

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

**LPA No.42 of 2019(O&M)
Date of decision: 22.02.2019**

State of Haryana and another

... Appellants

Versus

Ram Phal

... Respondent

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the appellants.
Mr. Mohit Garg, Advocate, for the caveator-respondent.

KRISHNA MURARI, C.J. (Oral)

CM Nos.82 & 84-LPA of 2019

For the reasons set out in the applications, delay of 26 days in
filing and 56 days in re-filing the appeal is condoned.

CMs stand disposed of.

LPA No.42 of 2019(O&M)

This intra-court appeal under Clause X of the Letters Patent is
directed against the judgment and order dated 11.07.2018 passed by the learned
Single Judge allowing the petition filed by the respondent herein setting aside
the order dated 07.10.2013 rejecting his representation and holding him
ineligible for promotion to the post of Chemist.

Petitioner has approached this Court by filing writ petition
alleging that respondent herein was serving on the post of Lab Attendant in
Technical Education Department since 1994. Subsequently, he was sent on

probation to Haryana Public Health Engineering Department and was absorbed therein on 12.03.2010. The office order absorbing him clearly provides that he is being absorbed in the department and his services will be governed by the rules contained in C.S.R's & RME Rules, 2009, as amended from time to time and other instructions issued in this regard. After having worked for 14 years on the said post in the department when the question arose to consider his promotion to the post of Chemist, he was held ineligible on the ground that feeder cadre for promotion to the post of Chemist is Lab Assistant, whereas he was only a Lab Attendant, which falls under Group D posts.

Learned Single Judge after considering the stand taken by the State-appellant herein held that since the requirement of promotion from the post of Lab Attendant to Lab Assistant was five years experience, he has worked for 14 years, and since his absorption was made under Group C cadre post, he has to be treated as Lab Assistant for all intents and purposes and accordingly issued a direction to the department to consider his case for promotion to the post of Chemist if he otherwise falls in the zone of consideration by treating him as Group C employee.

Mr. Deepak Balyan, learned Additional Advocate General appearing for the State of Haryana, vehemently contended that though respondent herein was drawing salary which was admissible to Group C post, but since he was absorbed on the post of Lab Attendant he was not eligible for promotion to the post of Chemist and his claim has rightly been rejected.

We have considered the arguments advanced by learned counsel for the appellants and also perused the record.

The absorption letter dated 12.03.2010 containing the terms and conditions clearly prescribes that after absorption in the department services will be governed by C.S.R's & RME Rules, 2009. It is undisputed that the said

rules governed the service conditions of Group C employees. Once, the terms and conditions of the absorption letter clearly provide that he would be governed by the rules governing Group C posts and the salary being drawn by him at the time of absorption was also that admissible Group C post, we also do not find any reason to hold that the respondent herein was a Group D employee and, thus, ineligible for being considered for promotion to the post of Chemist.

In view of the above facts and discussion, we find no infirmity/illegality in the view taken by the learned Single Judge, which may require any interference. The appeal is devoid of merit and accordingly stands dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

22.02.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO