

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP-10601-2015
Date of Decision: October 25, 2016

Vijay Pal and others
.....Petitioners
Versus
State of Haryana and others
.....Respondents

2. CWP-14055-2016
Sukhdev Singh and others
.....Petitioners
Versus
State of Haryana and others
.....Respondents

and
3. CWP-14376-2016
Manoj Kumar and others
.....Petitioners
Versus
State of Haryana and others
.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |
| 4. | To be referred to the Reporters or not? | Yes/No |
| 5. | Whether the judgment should be reported in the Digest? | Yes/No. |

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Present: Mr.S.S.Duhan, Advocate and
Mr.Sandeep Panwar, Advocate
for the petitioners.

Mr.R.D.Sharma, DAG, Haryana.

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SURYA KANT, J.

the point in issue involved in all the cases is common in nature.

[2] Petitioners are working as Canal Guards in the Irrigation Department, Haryana. They seek quashing of the order dated 10.02.2014 (Annexure P-6) vide which the State Government has rejected their claim for higher pay scale, promotional avenues and a restraint order from taking work of Class-IV category from them. They further question the *vires* of Haryana Irrigation Department, Circle Cadre, Workmen Establishment Group-D Service Rules, 2011, to the extent these Rules exclude the Cadre of 'Canal Guards' for the purpose of promotion to Class-III posts. The petitioners, thus, seek a writ of mandamus to direct the State Government to amend various provisions of these Rules. They have also sought a direction for amendment of the Haryana Irrigation Department, Circle Cadre, Workmen Establishment Group-C Service Rules, 2011 so as to include 'Canal Guards' in Group –C (Class-III) Service.

[3] From the averments made in the writ petition and the arguments canvassed on behalf of the petitioners, it emerges out that the qualification for the Post of 'Canal Guards' is 10+2 besides physical parameters at par with Constables of Haryana Police. The petitioners thus claim that they cannot be treated as 'Group-D' (Class-IV) employees and their rank and status deserve to be upgraded to 'Group-C' (Class-III) category. The petitioners have further claimed that under Group-D Rules, 2011, they have been treated at par with other Class-IV employees comprising Beldars and Mates etc., who are either illiterate or hardly any academic qualification is prescribed for their posts. Similarly, these Group-D employees are not required to possess the physical standards as are prescribed for the Canal

[4] In order to substantiate their plea, the petitioners have referred to Appendix `B' of Group `D' Rules 2011 where following qualifications are prescribed for different Group-D posts:-

Mechincal Wing			
1.	Helper	(i) Middle with Hind/ Sanskrit; (ii) Knowledge of respective work from Government agency/reputed firm alongwith two years experience	By Transfer/Deputation; (i) Middle with Hindi/Sanskrit; (ii) Five years experience as Helper with relevant field.
Civil Wing			
2.	Gauge Reader	(i)10+2 alongwith Matric Hindi/ Sanskrit; (ii) 6 months Certificate of Computer Applications.	By promotion; Five years experience as Mate in the relevant field. By Transfer/Deputation: (i) 10+2 alongwith Matric standard Hindi/Sanskrit; (ii) 6 months Certificate of Computer Applications.
3.	Mate	Nil	By Promotion: Five Years experience as Beldar in the relevant field. By Transfer/Deputation: (i) Middle with Hindi/Sanskrit; (ii) Knowledge of respective work from Government Agency/reputed firm alongwith five years experience in relevant field.
4.	Beldar	(i) Middle with Hindi/ Sanskrit; (ii) Knowledge of respective work from Government agency/reputed firm alongwith two years experience.	By Transfer/Deputation: (i) Middle with Hindi/Sanskrit; (ii) Knowledge of respective work from Government Agency/reputed firm alongwith 2 years experience.
5.	Canal Guard	(i) 10+2 with Hindi/Sanskrit; (ii) Swimmer with and physical standard equal to Constable of Police Department, Haryana.	By Transfer/Deputation: (i) 10+2 with Hindi/Sanskrit; (ii) Swimmer with and Physical standard equal to Constable of Police Department, Haryana.
Electrical Wing			
6.	Helper Electrician	(i) Middle with Hindi/Sanskrit; (ii) Knowledge of respective work from Government agency/reputed firm alongwith two years experience.	By transfer/Deputation: (i) Middle with Hindi/Sanskrit; (ii) knowledge of respective work from Government agency/reputed firm alongwith two years experience.

