

CWP-25019-2019 (O&M)

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

**CWP-25019-2019 (O&M)
Date of decision : 09.09.2019**

Saurabh Chaudhary and others

... Petitioners

Versus

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashish Aggarwal, Senior Advocate with
Mr. Kartik Gupta, Advocate
for the petitioners.

AMIT RAWAL, J. (ORAL)

Notice of motion to respondent No.3.

On asking of the Court, Mr. Hitesh Pandit, Addl. A.G.,
Haryana, who is present in Court, accepts notice on behalf of the respondent
No.3, being contesting respondents.

Petitioners, in present writ petition, have approached this Court
under Article 226 of the Constitution of India for issuance of a writ in the
nature of *certiorari* quashing the decision dated 18.07.2019 (Annexure
P-18), whereby objections to circulation of provisional Gradation List of
C.M.E.O, M.D.O., Z.M.E.Os and D.M.E.Os, in Haryana State Agricultural
Marketing Board, Panchkula, as it stood on 20.10.2018, have been
dismissed.

Mr. Ashish Aggarwal, learned Senior Counsel assisted by
Mr. Kartik Gupta, learned counsel appearing on behalf of the petitioners

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submits that petitioner Nos.1 and 4, were appointed as Assistant Secretary in the year 1998, whereas petitioner Nos.2 and 3, in 1992 and respondent No.4, in 2006. Service conditions of employee are governed by Haryana State Agricultural Marketing Board Service Rules, 2008 (in short 'the 2008 Rules'), envisaging the qualifications for promotion from Assistant Secretary to Executive Officer-cum-Secretary. As per Rule 23 of 2008 Rules, power to relax the requisite experience of three years, was vested with the Board, but vide amendment in 2009, same is vested with the Government. After amendment in 2009, Respondent No.4, was promoted to the aforementioned post, vide order dated 25.06.2009, by giving relaxation by the Board, which could not have been done, but at that time, since petitioners were also discharging the duties of Executive Officer-cum-Secretary, they were not affected to by the promotion of respondent No.4. All the petitioners have been promoted as District Marketing Enforcement Officer (DMEO), vide orders dated 30.07.2012, 08.05.2014 and 29.08.2014 (Annexure P-4 to P-6). Petitioners, though, were not aware of the order of promotion of respondent No.4 as Executive Officer-cum-Secretary as there was no such post, but later on, information sought under Right to Information Act, revealed that there was no vacancy. Reference has been invited to intimation dated 27.03.2019 and 19.04.2019 (Annexures P-7 and P-8). Cause of action accrued to the petitioners only when the Department came out with tentative Gradation List dated 12.11.2018 (Annexure P-11), showing respondent No.4 as senior to petitioner No.1 only. Other petitioners have chosen to file writ petition as the respondents-Department are contemplating to promote him to the post of Zonal Marketing Enforcement Officer (ZMEO). In this regard, legal notice dated 17.05.2019 (Annexure P-17) was submitted to the

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Additional Chief Secretary, Agricultural and Farmer Welfare Department, Haryana and Chief Administrator, Haryana State Agricultural Marketing Board, Panchkula, giving all these facts, but, vide Annexure P-18, dated 18.07.2019, respondent No.3/Chief Administrator, has assigned no reasons, much less, not afforded any opportunity of hearing to the petitioners.

Mr. Hitesh Pandit, Addl. A.G., Haryana, has not denied the existence of order.

I have heard learned counsel for parties and appraised the paper book.

It would be in the fitness of things to extract the relevant portion of impugned order, which reads as under:-

"The tentative gradation list of C.M.E.O, M.D.O., Z.M.E.Os and D.M.E.Os, as it stood on 20.10.2018, was circulated vide circular No. 219 issued vide Memo No.Admn-VI-2019/82675-814, dated 12.11.2018, inviting objections from all concerned. The claims/ objections received from the various officials have been considered and they were also heard in person. After considering their objections and arguments during hearing, the gradation list has been finalized and is enclosed herewith for information of all concerned."

In my view, the impugned order is bereft of any reasoning, much less, totally ludicrous. The purpose of the Department receiving the objections is to sue the rights of petitioners in a correct perspective, but not in this manner and mode. All the Authorities, much less, Quasi Judicial Authorities, are also legitimately expected to give reasons, other wise, whole purpose of dealing with the objections becomes an eye-wash.

Keeping in view the aforementioned facts, the impugned order

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is hereby set aside and matter is remitted to respondent No.3, to decide the objections of the petitioners, within a period of two months from the date of receipt of certified copy of this order and shall pass a speaking order after affording opportunity of hearing to the petitioners as well as respondent No.4, failing which, respondent No.3, shall be liable to pay costs of ₹25,000/- to the petitioners.

This condition of imposing costs is only to prevent petitioners to run from pillar to post and avail remedy of contempt in case of non-compliance of directions issued by this Court.

The writ petition stands disposed of with the above direction.

09.09.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**