

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

LPA No. 1039 of 2015 (O&M)

DATE OF DECISION : 01.09.2015

Satbir Singh Sangwan and another

.... APPELLANTS

Versus

State of Haryana and another

.... RESPONDENTS

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

HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. C.M. Chopra, Advocate,
for the appellants.

* * *

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 11.07.2014 passed by the learned Single Judge, whereby the writ petition (CWP No. 13188 of 2014) filed by the appellants seeking direction to the respondents to fill up the posts in the Accounts Wing by promotion from eligible staff only or in the alternative 70% by promotion and 30% by direct recruitment, has been dismissed.

Though there is delay of one day in filing the instant appeal, and the appellants have filed application (CM No. 2154-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the appellants on merits and have gone through the impugned order passed by the learned Single Judge.

In this case, appellants No.1 and 2 are working as Accountant and Account Assistant, respectively, with the Haryana Urban Development Authority. They are seeking promotion to the posts of Accounts Officer/Section Officer. As per the Haryana Urban Development Authority Service Regulation, 1989, 50% posts of Senior Accounts Officer, Accounts Officer, Section Officer and Accountant (SAS)/Non-SAS are to be filled up by promotions and the remaining 50% by direct recruitment. The promotions have been made in this ratio. The grouse of the appellants is that instead of filling up 50% posts by promotions, 70% posts be filled up by promotions by reducing the quota of direct recruitment from 50% to 30%. The learned Single Judge has rejected this contention, while observing as under :

“The claim of the petitioners for parity in treatment on the basis that the Finance Department and other Boards and Corporations have earmarked 70% quota for promotees and 30% by direct recruitment for the aforementioned posts (in the Accounts Wing) is not acceptable in view of the fact that admittedly the Service Conditions of the employees in Account Services are regulated by separate set of Rules i.e. the Haryana State Account Service (Group B) Rules, 2013 (for short “Group B 2013 Rules”) (P-10) as well as Haryana State Accounts Subordinate (Group C) Service Rules, 2013 (for short “Group C 2013 Rules”) (P-11), therefore, the petitioners cannot derive any benefit from these Rules of Finance Department or other Boards/Corporations.

It is not the case of the petitioners that the respondents are not competent to frame the Rules and lay down the

respective quotas between the promotee and direct recruits for appointment to various posts in the Accounts Wing. It is also well accepted that different percentage of promotional quotas is prescribed keeping in view the strength of the feeder cadre posts, the skills acquired through experience, the needs/requirements of the promotional posts etc. It is also well accepted in service jurisprudence that mere reduction in the chances of promotion do not constitute any valid basis for laying challenge to any provision of the statutory Rules. In view of the larger pool of better educated and qualified candidates equipped with understanding of advanced technology, there is a trend for providing higher quota for direct recruits, which exclusively falls with the domain of the rule making authority. Thus, the claim is untenable and hence rejected.”

Learned counsel for the appellants argued that the HUDA should restructure the promotion quota by increasing it, as has been done by other departments by amending the Rules, and the appellants should have been promoted by increasing the promotion quota posts to 70%. In our opinion, this contention has rightly not been accepted by the learned Single Judge. Recruitment to the posts is to be governed by the Administrative Rules, which in the present case provide filling up 50% posts by promotion and the remaining 50% by direct recruitment. The Rule is not under challenge before us.

In view of the above, filling up 50% posts by promotion in the present case cannot be said to be illegal or arbitrary, and the appellants who

do not fall within 50% posts to be filled up by promotion have no legal right to be promoted against the quota of posts to be filled up by direct recruitment. Thus, we do not find any illegality in the order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

September 01, 2015
ndj

(MAHAVIR S. CHAUHAN)
JUDGE