223-2 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CWP No.8023 of 2015
Date of Decision: 19.12.2016

B. D. Mathur

..... Petitioner(s)

Versus

State of Haryana and others

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. B. D. Sharma, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

ANUPINDER SINGH GREWAL J. (ORAL)

This petition impugns order of reversion dated 10.04.2015 (Annexure P-8), whereby, the petitioner has been reverted from the post of Taxation Inspector to that of Assistant. A direction to the respondents to exempt the petitioner from passing departmental examination has also been sought. The petitioner was appointed as Clerk vide order dated 19.05.1983. He was promoted as Assistant on 02.01.2008. He was promoted as Taxation Inspector vide order dated 27.10.2010. A show cause notice dated 26.09.2014 was issued to the petitioner for reverting him from the post of Taxation Inspector for his failure to clear the departmental examination. Therefore, the petitioner was reverted from the post of Taxation Inspector to that of Assistant by the impugned order dated 10.04.2015. A Coordinate Bench of this Court by the order dated 28.04.2015 had stayed the operation of the impugned order of the petitioner's reversion.

Learned counsel for the petitioner has contended that in terms of the proviso to Rule 14(1) of Haryana Excise and Taxation Inspectorate (State Service Group -C) Rules, 1969 (hereinafter referred to as 'Rules of 1969'), the competent authority can grant exemption from passing the departmental examination. This power has been used by the competent authority in several other cases while the petitioner has not been granted similar benefit.

Per contra, learned counsel for the State contends that it is the necessary requirement under the Rules to pass the departmental examination and the petitioner had been given adequate opportunity to do so but after he was not successful in passing the examination within the period of three years, he was to be reverted in terms of the Rules.

I have heard learned counsel for the parties and with their assistance, perused the writ petition.

The petitioner was promoted as Taxation Inspector on 27.10.2010 and he was required to pass the departmental examination within two years in terms of Rule 14 of the Rules of 1969. This period of 2 years can be further extended for another year. The petitioner could not pass the departmental examination within the stipulated period.

The question which arises in this petition is, as to whether the petitioner would be entitled to be exempted from qualifying the departmental examination in view of the proviso of Rule 14 of the Rules of 1969. This question is no longer *res integra* as a Coordinate Bench of this Court in the case of *Sat Narain Vs. State of Haryana and another* (CWP No.18211 of 2014) decided on 27.10.2016, while deciding a similar controversy had quashed the order of reversion of the petitioner, therein, by relying upon a judgment in the case of *Narender Kumar Malik Vs. State of Haryana* decided on 18.02.2013. It was held in *Sat Narain's case (supra)* that as the Government has exercised the power of relaxation to certain officers who were confirmed on the promoted posts without subjecting them to departmental test, similar relief is to be extended to the petitioner. The petition was allowed in terms of the judgment in the case of *Narender Kumar Malik's case (supra)*, which was dealing with the reversion of Assistant Excise & Taxation Officer governed by the Haryana Excise and Taxation (Group-B) Service Rules, 1988 (hereinafter referred to as 'Rules of 1988') but the same would be equally applicable to the facts of the instant case. Rule 16(3) of the Rules of 1988 is *para materia* with Rule 14(1) of the Rules of 1969. Therefore, as the case of the petitioner is on similar footing in *Narender Kumar Malik's case (supra)*, the petitioner has to be extended the same relief.

Consequently, the petition is allowed and the impugned order dated 10.04.2015 (Annexure P-8) is set aside.

(ANUPINDER SINGH GREWAL)
JUDGE

December 19, 2016
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No