

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

CWP-21203-2020 (O&M)

Date of decision: September 22, 2022

The Haryana Civil Service (Executive Branch) Association

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Amandeep Singh Talwar, Advocate for the petitioner.

Mr. D.S. Nalwa, Additional AG Haryana.

Mr. Gurminder Singh, Senior Advocate with
Mr. Gurnoor Sandhu, Advocate
for the applicant/intervenors.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of an appropriate writ commanding respondents No.1 to 5 not to transfer and post non Indian Administrative Service officers and non Haryana Civil Service (Executive Branch) officers, on posts en-cadred for IAS/HCS services, alleging violation of service Rules.

2. In para No.4 of the written statement dated 20.09.2022 filed on behalf of respondent No.1 and 6, stand taken is that Rules have been amended. Para 4 is as below:-

“4. That as per Rule 2(b) of the Haryana Civil Service (Executive Branch) Rules, 2008, "Cadre" means a group of Haryana Civil Service (Executive Branch) Officers. The cadre post or cadre schedule is not defined in the said Rules. The strength and composition of Cadre is given in Rule 3 of the HCS (EB) Rules, 2008 which is reproduced hereunder for kind perusal and ready reference for this Hon'ble Court:

“3 (1) The strength and composition of the Cadre shall be such as may be determined by the Government from time to time.

(2) The Government shall, at an interval of every three years re-examine the strength and composition of the Cadre and may make such alterations therein as it deems fit:

Provided that nothing in this rule shall be deemed to affect the power of the Government to alter the strength and composition of the cadre at any time."

In pursuance of the above mentioned Rule 3, the State Government determines the strength and composition of HCS (EB) cadre in every three years. Recently, the State Government, vide order No.43/1/2014-6SII, dated 12/15.10.2020, has determined the strength and composition of the HCS (EB) cadre as 307, which includes 22 posts of Secretary, Regional Transport Authority and 12 posts of General Manager, Haryana Roadways.

It is further submitted that the appointment of Secretary. Regional Transport Authority and General Manager, Haryana Roadways is governed by Rule 9 of the Haryana Transport Department (Group-A) Service Rules, 1992. A copy of the 1992 Rules is attached as Annexure R/1-1. The Haryana Transport Department, vide its notification No.G.S.R.9/Const./Art./309 dated 26.11.2020, has amended the Haryana Transport Department (Group-A) Service Rules, 1992 retrospectively with effect from 27th March, 1992. A copy of the said notification dated 26.11.2020 is attached as Annexure R/1-2. Vide this Notification dated 26.11.2020 the Transport Department has amended Rule 90) as under:

" in the case of General Manager:

- (i) by promotion from amongst Works Manager, Service Engineer, Stores Purchase Officer or Traffic Manager, or*
- (ii) by transfer or deputation of an officer of Group-A already in the Service of the Government of Haryana or the Government of India;*

(m) in the case of Secretary. Regional Transport Authority:

- (i) by promotion from amongst Works Manager, Service Engineer, Stores Purchase Officer or Traffic Manager or*
- (ii) by transfer or deputation of an officer of Group-A already in the Service of the Government of Haryana or the Government of India,"*

In pursuance to the above mentioned notification dated 26.11.2020, the State Government has abolished/withdrawn 22 posts of Secretary, Regional Transport Authority and 12 posts of General Manager, Haryana Roadways and these 34 posts have been included in the deputation reserve in the strength and composition of HCS (EB) cadre vide order No. 43/1/2014-6SII dated 21.1.2021, a copy of which is attached as Annexure R/1-3.

However, while filing the present petition, the petitioner has not challenged the above mentioned notification dated 26.11.2020 (Annexure R/1-2), therefore, present writ petition is liable to be dismissed on this score also. It is further submitted that the nomenclature of the post of Secretary, Regional Transport Authority has been changed to District Transport Officer-cum-Secretary, Regional Transport Authority vide Notification No. 16/8/2020-3T(1) dated 5.1.2021, a copy of which is attached as Annexure R/1-4. As per strength and composition of HCS (EB) cadre, there is no post with the nomenclature of District Transport Officer in the present strength and composition.”

3. *Apropos*, the challenge in the present proceedings on the ground of violation of Rules is rendered infructuous. In case, the petitioners have any grievance against the amended rules, they are at liberty to take legal remedy as available in law.

4. Disposed of with the liberty aforesaid.

(ARUN MONGA)
JUDGE

September 22, 2022

ashish/mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No