IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 27.10.2016

CWP No.18211 of 2014

Sat Narain ...Petitioner

Vs.

State of Haryana & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rakesh Nagpal, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner was reverted from the post of Taxation Inspector to Assistant on failing to qualify the departmental test prescribed under the Rules. The test had to be qualified within two years with extension granted for another year, in case of second attempt. The petitioner was promoted as a Taxation Inspector on 24.11.2009 and was reverted to the post of Assistant vide impugned order dated 21.05.2014.

The condition of passing the departmental test for confirmation as Taxation Inspector has received the attention of this Court in CWP No.1991 of 2012 (O&M) titled 'Narender Kumar Malik Vs. State of Haryana' decided on 18.02.2013. In *Narender Kumar Malik's* case, the reversion was from the post of Assistant Excise & Taxation Officer to the post of Excise Inspector, which post is governed by the Haryana Excise and Taxation (Group-B) Service Rules, 1988 (for short '1988 Rules'). The present case is governed by the Rules called 'The Haryana Excise and Taxation Inspectorate (State Service Group-C) Rules, 1969'. Rule 16 of the 1988 Rules read with Appendix 'D' & 'E' prescribes the departmental test as a condition precedent to confirmation in service on promotion, while Rule 19 deals with power of relaxation vesting with the State Government. The admitted position is that the petitioner has not qualified the prescribed departmental test, but relies on administrative precedents and the judgment in *Narender Kumar Malik's* case, where the Government has exercised its power of relaxation to bring relief to certain officers who were confirmed on the promoted posts without subjecting them to the departmental test.

The Government of Haryana has taken a policy decision through a letter dated 13.10.2010 that no official will be granted exemption from passing the departmental examination. This letter has been dealt with by the Coordinate Bench in *Narender Kumar Malik's* case and the writ petition has been allowed by an elaborate order in which all aspects have been taken into consideration. The order of reversion was quashed and the petitioner therein held entitled to all consequential benefits. The appeal filed i.e. LPA No.1944 of 2013 against the order of the learned Single Judge was dismissed on 21.01.2014 and the order in appeal upheld.

In the light of the judgment in *Narender Kumar Malik's* case, this petition has to be allowed since it stands on the same footing and the impugned reversion order deserves to be quashed for the same reasons as are contained in the aforesaid judgment since the same condition was prescribed for promotion to the post of Assistant Excise & Taxation Officer. As a result, the instant petition is allowed and the petitioner is reinstated with all consequential benefits on setting aside of the impugned reversion order.

27.10.2016 **[RAJIV NARAIN RAINA]**
Vimal **JUDGE**

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*