

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.5115 of 2018

Date of Decision:-30.04.2018

Anil Sharma & Anr.

.....Petitioners.

Versus

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH.

Present:- Mr. Sandeep Dhull, Advocate for
Mr. Somesh Gupta, Advocate for the Petitioners.

Mrs. Lavanya Paul, Assistant Advocate General, Punjab.

JASWANT SINGH, J.

Two petitioners, who claim themselves to be aspirants for the posts of Inspectors, Legal Metrology in the Department of Food, Civil Supplies and Consumer Affairs, Punjab have filed the instant writ petition, seeking quashing of circular letter dated 27/11/2017 (Annexure **P-1**) issued by respondent No. 1-Department whereby, it was proposed to fill up the vacant posts of Inspectors, Legal Metrology on transfer basis from the in-service employees working in different government departments.

Learned Counsel for the petitioner has argued that the impugned circular letter dated 27/11/2017 (**P-1**) whereby 11 vacancies of Inspectors, Legal Metrology in the respondent No. 1-department are proposed to be filled up on transfer basis, is against the statutory Rule 28 of

Legal Metrology (General) Rules, 2011 whereby, 3 years Statutory Period of experience has been illegally excluded. It is further argued that as per the Government Circular dated 09/05/2017 (P-3), there is a ban on the posting of officials/officers at places other than that of the sanctioned posts and contrary to the said circular, the posts in question are being filled up on transfer basis. Thus, prayer has made for setting aside the aforesaid circular letter dated 27/11/2017 (Annexure P-1).

On the other hand, learned Counsel for the respondent-State has argued that there was an inadvertent mistake in the letter dated 27/11/2017 (P-1) whereby, the statutory prescribed experience of 3 years for being eligible stood omitted, however, the said mistake has been corrected by issuance of a subsequent letter dated 29/11/2017 (Annexure R-3). It is further argued that the recruitment to the post of Inspector, Legal Metrology is covered under the Punjab Industries (Class III) Rules, 1956, whereby recruitment on transfer basis is permissible. Finally it has been argued that the alleged ban on the posting of officials/officers at places other than the sanctioned posts, as per circular letter dated 09/05/2017 (P-3) is not applicable, as the recruitment by way of transfers from other departments is being conducted against sanctioned posts. Thus, prayer has been made for dismissal of the writ petition.

I have heard learned Counsel for the petitioner as well as Respondent-State and have carefully perused the paper book with their able assistance. In my opinion, the present writ petition is devoid of any merit and the same is liable to be dismissed.

It is apparent from the record that the recruitment process has been initiated by the Respondent-Department under the 1956 Rules,

whereby the service condition of employees as legal metrology has been prescribed. Under Rule 9 (2) of the aforesaid Rules of 1956, the appointment to a technical post shall be made by way of promotion from the service or by a transfer or deputation of officials working in other departments of Punjab Government or under the Government of State other than Punjab of India or by direct recruitment, according to their requirements of each case. This rule further provides that the appointing authority, shall determine in each case, the manner in which such vacancy shall be filled. A copy of the aforesaid Rules of 1956 is on record as Annexure R-2. Further, as per Rule 28 of the 2011 Rules, the qualification for post of inspector has been prescribed. As per this, 3 years of professional experience is mandatory. Although, in the circular dated 27/11/2017 (P-1), the condition of 3 years of personal experience was omitted however, the said mistake was immediately rectified by issuance of circular dated 29/11/2017 (R-3), whereby the condition of 3 years as prescribed in the statutory rule was mentioned. Meaning thereby, the first grievous as raised by the petitioners already stands redressed by way of issuance of circular letter dated 29/11/2017 (R-3).

As far as the second argument regarding there being a ban on posting of officials/officers at places other than that of sanctioned posts as per circular letter dated 09/05/2017 (Annexure P-3) is concerned, this court is of the opinion that a careful perusal of the letter would show that the posting of officials/officers has been banned on non-sanctioned posts. However, there is no such ban on the vacant posts which are being filled up by concerned departments. Admittedly, the present posts are being filled up due to the vacancies arising in the Department for the post of Inspector,

Legal Metrology.

In view of the above, finding no merit in the present writ petition the same is hereby ordered to be dismissed.

(JASWANT SINGH)
JUDGE

April 30, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>