

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

-.-

**L.P.A No. 1818 of 2013(O&M)**

**Date of Decision:-29.09.2015**

Gurmeet Singh

..... Appellant

Versus

State of Punjab and Ors.

..... Respondents

**CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.  
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN.**

Present:- Mr. H.S.Thiara, Advocate, for the appellant.

Mr. B.S.Chahal, DAG, Punjab.

**SATISH KUMAR MITTAL, J.(Oral)**

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 18.07.2013 passed by the learned Single Judge, whereby the writ petition (C.W.P No. 23258 of 2011) filed by the appellant seeking direction to the respondent to promote him as Punjabi/Social Studies Master in the Scheduled Caste category has been dismissed while observing as under:-

*“As regards the claim of the petitioner for consideration for promotion to the post of Punjabi/Social Studies Master is concerned, a specific stand has been taken in the written statement that such posts are governed by statutory regulations for the Punjab State Education Class-III (School Cadre) Service Rules, 1978 as amended from time to time. Under such Rules, there is no promotional avenue from the post of Peon-cum-Chowkidar i.e. a Group-D post to that of Social*

*Studies/Punjabi Master. In such factual position, the claim of the petitioner as regards seeking directions to the respondents-authorities to consider him for promotion to the post of Punjabi Master/Social Studies Master, cannot be accepted.”*

We have heard learned counsel for the parties and have gone through the impugned order. On March 10, 2015, the following order was passed:-

*“While Mr. Aman Bahri, learned Additional Advocate General, Punjab, might be right in contending that in the absence of 'promotion' as one of the source for recruitment of Masters under the Punjab State Education Class-III (School Cadre) Service Rules, 1978 read with the Division Bench decision of this Court in the case of Gurdeep Singh Gill versus State of Punjab and others, 1996 (5) SLR 121, the appellant has no claim to seek promotion as Master but we have impressed upon him to have instructions as to why, having regard to the academic qualification possessed by the appellant, he be not promoted as a Clerk?*

*As prayed for by learned State counsel to have instructions, adjourned to 26.05.2015.”*

In pursuance of that order, learned State counsel has placed on record additional affidavit of Director Public Instructions (SE), Punjab. In paras 3 and 4 of the said affidavit, it has been stated as under:-

*“3. That in compliance with the above said directive of the Hon'ble Court, it is respectfully submitted that as per the provisions of Punjab State Education Class III (School Cadre) Service Rules, 1978 as amended in 1995, promotion to the post of Master is to be made only from amongst C & V teachers (10%) and J.B.T teachers (15%). The department cannot*

*create any promotion channel from Peon-cum-Chowkidar (Class-IV) to be promoted as Master (Class III), as the same would amount to violation of 1978 rules. It is further submitted that earlier there were instructions vide which there was provision of 15% quota for promotion from class IV to Clerk and passing of the type test was mandatory for it. Now these instructions have been withdrawn by the Government vide letter No. 3/70/204-3E/206648/1 dated 22.04.2014 (copy appended as Annexure R-1) being in violation to the Service Rules.*

*4. That framing of the new rules for promotion to the post of Clerk from Class IV is under Process of the Government and has not attained finality as of now. Hence the appellant cannot be promoted to the master cadre or to the post of Clerk in absence of any such rules.”*

We have heard learned counsel for the parties. As far as the claim for promotion from the post of peon to the post of Punjabi/Social Studies Master is concerned, it has been conceded by learned counsel for the appellant that there is no provision for such a promotion under the Rules. In view of the said conceded position, the learned Single Judge rightly declined to grant the said relief to the appellant. As far as second contention of the appellant that at least the appellant be considered for promotion from peon-cum-chowkidar to the post of Clerk, under the Government policy is concerned, the learned Single Judge has observed that at present the old instructions have already been withdrawn and the framing of new Rules/Instructions in this regard are pending with the Government and as and when new Rules/Instructions are introduced or implemented the claim of the appellant will be considered in this regard.

In view of the said stand, we dispose of this appeal with the direction that as and when such rules or policies are introduced, the respondents are directed to consider the claim of the appellant for promotion from Class-IV to the post of Clerk, in accordance with the same.

**( SATISH KUMAR MITTAL )  
JUDGE**

**(MAHAVIR S.CHAUHAN)  
JUDGE**

**September 29, 2015  
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