

1. **CM Nos. 17148-17151 of 2019 in/and
Review Application No.454 of 2019 O&M) in
CWP No.6374 of 2000**

Anil Kumar Gupta vs. State of Haryana and others

2. **CM Nos.17149, 17155 of 2019 in/and
Review Application No.455 of 2019 (O&M) in
CWP No.19669 of 2012**

Pardeep Kumar Jain vs. State of Haryana and others

Present: Mr.Sanjiv Gupta, Advocate for the applicant(s)/petitioner(s)

This order will dispose of Review applications alongwith CMs filed in CWP Nos. 6374 of 2000 and 19669 of 2012.

Mr.Sanjiv Gupta, learned counsel explains that in the appeals carried against the order dated 30.11.2018, the applicants had urged before the appellate bench that Single Judge should not have decided the case on merits in the presence of prayer (iii) which reads as under:-

“(iii) For declaring Rules 9 and 12 of the Punjab Service of Engineers Class II Public Works Department (Public Health) Rules, 1966 as illegal, ultra vires, unfair, unjust and unconstitutional to the extent that they do not specifically provide for promotion of the Junior Engineer (Civil) to the post of Sub Divisional Engineer (Civil) after attaining the higher qualification of A.M.I.E. etc. as provided for in Rule 7 (3) (ii) of the aforesaid Rules on the basis of date of attaining the said qualification/eligibility.”

It was for this reason that the applicants withdrew the appeal to file review applications. Though the appellate order does not say as such, but I trust Mr.Gupta on what he had argued before the Division Bench. The

Roster jurisdiction was before the Division Bench and Single Judge should have permitted the petitioners to approach the appropriate Bench to challenge the vires of the rules. Challenge to vires of the rules does not lie before Single Bench as per past practice and procedure of this Court.

Accordingly, I review my order dated 30.11.2018 without issuing notice to the State of Haryana for the reasons that they will have sufficient opportunity to defend their rule in fresh writ petition(s). The delay has been explained by reason of pendency of LPA Nos.823 and 464 of 2019 which were withdrawn. Accordingly, the delay in filing both the review applications is condoned.

In view of the above, both the review applications are allowed. The orders dated 30.11.2018 annexed in both the review applications are recalled and the review applicants are given liberty to take such steps as they may wish to.

Both the review applications as also the CMs are disposed of.

A photocopy of this order be placed on the connected file.

**27.1.2020
MFK**

**(RAJIV NARAIN RAINA)
JUDGE**