

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

Sr. No.604-2

CWP-3699-2001 (O&M)

Date of decision: May 19, 2022

Ram Chander Bhatia

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Mr. R.D. Sharma, Deputy Advocate General, Haryana.

ARUN MONGA, J. (ORAL)

Petition was filed in the year 2001, *inter alia*, for issuance of a writ in the nature of certiorari to quash order dated 02.05.2000 (Annexure P-17) whereby it was directed that for promotion of Project Managers, Functional Managers, Project Officers (Export) and Deputy Directors (Non Technical) to the post of Joint Director and General Managers, a joint/common seniority list had to be maintained in accordance with Rule 11 of the Haryana Industries Group A Service Rules, 1986 and seeking directions to respondent No.2 not to make promotions to the post of Joint Director/General Managers as per the revised gradation list dated 10.08.2000 (Annexure P-19).

2. Petition has been lying admitted since 31.10.2001.

3. When called out for hearing, there is no representation on behalf of petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for more than 20 years before this Court, it has been rendered infructuous and/or petitioner seems to have lost interest in pursuing the same.

4. In any case, it appears that even on merits, claim of petitioner is not admissible in view of the following stand taken in para Nos.2 and 3 of preliminary submissions and para No.3 of reply on merits of the written statement filed on behalf of respondent Nos.1 and 2, which are reproduced herein for ready reference:

“2. That the petitioner has claimed promotion to the next higher post of General Manager/Joint Director from 22.10.92, without impleading the concerned Functional Managers, who have been promoted to these posts in

order of seniority as necessary and proper parties. Thus, the present writ petition is bad on law on the ground of non-joinder, misjoinder of necessary and proper parties.

3. *That the petitioner has tried to mislead this Hon'ble High Court by twisting material facts, in as much as that after the decision dated 17.6.93 taken by the State Govt. to maintain a Joint Cadre of Functional Managers/Project Managers/Project Officer (Export)/Deputy Director (Non-Technical) and their inter-se seniority would be based on the basis of their length of service, the necessary amendments were not incorporated in the notification dated 18.6.93, which was not possible within a day. Moreover, the subject matter of notification dated 18.6.93 was entirely different which case was initiated in the year 1988. Thus, the petitioner has not come to the Hon'ble Court with clean hands and the present writ petition is liable to be dismissed on this score as well.*

On Merits:

3.....*It is further submitted that during the year 1978-79, 84 posts of Functional Manager i.e. 7 for each District were created in the newly incepted District Industries Centre Scheme in the State of Haryana as per the guidelines issued by the Govt. of India. Keeping in view the requirement of each District Industries Centre, 48, posts of Functional Manager i.e. 4 for each District Industries Centre were ordered to be filled up. Subsequently the pattern of District Industries Centres was changed by the Central Govt. and 3 posts of Functional Managers of each District Industries Centre were converted to that of Project Manager from the disciplines/trade required for each District Industries Centre. The State of Haryana, however, created only 12 posts of Project Managers in the year 1984, With a view to implement the newly incepted District Industries scheme expeditiously as desired by Govt. of India the posts of General Manager and Functional Managers were taken out of the purview of the Haryana Public Service Commission and were ordered to be filled up through a High Powered Selection Committee headed by Chief Secretary to Govt. Haryana. The High Powered Selection Committee recommended the appointment of 10 candidates for the post of functional Managers in January, 1983, 17 candidate in the year 1985 and 15 candidates in the year 1988, much prior to the promotion of the petitioner to the post of Project Managers, were sanctioned only in the year 1984 and the qualifications experience as well as mode of recruitment for these posts were required to be got approved from the various agencies before making recruitment/promotion to these posts. The first promotion to the post of Project Manager was ordered in March, 1989. The posts of General Manager and Functional Managers created during the year 1978-79 were required to be filled up immediately to achieve the aim and objects of the newly created District Industries Centre scheme and as such, these posts were rightly taken out of the purview of the Haryana Public Service Commission. However, subsequent posts of Project Manager were not taken out of the purview of the Haryana Public Service Commission and 50% posts were earmarked for direct recruitment through Haryana Public Service Commission and remaining 50% by promotion from amongst the eligible Class II Officers belonging to the respective disciplines*

available in the department. Keeping in view the requirement of each District Industries Centre, the process of identification of projects, their qualifications/experience was initiated. The process of framing of the group A service rules had already been initiated in the year 1978-79 when the posts of Project Managers had not come in existence, as such, there was no occasion to include these posts in the proposed Group A Service Rules approved in principle prior to 1984. The process of identification of the projects and framing of qualification/experience for each discipline was a lengthy process and the amendment in the Rules could be materialized only in the year 1998. After the mode of recruitment qualification and experience were approved by the respective agencies and the promotion proposal for 50% of posts of the Project Managers to be filled up from amongst the eligible categories of Class-II officers was initiated and the first promotion orders of eligible officers were ordered on 9.3.1989. The requisition for remaining 6 posts to be filled up by direct recruitment was placed with the Haryana Public Service Commission on 25.1.1988. The proposal for keeping the posts of Project Managers out of the purview of the Haryana Public Service Commission was also considered but the same was not found appropriate. Presently all the direct quota posts of Functional Managers and Project Managers are filled up through Haryana Public Service Commission and there remains no discrimination.”

5. I am in agreement with the stand taken by the respondent-State as aforesaid. The same in any case has not been controverted either by way of replication or by way of any additional affidavit.

6. In view of the aforesaid, no ground for interference is made out. Petition is dismissed.

7. Since the main case has been decided, pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

May 19, 2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No