

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

CWP No.7310 of 2018

Date of Decision:-23.03.2018

Jatinder Singh & Ors.

.....Petitioners.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. R.K. Sharma, Advocate for Petitioners.

JASWANT SINGH, J.

1. Five employees namely, Jatinder Singh, Virender Bahadur Singh, Harpal Singh, Manjinder Singh and Surjit Singh who are working as Accountants as well as Cane Development Inspectors in Coopartive Sugar Mills in the State of Punjab under respondent nos.3 & 4 have sought quashing of the order dated 16.05.2016 (**P-1**) whereby the Additional Registrar, Cooperative Societies Punjab has amended The Punjab State Cooperative Sugar Mills (Common Cadre) Service Rules 1981; and the consequential advertisement dated 27.12.2016 (**P-4**) issued by respondent no.4, on the ground of being illegal, arbitrary and without jurisdiction.

2. Learned Counsel for the petitioners has argued that vide order dated 16.05.2016 (**P-1**) passed by respondent no.2, the 1981 Rules have been amended and consequentially it has been ordered that the post of Assistant Accounts Officer and Assistant Cane Development Officers (both

next line of promotion for the petitioners) whereby earlier 60% posts were used to be filled up by way of direct recruitment and 40% by way of promotion, would now be filled up 80% by way of direct recruitment and only 20% by way of promotion. It is the contention of the learned Counsel for the petitioners that the petitioners have been working sincerely for the past many years and are eligible to be promoted to the post of Assistant Accounts Officer/Cane Development Inspector, however, in view of the amendment in the service Rules, their chances of promotion has decreased and, therefore, the action on part of respondent no.2 is arbitrary and illegal. It has been further argued by learned Counsel for the petitioners that on representation (P-5) made by the petitioners on dated 19.01.2017 to respondent no.4, respondent no.4 has requested the respondent no.2 to reconsider the amendment. It is also argued that even the Board of Directors of Sugarfed have written to respondent no.2 (P-6) for reconsidering such amendment in the Rules. Finally it is argued that despite the said recommendations being pending, respondent no.4 is in process of filling up the posts of Assistant Accounts Officer by way of direct recruitment, pursuant to the amendment dated 16.05.2016 in the Service Rules and thus the said advertisement is also liable to be quashed, being illegal and arbitrary.

3. After hearing learned Counsel for the petitioners and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and deserves to be dismissed.

A persual of the record reveals that the petitioners have nowhere challenged the Service Rules which have admittedly been amended pursuant to the order dated 16.5.2016 (P-1). The order dated 16.5.2016

passed by respondent no.2 i.e. Registrar Cooperative Societies is only an office order, whereas the office order stands implemented in the statutory Rules which governs the service conditions of the petitioners. In the absence of challenge to the Service Rules, no relief can be granted to the petitioners and the petition is liable to be dismissed on this score alone.

However, as the matter was heard at length, therefore, it is apposite to consider the merits of the arguments raised by the petitioners as well. A perusal of the paper book reveals that the petitioners who have been working as Accountants/Cane Development Inspectors have sought the quashing of the Executive Order whereby the quota of direct recruitment to the post of Assistant Accounts Officer and Assistant Cane Development Officer has been increased from 60% to 80% and consequently, decreasing the quota of promotees from 40% to 20%. It is settled principle of law that the employees have a right to challenge the order which is contrary to the principles of natural justice or a result of grave arbitrariness on part of the Appointing Authority. Promotions etc. are incidental to service and cannot be sought as a matter of right. Merely, because the official respondents/Appointing Authority have taken a decision that the post of Assistant Accounts Officer/Assistant Cane Development Officer should be filled up more by direct recruitment and less by promotion, does not *ipso facto* gives a cause of action to the alleged affected promotees who may or may not have chance of promotion, to lay challenge to such Executive Orders/decisions. In the opinion of this Court, no employee can be permitted to challenge the method of recruitment to a particular higher post merely because the chances of an employee for promotion may get decreased.

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

(JASWANT SINGH)
JUDGE

March 23, 2018
Vinay

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