

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

CWP-15635-2015

Date of decision: 25.08.2015

Vakil Singh and others

.....Petitioners

versus

Central Administrative Tribunal, Chandigarh & others

.....Respondents

**CORAM:- HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MR. JUSTICE DARSHAN SINGH**

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

Present: Mr. V.D. Sharma, Advocate for petitioners.

DARSHAN SINGH J.

The petitioners, who were appointed as Drivers (Ordinary Grade) [hereinafter referred to as Driver (OG)] in the pay scale of Rs.5200-20200 + 1900 Grade Pay, are claiming their promotions to the posts of Driver (Grade-II). They have moved their individual representations to the respondents but no decision was taken. Ultimately, they presented Original Application before the learned Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'tribunal'), which was dismissed.

2. Learned counsel for the petitioners contended that the

vacancies for the post of Driver (Grade-II), for which the promotions were to be made, had arisen prior to coming into force the Central Ground Water Board, Staff Car Drivers, (Group 'C' Posts) Recruitment Rules, 2010 (hereinafter referred to as 'new Rules'). So, the Central Ground Water Board Driver (Group 'C' Posts) Recruitment Rules, 2000 (hereinafter referred to as 'old Rules') would have been applicable. He contended that the existing vacancies on the date of implementation of new Rules have to be filled up from the persons eligible according to the old Rules without reference to the eligibility qualifications provided in the new Rules. To support his contentions, he has relied upon cases ***Y.V. Rangaiah & Ors. Vs. J. Sreenivasa Rao & Ors. 1983(1) SLR 789*** and ***Jagdish Chander Vs. The State of Haryana 1994 (4) S.C.T. 29.***

3. He further contended that the new Rules were also discriminatory. For appointment to the post of Driver (OG), three years driving experience was required and for promotion to the post of Driver (Grade-II) eight years regular service was required. In this manner, the promotees were required to have 11 years experience, whereas for direct recruitment driving experience of 8 years was required. The new Rules are ultra vires to this extent.

4. He further contended that earlier also the respondents have been giving relaxation in experience for ordering the promotion but this benefit has been denied to the petitioners.

5. We have duly considered the aforesaid contentions.

6. It is the admitted case of the petitioners that they have been

appointed to the post of Driver (OG) on different dates in the years 2005, 2006 and 2007. Petitioners No.1 to 4 have been appointed as Driver (OG) on 09.11.2005, 06.12.2006, 11.12.2006 and 26.12.2006, respectively. Similarly, petitioners No.5 to 7 have been appointed as Driver (OG) on 29.08.2005, 26.09.2005 and 06.07.2007, respectively by promotion. The process for recruitment to the post of Driver (Grade-II) was initiated in May, 2011. The last date of submissions of the applications was 30.06.2011 but by that time, the petitioners were not eligible for promotion to the post of Driver (Grade-II) even as per the old Rules. As per the old Rules also, Drivers (OG) with 8 years regular service in that Grade subject to passing to a trade test was liable for promotion to Driver (Grade-II). For submissions of applications to the post of Driver (Grade-II) as per advertisement issued in May 2011, none of the petitioners had 8 years regular service as Driver (OG) to his credit. So, even under the old Rules, they were not entitled for promotion. The new Rules provide that in case nobody was eligible for promotion to Driver (Grade-II) by promotion, then the vacancies will be filled through direct recruitment. There is nothing wrong in that order. The vacancies were advertised. The direct recruitment was resorted to only when there was no person available in the feeder category with the requisite qualifying regular service for promotions to the post of Driver (Grade-II). The learned tribunal has rightly observed that if the posts were to be kept vacant, the department work would suffer and also the vacant post would have been abolished. In those circumstances, the only option available

with the respondents was to have the direct recruitment.

7. We do not find any substance in the contentions raised by learned counsel for the petitioners that the new rules are discriminatory because the experience required for the post of Driver (OG) cannot be counted towards the promotions for recruitment to the post of Driver (Grade-II).

8. It had not been disputed at bar that the petitioners were not eligible as they were not having 8 years regular service for promotion to the post of Driver (Grade-II). They have pleaded that the benefit of promotion should be granted to them by giving relaxation in the requisite qualifying service. But the petitioners cannot claim the relaxation as a matter of right. So we do not find any illegality in the action of the respondents and the impugned order passed by learned tribunal. Moreover, it is pertinent to mention that, as stated by learned counsel for respondents before the learned tribunal, all the petitioners have already been promoted to the post of Driver (Grade-II) as per orders issued on 27.06.2014 and 16.04.2015.

9. Thus, keeping in view the aforesaid discussion, the present writ petition has no merits and the same is hereby dismissed.

(M. JEYAPPAUL)
JUDGE

25.08.2015
sunil yadav

(DARSHAN SINGH)
JUDGE