

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3540 of 1999

Date of decision:5.9.2016

Bal Krishan & ors.

... Petitioners

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. BS Patwalia, Advocate,
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

Ms. Anu Chatrath, Sr. Advocate, with
Ms. Loveinder Kaur, Advocate,
for respondents No.4 to 8.

RAJIV NARAIN RAINA, J.(Oral)

On April 4, 2003 when this matter came up for hearing before
the learned Single Judge, the following order was passed:-

*“Mr. Patwalia states that order dated 10.2.1999
(Annexure P-10) has already been quashed in
CWP No.3304 of 1999 on 1.2.2002. He further
states that the matter is fully covered by the
aforesaid judgment.*

*Learned counsel for the State prays for
time.*

Adjourned to 22.4.2003.

*Respondent No.3 be served for the
aforesaid date.”*

The judgment in CWP No.3304 of 1999 mentioned in the
interim order is in the case of Hari Chand & ors. v. State of Haryana & ors.,
decided on February 1, 2002. The issue before the Court was regarding the
validity of the Haryana State Central Cooperative Banks Staff Service

(Common Cadre) (First Amendment) Rules, 1999. By this first amendment, it was provided that the Secretaries Grade-A shall be entitled to a quota of 30% for promotion to the posts of Junior Accountants. One of the arguments which related to jurisdiction of the Registrar was whether he had power to make a retrospective amendment of the rules. The other contention was as to the vires of the rules providing 30% quota for promotion of Secretaries Grade-A in supersession of the claim of the senior persons available for promotion. The learned Single Judge framed two questions for answer. Firstly, was the Registrar competent to amend the Common Cadre Rules (CCR) with retrospective effect and second, was the amendment violative of Articles 14 and 16 of the Constitution? Both the issues were decided in favour of the petitioners and against the department. As a result of declaration of illegality of the amendment, the notification bringing the amendment attached with CWP No.3665 of 1999 (at Annex P-10 in the present writ petition) was quashed. The Letters Patent Appeal filed by the Bank was dismissed on July 26, 2005 finding no infirmity in the judgment of the learned Single Judge. The Hon'ble Division Bench found nothing wrong in the learned Single Judge proceeding on the basis of Section 37 of the constitution of Common Cadre which provision did not empower the Registrar Cooperative Societies, Haryana to vary conditions of service retrospectively to take away accrued rights. The parties are not sure whether an appeal was carried to the Supreme Court against the judgment and orders. I would, therefore, assume that order of learned Single Judge has attained finality. Mr. Patwalia states that his research on the official web sites of the High Court and the Supreme Court has not thrown any light to show to the contrary. It may be noted that in fact two Letters Patent Appeals

were filed against the judgment of the learned Single Judge; one by the private respondents and the other by the State of Haryana to support the amendment carried out by its functionary, the RCS, Haryana. These were LPAs No.52 of 2003 (Partap Singh & ors. v. Hari Chand & ors.) and 150 of 2004 (State of Haryana and ors. v. Hari Chand & ors.), which both were dismissed.

In this case, similar relief is claimed as was under challenge to the amendment, which was brought into force w.e.f. May 5, 1995 but which action stands quashed. There can hardly be any doubt that this matter is covered by the decision in CWP No.3304 of 1999 [Hari Chand's case (supra)] and parties are unable to distinguish the ruling and thus the petition is disposed of in the same terms. If any exercise is to be done as a result of the passing of the order then prompt steps be taken by the respondent-Bank to consider grant of pecuniary and non-pecuniary benefits to the parties resulting from the dismissal of the LPAs.

The petition stands allowed in the above terms.

(RAJIV NARAIN RAINA)
JUDGE

5.09.2016
monika

Whether speaking/reasoned *Yes / No*

Whether reportable *Yes / No*