

JIN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.6741 of 2016 (O&M)

Date of Decision: September 19, 2016

M.K.Gupta and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

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

Present: Mr.Rajeshwar Singh Thakur, Advocate, for the petitioners.

-. -

Surya Kant, J. (Oral)

The petitioners are working as Treasury Officers in the State of Haryana. They have laid challenge to Appendix-B of the Haryana State Accounts Service (Group-B) Rules, 2013 to the extent it prescribes the qualification for promotion to the posts of 'Senior Accounts Officers.'

Rule-7 of these Rules mandates that no person shall be appointed to any post in the service unless he possesses the qualifications and experience specified in Appendix-B of these Rules.

So far as the post of Senior Accounts Officers is concerned, Appendix-B provides that for promotion to that post, the incumbent must have “three years experience as Accounts Officer or three years experience as Treasury Officer and has passed the Haryana State Accounts Service Examination Part-I and Part-II conducted by Government or got conducted by it through ay agency..”

The petitioners assail the reproduced provision to the extent it prescribes passing of Haryana State Accounts Service Examination Part-I and Part-II, as a condition precedent for promotion to the post of Senior

Accounts Officer.

Two-fold contentions are raised on behalf of the petitioners. Firstly, it is urged that there were 1980 Rules as amended in the year 1982 whereunder the Treasury Officers were not required to pass the State Accounts Service Examination for promotion. Secondly, no reasonable or breathing time has been given to them to qualify the prescribed examination. It is also urged that prescription of qualification is *ex-facie* arbitrary and irrational.

We have given our thoughtful consideration to the submissions and are of the considered view that the Rules under challenge cannot be set at naught for any of these reasons. It is undeniable that 2013 Rules have been notified in exercise of powers conferred under Proviso to Article 309 of the Constitution and these are thus statutory in character. The settled parameters laid down for the judicial review of a piece of legislation would therefore apply *mutatis-mutandis* while considering the validity of a piece of subordinate legislation also. Some of these principles are well known, namely, (i) unless the provision is hit by Constitutional mandate, (ii) or is derogatory to the provision of a Statute, (iii) or it does violence to the public policy, the Court would not strike down the provision merely under the misconception that the rule re-formation would yield better results.

The prescription of qualification or experience for a post is essentially the responsibility of subject-experts or the Competent Authority keeping in view the nature of duties assigned to the incumbent. The qualification of passing State Accounts Service Examination as a condition precedent for promotion to the post of Senior Accounts Officer neither appears to be arbitrary nor alien to the duties entrusted to a Senior Accounts

Officer. Whether the Treasury Officers with three years' experience are competent enough to perform the duties of Senior Accounts Officer or they need to qualify the State Accounts Service Examination, is a policy matter and warrants no interference by this Court in exercise of its writ jurisdiction.

It is not the case of petitioners that the subject provision violates the Constitutional mandate or a Statute. We are thus of the considered view that no case to interfere with the impugned Rules is made out.

As regard to individual hardship or the necessity to relax the Rules or to provide reasonable opportunity to the petitioners to qualify the same, we are sure that if the petitioners would approach the Competent Authority, such like claims shall be sympathetically considered. Similarly, if any posts are lying vacant before the amendment of Rules and the Competent Authority had taken no conscious decision to fill-up such posts only as per the amended qualification(s), the petitioners shall be at liberty to approach the Competent Authority for filling up such posts as per the old rules.

The writ petition stands disposed of accordingly.

[SURYA KANT]
JUDGE

September 19, 2016
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No