

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

CWP-5781-2021.
Date of Decision:-24.03.2021.

Vijender Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Gagandeep S. Wasu, Advocate for the petitioner.

Mr. D.S. Nalwa, Additional A.G., Haryana.

Mr. Namit Kumar, Advocate for respondent No.6-Union
of India.

RITU BAHRI J.

The petitioner is seeking quashing of the order dated 15.01.2021 (Annexure P-4) passed by the Central Administrative Tribunal, Chandigarh, whereby, the candidature of the petitioner, who is working as Divisional Forest Officer has been treated to be ineligible for appointment by way of selection to the Indian Administrative Service (Haryana Cadre), pursuant to the Advertisement No.1/2020 dated 20.06.2020.

The petitioner was selected and appointed as an Extra Assistant Conservator of Forests in Haryana Forest Services (Class-II) on 11.12.2004 (Annexure A-1). The petitioner has been holding a post equivalent to

Deputy Collector in the State pursuant to the Notification dated 09.11.1995 of the Haryana Government Revenue Department. The grievance of the petitioner is that *vide* impugned order dated 09.06.2020 (Annexure A-2) issued by the Haryana Government Personnel Department, members of the Non-State Civil Category i.e. State Forest Service have been illegally and arbitrarily ousted from the zone of eligibility for appointment to the Indian Administrative Service as per clause-1 of the Advertisement.

Counsel for the petitioner, while referring to Regulation 4 of the Indian Administrative Service (Appointment by Selection) Regulations, 1997 has argued that the petitioner is working on a Gazetted post in a substantive capacity and has completed 8 years of continuous service under the State Government. He has completed more than 15 years of continuous service on a Gazetted post which is equivalent to the post of Deputy Collector in State Services. Hence, as per the Regulations, 1997, he was eligible for being appointed to the Indian Administrative Service by selection. However, the State of Haryana *vide* instructions/order dated 11.03.2011 (Annexure A-6), has wrongly excluded Officers from (i) State Police Service, (ii) State Forests Service and (iii) Haryana Civil Service (Judicial Branch) for being eligible under the 1997 Regulations. As per the instructions dated 11.03.2011 (Annexure A-6), Governor of Haryana has declared only Group 'A' posts (previously Class-I posts) equivalent to the Deputy Collector to be eligible for selection to the Indian Administrative Service under Regulation 4 of the 1997 Regulations. Before the Administrative Tribunal, reference was made to a Notification dated

19.01.2018 (Annexure A-7) issued by the Government of Orissa, whereby, names of the three Officers in the Non-State Civil Services had been sought for appointment to IAS by selection during 2018. The Government of Orissa has not excluded the members of State from his services from the zone of eligibility and hence, parity should be given to the employees working in the Haryana State on the same pattern. He has further argued that the petitioner has been discharging the functions of Deputy Collector as per Notification of 1995 and for all intents and purposes, he was eligible as he has worked on the post of Deputy Collector which is a Group 'A' post and has more than 8 years of continuous service on the said post and was thus, eligible for recruitment to the IAS. Even this aspect has been wrongly ignored by the Tribunal while dismissing his application.

Mr. D.S. Nalwa, Additional Advocate General, Haryana, appeared and has argued that the petitioner is a Group 'B' employee working as a Divisional Forest Officer and as per the amendment made to the Indian Administrative Service (Recruitment) Rules, 1954 on 14.08.1958, the members of the State Police Service, IPS or any other All India Service and its feeder services are not held eligible for appointment to IAS under the Rules. The petitioner has been rightly considered ineligible to be appointed as IAS Officer as per the Advertisement No.1/2020 dated 20.06.2020 (Annexure A-3). The Indian Administrative Service Rules, 1954 along with the amendment have been placed on record as Annexure R-2 with the written statement filed before the Tribunal. He has further argued that the Indian Forest Service (IFS) was declared by Government of India All India

Service in the year 1966 and hence, as per the amendment made to the Indian Administrative Service (Recruitment) Rules, 1954 on 14.08.1958, the services of the State Forest Department has now become All India Service and the post of Divisional Forest Officer is a feeder cadre post for the All India Forest Service. He has further argued that the petitioner was appointed on the post of Extra Assistant Conservator of Forest which is a Group 'B' post and even if he has been doing the duties of Deputy Collector as per Notification dated 09.11.1995, he still remains a Group 'B' employee in the State Forest Department. The post held by the petitioner does not get converted to the post of Deputy Collector and hence, his discharging the duties of Deputy Collector will not make him eligible for recruitment to IAS. Mr. Nalwa has further argued that under Regulation 4 of the Regulations of 1997, the post of Extra Assistant Conservator of Forest on which the petitioner was appointed, has never been converted to the post of Deputy Collector and in the absence of conversion of the post of the petitioner to that of Deputy Collector, he remains the employee of a Group 'B' post and is not eligible as per the instructions dated 11.03.2011, which provide that only Officers in State of Haryana holding Group 'A' post (previously Class-I post) in all the Departments will be declared equivalent to the post of Deputy Collector. As per Regulation 4, the Haryana Government has issued orders dated 11.03.2011 whereby Group 'A' posts in all the Departments under the Government of Haryana were declared equivalent to the post of Deputy Collector. However, even *vide* these orders it excluded the officers belonging to **(i) State Police Service, (ii) State**

Forests Services, (iii) Haryana Civil Services (Judicial Branch) and (iv) All Boards, Corporations and other Autonomous Bodies. Hence, the petitioner has been rightly held to be ineligible by the Tribunal.

