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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13328-2016
Date of decision: 02.08.2022

BABU LAL ...Petitioner

VS

STATE OF HARYANA AND ORS …Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Kuldeep Khandelwal, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari for quashing the impugned order dated 29.01.2016 (Annexure P-3) whereby respondent No.3 imposed the condition of type test for releasing the benefit of annual increment.

2. I have heard learned counsel for the parties and gone through the case file.

3. In the return filed on behalf of the respondents, following stand has been taken:-

> "3.*That it is an admitted fact that some similar situated employees had been awarded annual increment by giving exemption to qualify type test the difference between the case of the petitioner and those employees is that the petitioner after his promotion never requested for exemption to qualify type test whereas those employees made request to the competent authorities for exemption and then they were exempted for type test, there annual increment was awarded."*

4. In the aforesaid backdrop of the candid admission on the part of the respondent, what thus emerges is that whether petitioner who admittedly

is similarly situated to those who had been granted exemption had indeed sought similar exemption? Answer is contained in Annexure P-2 dated 10.03.2015 wherein he clearly sought the exemption and for according of benefit of annual increment after granting him exemption. Request made by him is not denied either in the return filed. That apart, it is borne out from the record that the petitioner was granted promotion as Clerk in the year 2008 and at the relevant time, instructions dated 22.10.1997 (Annexure R-1) and Appendix ‘B’ (Annexure R-2) were holding the field which envisage according of the exemption from the test, but it was later in the year 2013 when Administrative Instructions dated 11.10.2013 were issued by the Chief Secretary to all the Administrative Secretaries/ Heads of the Departments mandating that no exemption was to be granted, but it was made clear that said Instructions were applicable from the date of issue and all those who had been accorded promotion/ exemption prior thereto would not have to pass the test.

5. Clearly petitioner's case pertains to the year 2008 much prior to the issuance of Instructions dated 11.10.2013. I see no reason as to why he should not be accorded the benefit in view of admission made in para-3 of the Preliminary Objections of the return.

6. Writ petition is, accordingly, allowed.

(ARUN MONGA)
JUDGE

August 02, 2022
Vandana

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No