

224

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

CWP NO. 27540 OF 2018

DATE OF DECISION: 26.05.2022

Suman Rani

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. U.K. Agnihotri, Advocate,
For the petitioner.

Mr. R. K. S. Brar, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of mandamus directing respondent No.1 to approve and finalize the proposal sent by respondent No.2 vide letter dated 28.10.2011 (Annexure P-3)*mutatis mutandis* for necessary amendment in the Haryana State Cooperative (Group B) Service Rules, 1997, in view of government order dated 31.05.2011 (Annexure P-1). Further prayer has been made for setting aside the impugned order dated 16.11.2018 (Annexure P-6), whereby respondent No.3, who is junior to the petitioner, has been promoted as Establishment Officer wrongly.

2. Petitioner was initially appointed as Junior Scale Stenographer on 17.12.1993 in the office of Registrar, Cooperative Societies, Haryana, after following due procedure as prescribed in the advertisement. On 30.01.2006 the petitioner was appointed as Senior Scale Stenographer and then as Personal Assistant on 19.04.2011.

Pursuant to notification dated 31.05.2011 (Annexure P-1), she being eligible, was promoted as Private Secretary on 28.02.2013.

3. In compliance of notification dated 31.05.2011 (Annexure P-1), the competent authority vide memo dated 28.10.2011 (Annexure P-3), carried out necessary amendment in the Haryana State Cooperative (Group B) Service Rules, 1997, proposing insertion of Rule 9 (2) after Rule 9 (f). Learned counsel for the petitioner further submits that vide impugned order dated 16.11.2018 (Annexure P-6), respondent No.3 has been promoted to the post of Establishment Officer even though he is junior to the petitioner and the petitioner being fully eligible and qualified has been ignored. Hence the petition.

4. I have heard rival contentions of learned counsels for the parties and perused the case file.

5. In the return filed, following stand has been taken in para 3 of the reply on merits:

“3. That in reply to para no.3 of the writ petition, it is submitted that the contents of this para of the writ petition are matter of records, however, it is pertinent to mention here that as per condition (c) of the Notification dated 31.05.2011 (Annexure P-1), the post of Personal Assistant has been upgraded as a personal measure. The case of amendment of service rules is under consideration between the office of respondents No.1 and 2.”

6. In view of the aforesaid, it thus emerges that concededly on one hand the proposed amendment in the Service Rules was under consideration and yet without awaiting for the outcome thereof, respondent No.3 has been accorded promotion. The same not only creates a cloud on the eligibility of respondent No.3 but would also naturally lead to heartburn to those who may become eligible pursuant to the amendment.

7. However, in order to balance equities at this stage, this Court refrains from interfering in the promotion already made qua respondent No.3. However, the writ petition is disposed of with a direction to the respondents to take a decision on the pending amendment which has been proposed vide memo dated 28.10.2011 (Annexure P-3).

8. Let the needful be done within a period of two months and fresh orders be passed *qua* the post in question by considering the claim of all the eligible candidates.

9. Disposed of.

MAY 26, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No