

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.19627 of 2016 (O&M)

Date of Decision:15.2.2018

Dr.Uday Ram and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Himanshu Arora, Advocate
for Mr. Manoj Bajaj, Advocate for the petitioner

Ms.Shruti Jain Goyal, AAG, Haryana

Mr.B.S.Sidhu, Advocate for respondents no.4 and 5

RAJIV NARAIN RAINA, J. (Oral)

1. I have heard learned counsel for the parties.
2. In view of the reply filed by the State and the position explained as contained in paragraphs 1 and 2 that the posts of Sub Divisional Officers were created in 1987 and because of inadvertant misinterpretation/mistake, the quota was not fixed for promotion to the post of SDO from the feeder cadre of Veterinary Surgeons which mistake was cured by amendment in 2002 giving 75% posts to promotee quota and 25% for direct recruitment. The petitioners competed for recruitment under direct recruit quota and remained unsuccessful. Four of them were promoted as SDOs and all seven (including one petitioner in the connected writ petition bearing CWP No.141 of 2018) are drawing ACP scales of pay in lieu of promotion opportunities not available. Notification dated 12th January, 2017 (Annex. R-II) on which much of the case of the petitioner rests, was not enforced by the Government till 2017 when it has been made

governing amended rule. As a matter of fact, it has been pointed out by the respondents that the prayer in this writ petition is really against the inaction of the State in failing to amend the service rules, despite the Notification dated 2nd August, 2007 (Annex. P-7) leaving it still born all this while.

3. They are also aggrieved by the quota fixing 25% of cadre posts for direct recruits which according to them, will cause stagnation in service for the promotees. It is well settled that mere chances of promotions are not conditions of service. Merely because chances of promotion are reduced by operation of rule, would not be justiciable in court unless they give rise to inequality and violation of the guarantees in Articles 14 and 16 of the Constitution, and therefore, I do not see why the interim order dated 10th November, 2016 passed by me only to await the reply of the State, should be continued. It is accordingly vacated.

4. The writs of certiorari and mandamus are declined. However, in case the petitioners feel aggrieved by the rules, they are always at liberty to challenge the amended rules before the appropriate Bench as per Roster, if advised.

5. In view of the above, this petition is rendered infructuous with the enforcement of the amended rules of 2007 in 2017 and at the same time is dismissed with the aforesaid liberty.

15.2.2018
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No