

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19618 of 1996

Date of Decision: 22.08.2016

Padam Singh and others

... Petitioners

Versus

State of Haryana and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Kamal Sharma, Advocate,  
for the petitioners.

Ms. Shruti Jain Goel, AAG, Haryana.

Mr. Padamkant Dwivedi, Advocate,  
for respondents No.2& 3.

Mr. C.M. Chopra, Advocate,  
for respondents No.4 to 18.

**RAJIV NARAIN RAINA, J.**

1. The petitioners and the private respondents are/were employees of the Housing Board, Haryana, Panchkula. At the time of filing of the petition respondents No.4 to 18 were working in the office of the Chief Administrator, Housing Board, Haryana, Panchkula. The challenge in this petition is to the order dated February 06, 1996 endorsed on February 13, 1996. The order has been passed after hearing employees likely to be affected, that is, the petitioners and the private respondents. The order has been passed in terms of directions issued by this Court in CWP No.468 of 1995 instituted by the petitioners for directions to decide their

representation dated August 22, 1993. The directions were issued to dispose of the representation by a speaking order. The impugned order of May 19, 1995 is the product of such consideration.

2. The facts of the case are like this. The petitioners were either Sub Divisional Clerks (SDCs) or Second Clerks. They demanded consideration for promotion as Assistants in the higher pay scale. The main thrust of the argument was that some of the Clerks who were junior to them have got promotion as Assistants earlier than SDCs got promotion as Second Clerks in the pay scale of ₹ 1400-2600. The pay scale of Assistants and Second Clerks was the same. The other prayer was for change of nomenclature of Second Clerk to Senior Clerk. They would contend that nomenclature of Second Clerk does not find favour with them since this is an equivalent post to the post of Assistant and instead of calling them Second Clerk they should be designated as Senior Clerk. This issue of re-designation of posts of Second Clerks to Senior Clerks has been ordered to be examined separately by the impugned order since it would require amendment to rules.

3. The issue of moment presently which requires determination in this petition needs acquaintance with the cadre structure in the Housing Board Haryana. The cadre strength of Clerks at the relevant time comprised 146 posts in the pay scale of ₹ 950-1500, whereas there were 32 posts of SDCs in the pay scale of ₹ 1200-2040. The opposite party, i.e., the Assistants pointed out that Clerks can take a departmental test which qualifies them for appointment as SDCs which potentially fast tracks their careers. Those who were successful were entitled to the pay scale of ₹1200-

2040. This is jump from ₹ 950-1500 to ₹ 1200-2040 which is a quantum leap based on qualifying a prescribed departmental test without awaiting their regular turn for promotion in the normal course. The SDCs are placed in an advantageous position because avenues of promotion in their cadre are to a greater extent. There are only 8 posts of Second Clerks in the pay scale of ₹ 1400-2600 as against 14 posts of Assistants in the equivalent pay scale. The feeding cadre of Second Clerks (the petitioners) is only 32 and in the case of Assistants, the feeder cadre consists, as said earlier, of 146 posts. The Second Clerks have greater chances of promotion to the post of Head Clerks in the still higher pay scale of ₹ 1600-2660 because 7 posts of Head Clerks exist in the Board whereas Assistants can be promoted as Deputy Superintendent in the pay scale of ₹ 1640-2900 against only one sanctioned post of Deputy Superintendent. This in service law is a classic model of cadres shaped like the hourglass.

4. The vertical climb through the narrow neck of the hourglass results in slow promotions. This bottleneck describes picturously the predicament of the private respondents. The petitioners want the neck widened for themselves by re-designation of posts but that can be achieved only by re-structuring Second Clerks to Senior Clerks which is not the specific prayer in this petition, and in as many words. This is a policy matter. The stated case of Assistants maintains that SDCs/Second Clerks be promoted/designated on the post of Assistants, like the non-official respondents. The Assistants would also point out in the decision-making process before the Chief Administrator, Housing Board Haryana that SDCs had taken advantage of higher pay scale on the basis of passing

departmental test and they cannot claim parity with other Clerks as the two cadres function separately and their seniority lists are maintained separately from the beginning. They pleaded that merging of the two cadres would create confusion and would be detrimental to their interests in their careers which proceed slowly due to a heavy cadre base and as per turn in their respective seniorities.

5. The Chief Administrator, Housing Board Haryana after hearing both the parties reached the following conclusions after comparing the number of posts available in both the cadres and the respective ladders of promotion. From there, it is clear that the cadre of SDCs had better chances of promotion, as against the cadre of Clerks consisting of 146 posts in the lower pay scale of ₹ 950-1500 who have a channel of promotion to only 14 posts of Assistants in the pay scale of ₹ 1400-2600 whereas Assistants have chances of promotion to only one post of Deputy Superintendent (the bottleneck of the hourglass) in the pay scale of ₹ 1640-2900 and from there to just one post of Superintendent in the pay scale of ₹ 2000-3500. The hourglass presents two bottlenecks difficult to get past to the higher posts with the lower glass bulb containing as many as 146 posts.

6. On the other hand, the cadre of SDCs has 32 posts to contend with and have a channel of promotion to Second Clerk. There were 8 posts of Second Clerks in the Housing Board of Haryana. Their channel of promotion was to the post of Head Clerk which comprised 7 posts. Likewise, Head Clerks have a channel of promotion to one post of Circle Superintendent.

7. The Chief Administrator, Housing Board, Haryana analyzed the

data available for both the separate cadres with separate seniority list maintained for Clerks and SDCs, both with different channels of promotion in separate hierarchies; Assistant/Deputy Superintendent/Superintendent and SDCs/Second Clerk/Head Clerk and Circle Superintendent. On this material, the authority was of the view that SDCs like the petitioners cannot be considered for promotion against the post of Assistants falling in a separate cadre as it would amount to merging of cadres of Clerks and SDCs and resultantly to promotion posts of both the cadres. Merging cadres would give rise to multifarious administrative problems. Besides, it would adversely affect the interest of Clerks and Assistants in their much slower climb to higher posts.

8. For these reasons, the representation was rejected and the case regarding change of nomenclature of Second Clerk to Senior Clerk was ordered to be examined later separately.

9. Having regard to the impugned order and having heard the learned counsel for the petitioners, the Housing Board and the private respondents, I have no doubt in my mind that the impugned order is extremely well balanced and holds the scales of justice in the best possible manner calling for no interference by this Court to annul or invalidate the order which is based on sound reasoning, a reasoning which is both plausible, possible and acceptable. The Court ought not to disturb the balance by substituting the view of the administrator to what may appear better. The one taken is a possible view in the field of vision on the available material and at the same time, not an impossible viewpoint contemplated in the order impugned. Court interference is hardly warranted.

10. The petition, is consequently, dismissed.

(RAJIV NARAIN RAINA)  
JUDGE

22.08.2016  
manju

|                           |     |
|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | Yes |