

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.7043 of 2016 (O&M)
Date of decision: 12.8.2016

Rajinder Singh and others

.....Petitioners

vs.

State of Punjab and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
 Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. J.S. Lalli, Advocate, for the petitioners.

Rajesh Bindal, J.

The petitioners have approached this Court impugning the amendment made in the Punjab Municipal Services (Recruitment and Conditions of Service) Rules, 1975 vide notification dated 26.10.2015 (Annexure P-2). Further direction has been sought to make provisions for promotion to the post of Accountants for the employees of the kind of the petitioners, who have the qualifications of B.A. and B.Sc. Further prayer has been made for direction to hold the examination in terms of the provisions of the Accountants of the Committees (Examination) Rules, 1979 (for short, 'the 1979 Rules). Further prayer has been made for directing the respondents not to apply the amendment and fill up the vacancies existing prior thereto as per the un-amended rules.

After hearing learned counsel for the petitioners, we do not find any merit in the present petition.

The relevant rules existing prior to the amendment and post amendment are reproduced below:-

Pre-amendment

“Accountants [Graduate in Commerce or M.A. in Economics of a recognised University. Or Graduate who has passed in Grade 'A' the departmental examination prescribed for the Municipal Accountants OR Graduate who has passed in Grade A the department examination prescribed for Municipal Accountants].	Should be an Accountant of Grade II with an experience of working as such for a minimum period of seven years, or an Assistant having passed Accountant Examination B Grade and with ten years service as Assistant in Accounts Branch of Class I Municipal Committee.
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Post-amendment:-

Sr. No.	Name of post	Qualification for direct recruitment	Qualification for promotion
"19	Accountant		
	(i) Grade-I	Should have passed degree in Commerce with C.A. Inter or M.Com of a recognised University or institutions; OR should have passed degree of a recognised university or institution and should possess Diploma in Grade 'A' specified in the Accountants of the Committees (Examination) Rules, 1979.	From amongst the members of the Punjab Municipal Service of Accountants (working as Accountant GradeII) having an experience of working as such for a minimum period of five years.
	(ii) Grade II	Should have passed Degree in B.Com from a recognised university or institutions.	<u>50% of promotional posts:</u> From amongst the class III ministerial employees of Municipal Councils/Nagar Panchayats under the control of the Director, who have obtained Diploma for Grade B specified in the Accountants of the Committees (Examination) Rules, 1979 and who have an experience of working on any ministerial post in Municipal Councils/Nagar Panchayats under the control of the Director, for a minimum period

of five years.
50% of promotional posts:
From amongst the employees of Municipal Councils/Nagar Panchayats under the control of the Director, who fulfil the qualification for direct recruitment and have an experience of working for a minimum period of two years"; and"

As far as vires of the rules is concerned, nothing could be argued to show that there is any arbitrariness in fixation of the qualifications for the post of Accountants. The qualification is in the line of job required. It is in the domain of rule making authority to see as to which is the appropriate qualification for a particular post. The Court normally does not interfere in that unless the same is absurd. No direction possibly can be given to the authorities to make the petitioners eligible or provide quota for them for promotion even though they are not eligible as per the rules. Further once, the petitioners are not eligible as per the amended rules, the prayer made by them for holding the examination in terms of the 1979 Rules is practically infructuous, as they are not going to get anything even after clearing in that examination. Nothing was pointed out at the time of hearing that the petitioners would be eligible for promotion to the post in case they passed the examination.

Even the contention raised regarding application of old rules for old vacancies, is also to be noticed and rejected. For the purpose, reference can be made to the judgment of Hon'ble the Supreme Court in Deepak Agarwal and another v. State of Uttar Pradesh and others, 2011 (6)

SCC 725 and the judgement of this Court in Shobha Rani v. The Board of Governors and others, 2013 (2) PLR 292.

A perusal of the amended rules shows that the qualifications prescribed in the amended rules are in line with the requirement of the post, which is of the Accountants.

For the reasons mentioned above, we do not find any merit in the present petition. Accordingly, the same is dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

12.8.2016
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No