

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.11357 of 2017.

Date of Decision: May 23, 2017

Suresh Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr.Anurag Goyal, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner has laid challenge to the *vires* of Rule 9 (1) (a) (i) and its first proviso inserted in the Haryana State Cooperative (Group-B) Service Rules, 1997 as amended vide notification dated 29.08.2014.

[2] The grievance of the petitioner is that for the purpose of promotion to the post of Assistant Registrar from different sources, namely, Inspectors, Statical Assistants or Lecturers, *inter se* ratio of 8:1:0.2 has been prescribed through the offending provision which has virtually led to the denial of promotion to Lecturers, namely the category to which he belongs. It is thus contended that the first proviso whereunder the ratio fixed for promotion from different sources of recruitment, be struck down.

[3] The petitioner is working as Lecturer in the Centre for Cooperative Management at Rohtak, namely, an institute under the administrative control of the Department of Cooperation, Haryana. The said post is encadred under the Haryana Cooperation Department Group-C (Executive) Rules, 1980. Under these Rules, a direct recruit having second division in graduation in Commerce or Economic with preference to a

candidate having M.Com qualification, can be directly recruited as Lecturer.

Similarly, an Inspector who has undergone the prescribed training and has passed the departmental examination as prescribed under Rule 12, can also be promoted as Lecturer. The next higher post is that of Assistant Registrar, Cooperative Societies. The recruitment to that post is regulated under the Haryana State Cooperative (Group-B) Service Rules, 1997. These Rules have been amended vide notification dated 29.08.2014 and Rule-9, a part whereof is under challenge in this writ petition, reads as follows:-

“...(a) in the case of Assistant Registrar

(i) 66 2/3% by promotion from amongst Inspectors, Statistical Assistants or Lecturers;

Provided that promotion shall be made in the ratio of 8:1:0.2 respectively, i.e., vacancies 9th, 18th, 27th, 36th and 46th to be filled up by promotion shall be filled up from Statistical Assistants and 45th vacancy shall be filled up from its Lecturers:

Provided further that if a Statistical Assistant gets promotion as Statistical Officer before the occurrence of 9th, 18th, 27th, 36th and 46th vacancies, these vacancies shall also be filled up by promotion from the post of Inspectors, and

(ii) 33 1/3% by direct recruitment; or

(iii) by transfer or deputation of an official already in the service of any State Government or the Government of India; and.....”

(emphasis applied)

[4] The petitioner has also questioned the Memo dated 30.07.2012 of Registrar, Cooperative Societies, Haryana sent to the State Government, the contents whereof read as follows:-

“..... In this regard, it is submitted that while sending proposal in a single file to the Government for fixation of ratio for the promotional posts of ARs. It is mentioned in

the office note dated 18.02.1994 that total posts of Inspectors and Lecturers are 202 and the posts of Statistical Assistants are 27 and the ratio of 8:1 was fixed including the five posts of Lecturers. A photo copy of noting portion of single file is enclosed herewith.

Further, it is submitted that the request of these officials for preparing the inter-se seniority of Inspectors and Lecturers for the promotion to the post of Assistant Registrar cannot be acceded because there is no provision in the Group-B Service Rules, 1997 for promotion of the category of Lecturers....”

[5] We have heard learned counsel for the petitioner at a considerable length and gone through the records.

[6] In our considered view, the challenge to the *vires* of first proviso to Rule 9(1)(a)(i) of the 1997 Rules is wholly misconceived and misdirected. No employee can claim promotion as a matter of right. It is the prerogative of the Rules Making Authority/State Government to provide promotional avenues. The Lecturers have been included amongst the category of employees eligible for promotion as Assistant Registrar. Having done so, the petitioner cannot command the State Government that a particular percentage/ratio or quota for such promotion be introduced in the Rules to ensure his promotion as Assistant Registrar. Since promotion is not a condition of service, we do not find any substance in the petitioner's claim. The ratio amongst different sources of promotion has been fixed keeping in view their total cadre strength. There is thus rationality behind prescription of ratio under the first proviso. Still further, if ratio has been tilted in favour of one source as compared to others, it does not amount to discrimination warranting interference by this Court. No provision of a

prescribing the ratio amongst the Inspectors/Statcal Assistants or Lecturers for the purpose of their promotion as Assistant Registrar.

[7] As regard to the petitioner's grievance against the memo dated 30.07.2012, suffice to say that the said letter merely contains the views of the then Registrar, Cooperative Societies as to how he understood the Rules which were in vogue before the amendment dated 29.08.2014. The said memo, in a way, has become redundant after the Rules have been amended on 29.08.2014.

[8] For the reasons afore-stated, we do not find any merit in this writ petition which is accordingly dismissed.

[SURYA KANT]
JUDGE

May 23, 2017
mohinder

[HARI PAL VERMA]
JUDGE

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