

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

CWP No.17133 of 2015

Date of Order: 11.7.2018

Ram Phal

....Petitioner

Versus

State of Haryana and Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE RITU BAHRI

Present: Mr. Mohit Garg, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl.AG, Haryana.

RITU BAHRI, J (ORAL)

The petitioner was appointed as Lab Attendant in Technical Education Department in the year 1994.

As per the Haryana State Technical Education Department, Field Staff (Group D) Service Rules, 1996 (for short “1996 Rules”), the qualification for the post of Lab Attendant was Middle Pass. It is stated that the petitioner was thereafter sent on deputation to the Haryana Public Health Engineering Department, on requirement basis. As per Haryana Public Health Engineering Department Circle Cadre Mechanical Establishment (Group C) Service Rules, 2009 (hereinafter to be referred as “2009 Rules”), the post of Lab Attendant falls under Group D Rules and for further promotion to the post of Lab Assistant, a Lab Attendant having five years experience is eligible to be promoted. The petitioner came on deputation with the Haryana Public Health Department in the year 2008 and by that time, he got almost 14 years experience as Lab Attendant as he was absorbed vide order dated 12.3.2010 (P.1) in Group C Cadre post.

The only stand taken by the respondent-State is that since the

post of Laboratory Attendant falls under Group D cadre post in the Public Health Engineering Department and the promotion to the post of Laboratory Assistant is to be made from Laboratory Attendant and thus the petitioner is not eligible to the post of Chemist.

After hearing learned counsel for the parties and perusing the paper book, I find this argument is rejected as the petitioner as per 2009 Rules, a Lab Attendant having five years experience would be eligible for promotion as Lab Assistant and the petitioner came on deputation to the respondent-Department in the year 2008 and thus he has already got 14 years experience as Lab Attendant. In such circumstances, in the opinion of this court, while absorbing under Group C Cadre post, the petitioner has to be treated as Lab Assistant for all intents and purposes and he cannot be denied the right of being promoted to the post of Chemist. Moreover, the petitioner has also annexed order dated 03.7.2015 (P.7) passed in CWP No.17682 of 2014 vide which the writ petition was dismissed as having been rendered infructuous with the observation that in any case the petitioner could not have been repatriated.

In view of aforesaid, present petition is allowed and order dated 07.10.2013 (P.3) is set aside. A direction is issued to the respondents-Department to consider the case of the petitioner for promotion as Chemist if he otherwise falls in the zone of consideration by treating him as Group C employee.

July 11, 2018
manoj

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No