the entire claim of the petitioner was based, has been found to be bad in law, the claim raised in the instant writ petition cannot be accepted. Writ petition is, accordingly, dismissed.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

February 16, 2015.
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