After hearing counsel for the parties and perusal of the order passed by the Tribunal dated 15.01.2021, shows that the following IAS (Recruitment) Rules, 1954, are relevant:-

“8(1) The Central Government may, on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Governments and the Commission, from time to time, make, recruit to the Service persons by promotion from amongst the substantive members of a State Civil Service.

8(2) The Central Government may, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission, from time to time, make, recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State but who holds a gazetted post in a substantive capacity.”

In the above said Rules of 1954, an amendment has been made on 14.08.1958 which has been annexed as Annexure R-2 with the written

statement filed by the respondents before the Tribunal (Annexure P-2) and the amendment is produced as under:-

“2. It has been decided that the members of a State Police Service, the I.P.S., or any other All India Service, that may be constituted in future, and its feeder Service, shall not be eligible for appointment to the I.A.S. under this rule.”

Hence, since 14.08.1958, the members of All India Service have not been held to be eligible for recruitment to IAS under the Rules. The Tribunal further referred to the amendment made in 1966 in Indian Forest Service. As per this amendment, the Indian Forest Service was declared by Government of India as All India Service in the year 1966 and hence, as per the amendment made on 14.08.1958, the petitioner who is working in the Haryana Forest Service and being part of the feeder Cadre post to Indian Forest Service has become ineligible to be appointed as IAS as he has been expressly excluded from the zone of consideration. It is not the case of the petitioner that the amendment made by Government of India dated 14.08.1958 has ever been challenged.

In the written statement filed by respondents No.1 and 2 (Annexure P-2) as per the preliminary submission 5, it has been stated that Indian Forest Service was declared by the Government of India as All India Service in the year 1966 and the Haryana Forest Service is a feeder service to All India Service i.e. IFS and hence, keeping in view the amendment dated 14.08.1958 and Indian Forest Service being declared as All India Service in the year 1966, the petitioner working in the Haryana Forest

Service has been rightly held to be ineligible as per the Haryana Government order dated 11.03.2011. The benefit of instructions dated 11.03.2011 cannot be extended to the petitioner as he is working on a Group 'B' post of Extra Assistant Conservator of Forest and this post has never been declared equivalent to the post of Deputy Collector. As per the Notification dated 09.11.1995, he is only entitled to perform the duties of Collector under the Haryana Public Premises (Land Eviction & Rent Recovery) Act, 1972. Hence, the post held by the petitioner was never declared equivalent to the post of Deputy Collector for the purpose of Instructions dated 11.03.2011. The petitioner for all intents and purposes has been working on a Group 'B' post right from the date he was appointed in the year 2004 on the post of Extra Assistant Conservator of Forest and even as per the Notification dated 09.11.1995, this post has never been treated as equivalent to the post of Deputy Collector. In view of the amendment made on 14.08.1958 to The Indian Administrative Service (Recruitment) Rules, 1954 coupled with the amendment made in Indian Forest Service in the year 1966 and the fact that the petitioner is working on a Group 'B' post does not make him eligible to participate in the selection for post of IAS as per the Advertisement. He does not get any benefit of the instructions dated 11.03.2011, (a decision taken by State of Haryana whereby, only Group 'A' employees with 8 years experience are eligible and State Forest Officers have been specifically excluded). This exclusion has rightly been made keeping in view the amendment made in The Indian Administrative Service (Recruitment) Rules, 1954 on 14.08.1958. After

11.03.2011, instructions dated 09.06.2020 have also been issued excluding the State Forest Service Officers from Indian Administrative Services. The Haryana Public Service Commission had been asked to recommend the candidates as per the Indian Administrative Service (Appointment by Selection) Regulations, 1997 and State Government Notification dated 11.03.2011. The petitioner has not been able to controvert the fact that the post of Extra Assistant Conservator of Forest has never been treated as equivalent to the post of Deputy Collector till date. Since this has never been done by the State Government, for all intents and purposes, the petitioner remains a Group 'B' Officer in the State Forest Service which is the feeder cadre post of the Indian Forest Service as per decision taken by the Government of India to treat the Indian Forest Service as All India Service in the year 1966.

The writ petition is devoid of merits.

Dismissed.

(RITU BAHRI)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

March 24, 2021.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.