

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 3071 of 2018 (O&M)
Date of decision: 15.2.2018

Ashok Kumar and others

.. Petitioners

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sapan Dhir, Mr. Ankush Anand and
Mr. Lalit Rishi, Advocates for the petitioners.

...

Rajesh Bindal J.

Challenge in the present petition is to the amendment of Rule 9 (1)(a) of the Haryana Town & Country Planning Department Technical (Group C) Service Amendment Rules, 2013 (for short, 'the 2013 Rules'), as carried out vide amendment dated 16.8.2013.

The petitioners are working as Assistant Draftsmen, Junior Draftsmen and Senior Draftsmen in the Town & Country Planning Department. The issue sought to be raised is regarding promotion to the post of Planning Assistant. The posts are otherwise covered by the Haryana Town & Country Planning Department Technical (Group C) Service Rules, 1996 (for short, 'the 1996 Rules'). In the cadre of Planning Assistant, there are total 31 posts, which are to be filled up by way of promotion only.

Learned counsel for the petitioners submitted that prior to the impugned notification, the quota prescribed for promotion from Draftsman category was 70%, whereas from the cadre of Junior Engineer, the same was 30%. It has been arbitrarily changed to 15% from the category of Senior Draftsman and 85% from the category of Junior Engineers. While carrying out the amendment, the fact that total posts in the channel of Senior Draftsman are 181, as compared to 137 in the category of Junior Engineer has been totally ignored. It was submitted that there are 32 posts in the cadre of Tracer; 90 posts in the cadre of Assistant Draftsman, which is a promotional post for Assistant Draftsman and 16 posts in the cadre of Senior Draftsman, which is a promotional post for Junior Draftsman, hence, to work out the percentage for promotion to the post of Planning Assistant, total of all posts in different cadres should have been taken into consideration, which is much more as compared to the cadre of Junior Engineer. It was further submitted that no opportunity of hearing was afforded to the petitioners before amending the Rules.

After hearing learned counsel for the petitioners, we do not find any merit in the submissions made. The plea sought to be raised that number of posts in the entire channel of promotion, to which the Senior Draftsmen belong, should be considered vis-a-vis the number of posts in the cadre of Junior Engineer is totally mis-conceived for the purpose of determination of percentage for promotion to the post of Planning Assistant. As has been pleaded, there are total 32 posts in the category of Tracer, out of which 75% are to be filled up by way of direct recruitment, whereas 25% by way of promotion from Ferro Printers/Khalasi with 5 years experience. The next higher post is Assistant Draftsman. The cadre has 90 posts. 67% posts are to

be filled up by way of direct recruitment, whereas 33% by way of promotion from Tracers and Ferro Printers with 5 years experience. Next promotional post from Assistant Draftsman is Junior Draftsman with a total cadre strength of 43. 50% posts thereof are to be filled up by way of direct recruitment and 50% by way of promotion from Assistant Draftsman with 6 years experience. The next promotional post is Senior Draftsman, which is to be filled up 100% by way of promotion from Junior Draftsman. The total cadre strength is 16. This is one channel which leads to the feeder cadre for promotion to the post of Planning Assistant.

On the other side is the cadre of Junior Engineer with a sanctioned strength of 137 to be filled up by way of direct recruitment. The next promotional post is of Planning Assistant with sanctioned strength of 31. Prior to the amendment, the 1996 Rules provided that 70% of the posts shall be filled up by way of promotion from Senior Draftsman and 30% from Junior Engineer. In the amendment carried out in the year 2013, rationalisation has been made seeing the number of posts in the feeder cadre. As the position exists today, total posts in two feeder cadres for promotion to the post of Planning Assistant are 153 (16 Senior Draftsman and 137 Junior Engineer). The quota earlier provided for promotion to the post of Planning Assistant was totally disproportionate to the number of posts in the feeder cadre, which has been rationalised providing for 15% quota for Senior Draftsman and 85% for Junior Engineer. In that as well, there is a further division amongst the degree holders and diploma holders.

The argument that total posts in the channel of promotion which leads to the post of Senior Draftsman should be taken together for the purpose of considering the quota for further promotion is mis-conceived as

the number of posts in the feeder cadre have to be considered. All the posts in lower cadres are meant to be considered only for the purpose of next higher post. If some one has been selected as Tracer and reaches to the stage of Senior Draftsman, after serving the department for requisite number of years, he already got promotion four times, whereas Junior Engineers are the direct recruits, for whom Planning Assistant is the first promotion.

Keeping in view the number of posts in the feeder cadre, i.e., Senior Draftsman and Junior Engineer with reference to promotion to the post of Planning Assistant, we do not find that there is any illegality in the quota prescribed. The impugned amendment cannot be said to be bad on that account.

For the reasons mentioned above, the writ petition is dismissed.

(Rajesh Bindal)
Judge

(Anil Kshetarpal)
Judge

15.2.2018
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No