[5] State of Haryana has opposed the petitioners' claim. It is pointed out that such a claim was raised earlier by way of CWP No.10397 of 2011, which was dismissed on 11.04.2013. Canal Guards filed Letters Patent

Appeal and pursuant to the observations made therein that a Committee was

constituted which found that *“there is promotional scope for the Beldar/Canal Guard, i.e. they can be promoted to the post of Mate, Gauge Reader, Earth Work Mistri, Store Keeper, Telephone Attendant, Artificer, Mason and Plumber”*. It is further averred in the written statement that the petitioners, like any other Group-D employee, have been granted the pay-scale of Rs.2550-3200; they were offered appointment letters for the posts of Group-D which they unconditionally accepted, hence, their claim to upgrade and include them in Group-C category is not maintainable.

[6] We have heard learned counsel for the parties at a considerable length and gone through the record.

[7] It is well settled that prescription of qualification for a post is essentially a policy decision which is taken by the Executive authorities keeping in view various factors including (i) the academic qualification; (ii) pay scale; (iii) nature of duties; and (iv) the level of placement in a hierarchy of Posts etc.etc. It may be true that qualification prescribed for the post of Canal Guard is equivalent to that of a Constable in the Police but it is equally true that there are several other Group-D posts where the incumbents are required to possess same and/or higher qualification than the petitioners. The prescription of qualification for the post of 'Canal Guard' therefore cannot be the sole criteria for their upgradation from Group-D to Group-C posts.

[8] The inclusion of a particular post in Group -C or Group-D category again entails a policy decision, which may too not strictly fall within the domain of the Courts save where such exclusion or inclusion is based upon irrational, extraneous and irrelevant considerations. This Court, can at the best, direct the competent authority to revisit the whole issue and

determine whether the Canal Guards are required to be included in Group -D

or Group-C posts. Such an exercise has already been undertaken by the authorities, hence, repeated directions on the same issue need not be issued.

[9] So far as the lack of promotional avenues are concerned, the respondents have committed themselves to provide such avenues to the petitioners-Canal Guards, as can be seen from the averments made in the written statement. That apart, the State Government has formulated a separate set of Statutory Rules whereunder all Government employees are granted higher promotional pay-scales on completion of a particular length of service and subject to some eligibility.

[10] In view of the availability of Assured Career Progression Scheme etc., it cannot be said that Canal Guards are likely to be stagnated in their service career.

[11] Having committed themselves that the Canal Guards alongwith other sets of Group-D employees are entitled to be considered for promotion to various Class-III posts, besides 20% quota meant for promotion of Group-D employees to the clerical cadre, we are of the considered view that since there are more than one category of employees forming Group-D, the respondents need to determine either ratio or an order on priority based upon some relevant and rational criteria for the purpose of ensuring effective representation of all groups of employees forming Group-D, for the purpose of promotion to Group-C posts.

[12] What should be the criteria in this regard will have to be evolved by the authorities taking into consideration the total cadre strength of different Group-D services as well as the estimated promotional posts which become available on annual basis.

respondents to undertake the above-stated exercise within a period of four months and ensure that the petitioner-Canal Guards, like other Group-D employees, are also provided reasonable and fair promotional avenues in accordance with the commitment made by the respondents.

**(SURYA KANT)
JUDGE**

October 25, 2016
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**(SUDIP AHLUWALIA)
JUDGE**