208-A IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

**CWP No.895 of 2015**
**Date of Decision: 06.12.2016**

**Gurdial Chand**

**..... Petitioner(s)**

**Versus**

**The State of Haryana and others**

**..... Respondent(s)**

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Jagbir Malik, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

**ANUPINDER SINGH GREWAL J. (ORAL)**

This petition impugns show cause notice dated 26.09.2014 (Annexure P-9), whereby, the petitioner is sought to be reverted from the post of Taxation Inspector to that of Assistant. A direction to the respondents to exempt the petitioner from passing Computer Operation (paper VI) of the departmental examinations has also been sought. The petitioner was appointed as Camp Clerk vide order dated 01.12.1980. He was promoted as Assistant in February, 2008. The petitioner was promoted as Taxation Inspector on 21.03.2011. As the petitioner had not cleared all the papers of the departmental examination, the impugned show cause notice was issued to him, as to why, he be not reverted from the post of Inspector.

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 21.03.2011 and he was required to pass the departmental examination within two years in terms of Rule 14 of the Rules of 1969. The petitioner was accorded five chances and he had appeared four times and passed four papers. He had also sought exemption from the competent authority for passing the fifth paper.

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.

At this juncture, learned counsel for the State submits that the petitioner has already retired from the post of Inspector and due to interim order passed by a Coordinate Bench of this Court, he was never reverted from the post of Inspector. He, further, states that the petitioner has also been paid all the consequential benefits of the post of Taxation Inspector.

Consequently, the petition is allowed and the impugned show cause notice dated 26.09.2014 is set aside.

**(ANUPINDER SINGH GREWAL)**
**JUDGE**

**December 06, 2016**
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No