

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: March 04, 2020
CWP No.15207 of 2013

Sandeep Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jagdish Manchanda, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana

RITU BAHRI, J. (Oral)

This petition has been filed for setting aside the order dated 06.08.2009 (Annexure P-6) passed by respondent No.2 whereby the claim of the petitioner regarding his annual increment after the promotion from the post of Sweeper to that of Clerk has been declined. Further prayer has also been made for quashing the order dated 29.01.2010 (Annexure P-8) by which the representation/legal notice filed by the petitioner has also been rejected. The petitioner is also seeking direction to respondents to release the annual increment from 02.11.2001.

The services of the petitioner are governed under Haryana Diary Development (Group C) Service Rules, 1998 (for short 'the 1998 Rules') applicable to the petitioner before merging of the

Diary Development Department into the Animal Husbandry Department. As per Appendix B at Sr. No.11, for the post of Clerk by promotion, a candidate has to pass departmental test in Hindi or English at the speed of 25 and 30 words per minute. The relevant rules are as under:

Sr. No.	Designation of Posts	Academic qualification and experience if any, for direct recruitment	Academic qualification & experience, if any, for appointment other than by direct recruitment
11.	Clerk		By promotion 20% of Posts
			(i) Matriculate or Higher Secondary or equivalent or 10+2 (Vocational)
			(ii) 3 years experience as Restorer, Laboratory attendant and 5 years experience as Cook, Peon, attendant, Sweeper-cum-Chowkidar, Mali-cum-Chowkidar, Chowkidar Sweeper in the Dairy Development Department.
			(iv) To pass departmental test in hindi or English at the speed of 25 and 30 words per minute, respectively within a period of one year from the date of appointment failing which annual increment shall not be allowed.

The grievance of the petitioner is that the petitioner has been promoted to the post of Clerk by respondent No.1 and he cannot be exempted keeping in view the 1998 Rules, where there is no specific provision for exemption. The petitioner is seeking parity of exemption with the orders passed as (Annexures P-12, P-13 and P-14) of other departments and has also referred to the judgment passed by this Court in **Prithvi Raj Vs. State of Haryana and others (CWP No.5566 of 1999 decided on 03.09.2001)**, where exemption has been

granted from passing typing test. In para 7 of the written statement filed on behalf of respondents No.1 to 3, it has been stated that in the judgment passed in **Prithvi Raj's** case (supra), there was no departmental rule for passing the typing test.

In the affidavit, filed by Dr. Sukhdev Rathee, Deputy Director (V.E.T.) Directorate of Animal Husbandry & Dairying Haryana, Panchkula on 06.10.2017, it has been clarified therein that as per the Haryana Animal Husbandry Head Office and Field (Group-C) Service Rules, 1999 (for short 'the 1999 Rules'), which were made applicable in the Official Gazette on 22.09.1999. The provision mentioned in the 1999 Rules that the Clerk should pass within the period of probation failing which, no increment will be allowed. Vide order dated 01.10.2013 (Annexure P-12) and order dated 09.02.2015 (Annexure P-14) waived off the condition of passing the type test of certain clerks, who have been promoted from Class-IV post prior to the date 22.09.1999. The condition of passing typing test has not been waived off to any such clerk who had promoted from Class-IV post and joined on or after 22.09.1999 as they are required to pass the type test as per 1999 Rules. The Governor of Haryana has merged the Haryana Dairy Development Department on certain terms and conditions vide notification dated 14.05.2003 (Annexure R-2). It is submitted that

prior to the merger of the Haryana Dairy Development Department with Animal Husbandry Department, Haryana, the 1998 Rules were applicable to the case of the petitioner and after the merger of the Department 1999 Rules.

After going through the written statement and affidavit, the department has clarified that exemption was granted by Director General, Animal Husbandry and Dairy Development Department, Panchkula, only to those clerks who had been promoted prior to 22.09.1999.

Accordingly, the writ petition is dismissed.

(RITU BAHRI)
JUDGE

March 04, 2020
Atul

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No