

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

**CWP No.12702 of 2016
Date of decision: 27.08.2018**

Vijay Pal

...Petitioner

Versus

The Panipat Cooperative Sugar Mills Ltd. and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Senior Advocate,
for Mr. Sandeep Dhull, Advocate,
for the petitioner.

Mr. Deepak Balyan, Advocate,
for the respondents.

Ritu Bahri, J.

Petitioner is seeking quashing of the order dated 14.06.2016 (Annexure P-4), whereby he has been reverted from the post of Clerk.

In the facts of the present case, petitioner-Vijay Pal was appointed as Attendant on 03.01.2007 and was later on, promoted as Clerk vide order dated 03.02.2012 (Annexure P-1). Thereafter, he was issued a show cause notice on 15.04.2016 (Annexure P-2) to the effect that he would be reverted as he did not fulfil the qualifications for the post of Clerk. To the said notice, petitioner filed his reply (Annexure P-3). Eventually, vide impugned order dated 14.06.2016 (Annexure P-4), he was reverted to the post of Bottling Attendant. A perusal of the impugned order dated 14.06.2016 shows that the petitioner did not fulfil the eligibility criteria prescribed for promotion to the post of Clerk at the relevant time.

As per the said order, he was required to be Matric with 05 years

experience as Clerk.

In their reply, the respondents have taken a stand that the petitioner was not employed under the Panipat Cooperative Sugar Mills Limited, Panipat. In fact, he was employed under the Distillery Unit of the Sugar Mill, Panipat, which is a separate legal entity in itself. It has been further stated that at the time of according adjustment to the petitioner for the post of Clerk, Time Office, in the Distillery Unit, the criteria of promotion was fixed as “minimum working experience on the post of Clerk five years.”. The petitioner was appointed on the post of Bottling Attendant and he received salary for the said post only from the Distillery Unit of the mill. It has been further stated that since the petitioner never acquired any experience of 05 years working on the post of Clerk, he could not be promoted.

After going through the entire facts and circumstances of the case, the impugned order is liable to be set aside on the ground that the petitioner was initially appointed as Attendant on 03.01.2007, which is a Class-IV post and thereafter, he was promoted to the post of Clerk vide order dated 03.02.2012 (Annexure P-1). Essential qualification for the post of Clerk is “Matric with 05 years experience as Cane Kamdar/Daftri/Center Chowkidar/Peon or similar equal posts.” Petitioner fulfilled this eligibility criteria when he was promoted to the post of Clerk. He was working as Attendant and the qualification reflected in the impugned order is not applicable on him. This Court in case titled as **Surinder Pal vs. The Panipat Cooperative Sugar Mills Ltd. and others**, CWP No.7511 of 2014, decided on 01.03.2016 (Annexure P-6) had allowed a similar petition filed by one Surinder Pal. In that case, the petitioner was appointed as attendant and was seeking promotion to the post of Clerk. As per Service Rules of the

Employees of the Cooperative Sugar Mills in the State of Haryana, the essential qualification for the post of Clerk is 'Matric with 05 years experience as Cane Kamdar/Daftri/Center Chowkidar/Peon or similar equal posts.' In that case, the petitioner fulfilled the essential qualification. Ultimately, the writ petition was allowed. The respondents filed a review petition seeking review of the said order on the ground that as per letter dated 27.06.2012, the Managing Director of Cooperative Sugar Mills had reviewed and updated the qualifications of the staff for Distillery Unit of Panipat Sugar Mills under the provisions of Rule 29 of Haryana Cooperative Societies Rules, 1989. While dismissing the review petition on 24.05.2018, it was observed that these rules would be prospectively applied and in that case, promotion of the juniors was effected before issuance of the aforesaid letter.

The aforesaid judgment is directly applicable to the facts of the present case.

Resultantly, this petition is allowed and the impugned order dated 14.06.2016 (Annexure P-4) is set aside with costs of Rs.20,000/- to be deposited by the respondents with the Registry of this Court. This cost will be utilized for the purpose of constructing a house for Ms. Balwant Kaur (widow) in village Seonk, District SAS Nagar (Mohali) by respondent-State of Punjab through PWD (B&R), Mohali, as per orders passed by this Court on 24.08.2018 in CRM-M-39750-2016, titled as **Jugraj Singh vs. State of Punjab.**

27.08.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No