

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.2413 of 2017

Date of Decision:18.03.2017

Dheeraj Saini

... Petitioner

Vs.

Haryana Vidyut Prasaran Nigam Limited and others

... Respondents

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

Present : Mr. Sanjeev Kumar Aggarwal, Advocate for the petitioner.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has questioned the validity of the order dated 6.12.2016 (Annexure P-10). The petitioner is in the cadre of UDC. With reference to Rule 2.9, the official respondents have rejected the claim of the petitioner stating that the grade pay of the post of UDC is lesser than the grade pay of the post of Junior Accountant. For the purpose of consideration of eligibility to the post of Divisional Accountant, relevant rules of recruitment are required to be examined. Rule governing the post of Divisional Accountant reads as under:

“2.0 Divisional Accountant

2.1. 50% posts shall be filled up by direct recruitment from the persons having the following qualifications:-

a) Master Degree in Commerce from any University recognized by the State Government of Haryana with the minimum 55% marks in respect of General Category Candidates & 50% marks of SC Category Candidates of Haryana domicile Candidates possessing higher qualification would be given preference.

b) Hindi upto Matric Standard.

c) Must have passed Computer Eligibility Test, conducted at the time of recruitment.

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2.7 40% posts shall be filled up by promotion from amongst Junior Accountants on seniority-cum-merit basis having the following qualification and experience:-

- a) Five years' service on regular basis as Junior Accountant and*
- b) Having passed SO-Part I Examination as prescribed by the Nigam.*

Provided that only those Junior Accountants who have completed two years regular service as Junior Accountant shall be eligible to appear for SO-Part-I examination.

2.8 The following officials will be eligible to appear in the Section Officer Part-I Departmental Accounts Examination:-

- a) Junior Accountants.*

Note:- As a onetime measure, other categories of employees (other than Junior Accountants) who have already cleared the SO-Part-I Exam partly shall be allowed to appear in the SO-Part-I exam to be held upto 31.03.2017 after the issue of Recruitment and Promotion Policy of Non-Gazetted staff of Audit/Account Wing, 2016. The above employees including the employees of other categories who have already qualified the SO Part-I exam shall also be eligible for promotion to the post of Divisional Accountant having the five year length of the service from their appointment in the Nigam.

xxx xxx xxx

2.12 10% posts of Divisional Accountants shall be filled up by promotion amongst Junior Accountants on seniority-cum-merit basis who have failed to qualify the SO-Part-I exam as prescribed by the Nigam and having 10 years of regular satisfactory service as such.

Note: It is clarified that if the Junior Accountant is promoted to post of Divisional Accountant in unqualified quota, he will not be promoted further to the post of Section officer unless the qualify the departmental examination of SO-Part-I."

Reading of the above provision of law, it is evident that the

post of Divisional Accountant is required to be filled-up 50% by Direct Recruitment, 40% by promotion and 10% also by promotion.

Learned counsel for the petitioner submitted that in the absence of Junior Accountant, the promoting authority is required to operate note 2.8, 2.9 and 2.12. Even though the official respondents have rejected the claim of the petitioner on the ground that he is in the lesser grade pay than the post of Junior Accountant. However, reading of percentage of quota ear marked for Divisional Accountant is 40% promotion from amongst Junior Accountants on seniority-cum-merit and 10% for different class of Junior Accountants on seniority-cum-merit.

Admittedly, the petitioner is not in the cadre of Junior Accountant so as to claim promotion to the post of Divisional Accountant. Thus, the petitioner's name cannot be considered since he is in the UDC cadre. Unless and until relative percentage of posts ear marked for promotion i.e. 40% and 10% for Divisional Accountant is modified and certain posts are ear marked to UDC, the petitioner is not entitled for promotion to the post of Divisional Accountant. Thus, the petitioner has not made out a case so as to interfere with order dated 6.12.2016.

At this stage, learned counsel for the petitioner vehemently contended that Rule 2.9 stipulate that pay scale and not the grade pay. Whereas the official respondents have rejected the claim of the petitioner on the score that the petitioner is in the lower grade pay than the Junior Accountant.

Even this contention is accepted, since the quota ear marked for promotion do not consist of source cadre of UDC. Unless and until percentage of quota is ear marked for promotion amongst the post of UDC,

the petitioner has no claim against the post of Divisional Accountant.

Accordingly, the petition stands dismissed.

18.03.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No