

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

CWP 18440 of 2020 (O&M)

Date of Decision: September 15, 2021

Mamta Goyal and another ...Petitioners

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Anurag Goyal, Advocate
for the petitioners.

Mr. D.S. Nalwa, Addl. A.G. Haryana
for respondents No. 1 to 4.

Mr. Kanwal Goyal, Advocate
for respondent No. 5.

Ms. Alka Chatrath, Advocate
for respondent No. 6-UPSC.

Mr. Satya Pal Jain, Additional Solicitor General with
Mr. Namit Kumar, Advocate
for respondent No. 7-UOI.

Mr. Tejeshwar Singh, Advocate
for the applicant in CM-7315-CWP of 2021.

Mr. Rajesh Garg, Sr. Advocate with
Ms. Latika Garg, Advocate
for the applicant in CM 437 of 2021.

Mr. Chetan Mittal, Sr. Advocate with
Mr. Kunal Mulwani, Advocate
for respondents 8 and 9.

Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Vijay Pal, Advocate for respondents
No. 10 and 11.

FATEH DEEP SINGH, J. (Oral)

Petitioners Mamta Goyal and Adarsh Singh Punjeta have instituted the instant civil writ petition in terms of Articles 226/227 of the Constitution of India. In the petition, the petitioners seeks quashment of office memorandum dated 17.03.2015 (Annexure P-14) terming the advertisement dated 20.06.2020 (Annexure P-2) to be defective and seeking substitution of “**select list year 2019**” to “**select list year 2020**” by substituting 01.01.2019 as 01.01.2020 being the date of determination of age and experience of the candidates for the purposes of being enlisted for the posts of Indian Administrative Services (IAS) from Haryana Cadre through appointment by selection.

Upon hearing of learned counsel for the parties and

perusal of records.

The petitioners claimed that they were working as Assistant Professors in the department of Higher Education Haryana and were notified as Class-I employees of the Government of Haryana vide letter dated 30.11.2010 and on account of which upon completion of five years of service, the petitioners have been enlisted in Group A/Class I category and on account of their meritorious work were allowed to participate in the selection process by way of issuance of admit cards enabling them to appear in a written examination, in which, they were successful having cleared the written test.

The primary grouse of the petitioners is that a list of 25 candidates was prepared having cleared written test whose names were stood recommended to the Union Public Service Commission (in short, '**the UPSC**') for the purpose of final interview/selection of five advertised posts into IAS Cadre. It is alleged that subsequently a communication was received by them from the respondents that they had not completed 08

years of service as Group A/Class I on 01.01.2019 and would be doing so only in the month of July 2019 and which disenchantment has led to institution of the present petition.

Without adverting on to the ambit of Rule 4 of the Indian Administrative Service (Appointment by Selection) Regulations 1997, the moot point involved in the present controversy is the very jurisdiction of this Court in terms of Section 14 of the Administrative Tribunal Act, 1985. The same is reproduced as below to lay emphasis:-

“14. Jurisdiction, powers and authority of the Central Administrative Tribunal. —(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court¹ [***] in relation to —

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning —

(i) a member of any All- India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation ² [or society] owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) or clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation ² [or society] or other

body, at the disposal of the Central Government for such appointment.

2 [Explanation— For the removal of doubts, it is hereby declared that references to “Union” in this sub -section shall be construed as including references also to a Union territory.]

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations ¹ [or societies] owned or controlled by Government, not being a local or other authority or corporation ¹ [or society] controlled or owned by a State Government:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub- section in respect of different classes of, or different categories under any class of, local or other authorities or corporations ¹ [or societies].

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation ¹[or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except

the Supreme Court ² [***](in relation to—

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation ¹ [or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation ¹ [or society] and pertaining to the service of such person in connection with such affairs”.

Plain reading of this statutory provision makes it emphatically clear that process regarding recruitment concerning All India Services or to any Civil Services or a Union or a civil post under the Union is covered under this Section and further under Section 28 of the Act, there has been exclusion of the jurisdiction of the Court except the Supreme Court of India under Article 136 of the Constitution and in a ratio of the Supreme Court of India reported as **1997(2) SCT 423 (SC) L. Chandra Kumar Vs. Union of India and others**, it has been

specifically held that Central Administrative Tribunal will continue to act Courts of first instance and it will not be open to the litigant to directly approach the High Courts.

Thus, in the light of what has been come across to this Court without feeling necessity to further advert on to the merits else it might prejudice the case of parties to this petition, it would be suffice to hold by disposing off the writ petition and relegating the petitioners to the Central Administrative Tribunal having jurisdiction under the Act to process the claim of the petitioners.

Petition stands disposed off.

Complete records of the case be sent accordingly.

Copies be retained.

September 15, 2021

amit rana

**(FATEH DEEP SINGH)
JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No