

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

109 (3 cases)

Date of decision:2.11.2017

1. CWP No. 16946 of 2017

Balbir Singh Kundu and others

... Petitioners

versus

State of Haryana and others

... Respondents

2. CWP No. 18050 of 2017

Krishan Kumar

... Petitioner

versus

State of Haryana and others

... Respondents

3. CWP No. 22888 of 2017

Pawan Kumar

... Petitioner

versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Sunil Kumar Nehra, Advocate,
for the petitioners
Mr.Hitesh Pandit, Addl.AG, Haryana
...

AMOL RATTAN SINGH, J. (Oral)

Learned State counsel has filed a written statement in CWP No.22888 of 2017, on behalf of the respondents in Court today, which is taken on record.

By these petitions, the petitioners are seeking quashing of the impugned order dated 24.7.2017, Annexure P-3, by which the exemption

earlier granted to them vide an order dated 18.3.2015, from passing the type test after promotion from the posts of Peons to the posts of Clerks, has been withdrawn by the Deputy Commissioner, Fatehabad.

On a query by this Court recorded in an earlier order, it has now been stated in the written statement filed by the Deputy Commissioner, Fatehabad, that as per Rule 17 of the Haryana Revenue Department District Subordinate (Group C) Service Rules, 1988, that where the Government is of the opinion that it is necessary to do so, it may relax any of the provisions of the rules, for reasons to be recorded in writing.

Thus, it is obvious that if a relaxation from the mandatory provision stipulated in Appendix B of the aforesaid rules, is to be granted, it can only be granted by the Government and not by the Deputy Commissioner.

Mr.Nehra, learned counsel for the petitioners, however, contends that a large number of persons have already been granted the benefit of relaxation in different departments of the Government, by the Government itself.

In this regard, he points to the order, Annexure P-5, which is an order passed by the Director General, Women and Child Development Department, Haryana, on 15.1.2013, granting a similar relaxation to about 31 Clerks in her department.

Though obviously, it is not an order of the Government, however, since the rules governing services of those persons are not annexed herewith, it is not known whether the Head of the Department or the Government would be the competent authority to relax the rules in those

cases.

Be that as it may, these petitions are disposed of with a direction that the Financial Commissioner (Revenue), Haryana, (not impleaded as a party), or the competent person in Government, shall consider the cases of the petitioners for grant of relaxation and shall pass a speaking order thereupon, within a period of 3 months from the date of receipt of a certified copy of this order.

Till the time that the order is passed by the competent authority, the operation of the orders impugned in these petitions shall remain stayed.

It is made clear that this Court has not made any comment on whether or not the petitioners deserve to be granted relaxation, which would be gone into by the competent authority itself.

2.11.2017
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No