

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CWP No.22681 of 2016 (O&M)
Date of Decision : 30.01.2017

Norang Lal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Perdhuman Yadav, Advocate
for the petitioners.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the letter No.7/4/93-J.J.(1) dated 12.12.2000 issued by respondent No.2 taking decision to fill up 30 vacant posts of Assistant District Attorneys by way of direct recruitment which had earlier been earmarked to be filled up for appointment by transfer. The appointment is covered by the Rules dated 14.05.1979 issued by the Haryana Government, Administration of Justice Department, the relevant provision of which is as under:-

“9(1) Recruitment of the service shall be made:-

(i) by direct recruitment;

(ii) by promotion for amongst the Assistant District Attorneys;

(iii) by transfer of any official already in the service of any State

Government or the Government of India;

(2) One fourth of the total number of posts of Deputy District Attorney shall be filled in by direct recruitment;

(3) Eighty percent of the total number of post of Assistant District Attorneys shall be filled in by direct recruitment;

(4) Appointment to any post, in the service by promotion shall be made on the basis of selection based on seniority-cum-merit and no person shall be entitled to claim promotion on the basis of seniority alone.”

A perusal of the relevant provisions reveals that the requirement of filling up 80% post by direct recruitment is a minimum requirement. In other words, it can be said that there is a minimum quota of 80% for direct recruitment for appointment to the post of Assistant District Attorneys but there is no provision which gives a quota for appointment by transfer or by any other mode, like deputation. Even if at one stage the competent authority may have decided to fill up a certain number of posts by a particular mode, in the absence of any statutory requirement that earmarking can always be changed. In the present circumstances, the decision to fill up 30 vacant posts by direct recruitment which may earlier have been decided to be filled up by transfer does not violate the rights of the petitioner.

Consequently, the petition stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

January 30, 2017

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**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No