

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20490 of 2014 (O&M)
Date of Decision:-02.03.2017.

Balwant Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Kiran Pal Singh, Advocate for the petitioners.

Mr. D.S. Nalwa, Additional A.G. Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, petitioners have questioned the validity of the order dated 2.9.2014 by which the second respondent-Director General, Animal Husbandry and Dairying, Haryana has rejected their claim for promotion on par with their juniors to the post of Clerk. The method of recruitment to the post of Clerk insofar as 20% promotional post of Clerk under the Punjab Civil Veterinary Department Subordinate Services Rules, 1933 amended from time to time with reference to notification dated 18.5.1984 reads as under:-

“(1) in the case of Clerks:-

(i) not more than 20% by promotion from amongst Restorer's Daftri, Machine Operator, Zamadar and other Group C employees whose pay of scale is less than that of a Clerk and Group D

employees whose scale of pay is less than that of a Clerk:

Provided that they have passed the matriculation examination of a recognized University or its equivalent and have five years experience either on Group C or Group D post or combined experience as such:

(ii) 80% by direct recruitment.”

2.) Learned counsel for the petitioners submitted that second respondent arbitrarily promoted Class-IV employees without adhering to the rules of recruitment which specify that 20% promotion from amongst Restorer, Daftri, Machine Operator, Jamadars and other Group 'C' employees whose pay scale is less than that of Clerk and Group 'D' employees. Further with reference to 5 years of experience either in the Group 'C' or 'D' post. It was further submitted that as per the rules combined seniority list should have been prepared for the reasons that one of the method of promotion to the post of Clerk is 20% by Group 'C' and Group 'D' employees. In view of this, combined seniority list is required to be prepared and operated and not cadre wise seniority list for the reasons that rule does not specify 20% of each of the source cadre like Restorer, Daftri, Machine Operator, Jamadar and other Group 'C' employees. In the absence of rule stipulating that 20% of each of the cadre, the second respondent proceeded to fill up the post of Clerk while operating 20% promotion chosen each category of post. Therefore, petitioners' names have not been considered at appropriate time and juniors to the petitioners in the Class-IV cadre names have been considered. Therefore, the order dated 2.9.2014 vide Annexure P-8 is not in terms of rules of recruitment.

that pursuant to the rules of recruitment they have prepared separate seniority list of each of the cadre mentioned in the rules of recruitment, namely, Restorer, Daftri, Machine Operator, Jamadar and other Group 'C' and Group 'D' posts. State counsel further submitted that it is learnt that they have prepared independent seniority list of Group 'C' employees so also Group 'D' employees for the purpose of promotion to Clerk post. Further for the purpose of operating such of those lists for promotion to the post of Clerk has been made. Therefore, there is no infirmity in the order dated 2.9.2014.

4.) Heard learned counsel for the parties.

5.) Perusal of rules of recruitment to the post of Clerk insofar as 20% promotional post of Clerk is concerned, it is evident that same would be filled up by two source of cadres i.e. Group 'C' employees who are getting lesser pay scale than that of Clerk and Group 'D' employees. Rule does not stipulate the 20% for each of the cadre mentioned in the rules. Therefore, the competent or promoting authority is required to prepare combined seniority list of Group 'C' employees who are getting lesser pay than that of Clerk and further they have to prepare combined seniority list of Group 'D' employees whose scale of pay is less than that of Clerk with reference to length of service. Then they have to operate such one combined seniority list of Group 'C' and 'D' with reference to other eligibility qualification prescribed for the post namely passed in matriculation examination or its equivalent with 5 years experience either Group 'C' or Group 'D' post. The said exercise has not been done. Thus, there is a total violation in promoting or filling up of Clerk post from 1984 till date.

respondent is directed to prepare combined seniority list consist of Group 'C' employees whose pay of scale is less than that of Clerk and Group 'D' employees together with reference to length of service of the persons in the respective group and then operate such consolidated seniority list during the period from 1984 till date. Between 1984 to this day large number of Group 'C' as well as Group 'D' employees were promoted to the post of Clerk within the 20% quota. Those promotions are required to be reviewed in view of the combined seniority list. If any Clerk is likely to be reverted pursuant to the review of promotion, in such an event, the second respondent is directed to issue a show cause notice to such of those Clerks and obtain their reply and proceed further. The above exercise shall be completed by the second respondent within a period of six months from today.

6.) Petition stands disposed.

(P.B. BAJANTHRI)
JUDGE

March 02, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.