

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

**CWP No.1139 of 2017 (O&M)
Date of decision: 08.08.2018**

Raj Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ramesh Goyat, Advocate,
for the petitioners.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Ritu Bahri, J.

This petition under Article 226 of the Constitution of India is for issuance of a writ in the nature of certiorari modifying the office order dated 06.10.2016 (Annexure P-6), whereby they have been promoted to the post of Clerk w.e.f. 05.10.2016.

Initially, the petitioner were appointed as Peons on regular basis with the respondent-bank. They were senior to the private respondent Nos.4 to 9, who were also appointed as Peons after them. Common seniority list of peons is annexed as Annexure P-1. As per the Haryana State Central Co-operative Bank Staff Services (Common Cadre) Rules, 1975, a peon had to carry qualification of matric for promotion to the post of clerk. These rules were subsequently, amended on 25.06.2014 (Annexure P-2), whereby minimum qualification for promotion to the post of clerk from peon was made as 10+2. Thereafter, vide order dated 27.07.2015 (Annexure P-3) passed by respondent No.3, private respondent Nos.4 to 9 were promoted to

the post of clerk by ignoring the petitioner, who were senior to them. Feeling aggrieved, petitioners challenged the vires of aforesaid amendment dated 25.06.2014 (Annexure P-2) by filing CWP No.23694 of 2015 before this Court. During the pendency of this petition, respondent No.2-Registrar, Cooperative Societies, Haryana issued a clarification dated 16.03.2016 (Annexure P-4 Colly.) that the amended rules will not be application to the employees, who had been recruited before 07.11.2013 and the condition of 10+2 was put in case of employees, who had been recruited after 07.11.2013. In view of this clarification, CWP No.23694 of 2015 had been rendered infructuous on 08.07.2016 (Annexure P-5). However, a direction was given to the respondents to consider the petitioners' case for promotion within a period of three months. Pursuant to the order dated 08.07.2016 (Annexure P-5) passed by this Court, the respondents have passed the impugned order dated 06.10.2016 (Annexure P-6), whereby petitioners have been promoted to the post of clerk w.e.f. 05.10.2016.

Short grievance of the petitioners is that the benefit of clarification issued on 16.03.2016 (Annexure P-4) has not been given to the petitioners and the promotion order dated 06.10.2016 (Annexure P-6) requires to be modified accordingly.

Learned counsel for the respondents states that when the clarification (Annexure P-4) was issued 16.03.2016, the private respondents had already been promoted vide order dated 27.07.2015 (Annexure P-3) as per rules (Annexure P-2), hence, the petitioners has no right to claim promotion at par with their juniors.

This argument is liable to be rejected. A perusal of clarifications dated 16.03.2016 (Annexure P-4 Colly.) shows that the Registrar, Co-

operative Societies had sent a letter to the Co-operative Societies to comply with the Govt. instructions dated 21.05.2014. These instructions have specifically clarified that in case of promotion to the post of Clerk from Group-D employees, minimum qualification has to be taken as matric for those class of employees, who have been recruited before 07.11.2013. It seems that this clarification was never implemented by the Co-operative Societies and in this backdrop, a reminder dated 16.03.2016 (Annexure P-4) was given by the Registrar, Co-operative Societies to all the Co-operative Societies to comply with the Govt. instructions dated 21.05.2014. For all intents and purposes, the Government had clarified that a Group-D employee having qualification of matric, who had been recruited before 07.11.2013, had a right to be promoted to the post of clerk without having the qualification of 10+2. On this ground itself, the writ petition deserves to be allowed.

Resultantly, this petition is allowed and the impugned order dated 06.10.2016 (Annexure P-6) is modified to the extent that the petitioners are promoted to the posts of Clerk w.e.f. 27.07.2015 i.e. the date when persons junior to them were promoted vide Annexure P-3, with all consequential benefits along with interest at the rate of 6% per annum.

08.08.2018
ajp

(RITU BAHRI)
JUDGE

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