IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.2549 of 1995
Date of decision: 25.02.2016

Sube Singh

...**Petitioner**

versus

The Financial Commissioner & Secretary to Government of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Dinarpur, Advocate,
for the petitioner.

Mr. Ravi Partap Singh, AAG, Haryana,
for respondent No.1.

Ms. Rajni, Advocate,
for Mr. Bahadur Singh, Advocate,
for respondent No.2.

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RITU BAHRI , J.

The petitioner is seeking quashing of the promotional order dated 01.02.1995 (Annexure P-6) passed by respondent No.1, whereby respondent No.2-Jai Bhagwan has been promoted as Stamp Auditor in the Revenue Department and petitioner being duly qualified has been ignored.

The petitioner was appointed as Clerk through Subordinate Services Selection Board, Haryana on 12.04.1990 and remained posted in Stamp and Registration Branch till 14.06.1994. Consequently, he was transferred to S & R Branch of the Financial Commissioner's office, where he had worked from 14.06.1994 to 09.01.1995. Thereafter, he has been working in the revenue department. Vide order dated 04.10.1994 (Annexure P-1), applications were invited from the eligible candidates for filling up some posts of Stamp Auditors. On 04.10.1994 (Annexure P-2), another letter/order was issued by the Revenue Department, as per which, the candidate was required to be graduate from any University with working knowledge of Stamp and Court Fees Act. Relevant eligibility conditions are detailed as under:-

> "**Qualification**: Graduate of a recognized University and also possesses working knowledge of Stamp Act and Court Fee Act.
>
> **Experience** : 1. One year as Head Vernacular Clerk (Now Assist. Supdt. Revenue and Records), or
> 2. Three years as Sadar Wasil Baqi Nawis of Distt. Office, or
> 3. Five years as an official employed in Civil, Criminal or Revenue Courts in the State."

Thereafter, petitioner made his application (Annexure P-3) and participated in the interview held on 16.01.1995. Ultimately, vide dated 01.02.1995 (Annexure P-6), four persons were promoted to the posts of Stamp Auditors while ignoring the claim of petitioner.

Upon notice, written statement on behalf of respondent No.1 has been filed, wherein it has been stated that as per Annexure P-1, only those employees were eligible to be considered who had completed 5 years of service as on 26.09.1994. However, petitioner did not fulfill this condition, therefore, he was not considered for promotion. In para No.9 of the written statement, experience of the selected candidates has been given in detail.

On 27.01.2016, a short reply by way of affidavit of Secretary to Government of Haryana, Revenue and Disaster Management Department, was filed, wherein it has been explained that recruitment of Stamp Auditors was done on the basis of the Punjab Financial Commissioners' Office (State Services Class-III) Rules, 1957. The above said Rules were silent on experience criteria in the recruitment of Stamp Auditor. In this regard, a clarification was sought by the Revenue Department, Government of Haryana vide letter dated 25.06.1976 from the Revenue Department of the State of Punjab. In response to the above said letter, the Government of Punjab after having consultation with the Punjab Public Service Commission, Patiala, gave intimation vide letter dated 09.07.1976 (Annexure R-2) to the effect that for the post of Stamp Auditor, five years service was required for members of service working in Financial Commissioner's Office. The said clarification given by the State of Punjab has been adopted by the Revenue Department for appointing of Stamp Auditors.

As per order dated 16.09.1987 (Annexure R-1), posts of Stamp Auditors were to be filled up from the officials working in Financial Commissioner's Office, who were graduate having five years service and have knowledge of Stamp and Court Fee Acts. A perusal of Annexure R-1 further shows that the clarification given by the State of Punjab vide Annexure R-2, the respondent-department has been filling up the posts of Stamp Auditors from the officials working in the Financial Commissioner's Office, who are graduates having five years service.

In the present case, while filling up the vacant posts of Stamp Auditors, the criteria laid down vide letter dated 04.10.1994 (Annexure P-2) was as per the clarification dated 09.07.1976 (Annexure R-2) and precedent dated 16.09.1987 (Annexure R-1). The petitioner had been appointed as Clerk on 12.04.1990 and on the date of promotional order dated 01.02.1995 (Annexure P-6), he did not have five years service as Clerk. Hence, his case was rightly not considered for promotion/appointment to the post of Stamp Auditor.

In view of the above, no ground is made out for quashing of the impugned promotional order dated 01.02.1995.

Dismissed.

(RITU BAHRI)
JUDGE

25.02.2016
ajp