

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

CWP-698-2018 (O&M)

Date of decision: 16.11.2022

Dr. Subhash Ahlawat and others

...Petitioners

VS

State of Haryana&another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Surender Pal, Advocate,
For the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Kanwal Goyal, Advocate and
Mr. Govind Tanwar, Advocate
For the respondent-HPSC.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned advertisement No.2 dated 29.09.2016 (Annexure P-2) qua category No.1 vide which applications for the post of SDO (AH &D) Class-A were invited for direct recruitment. Further prayer has been made for issuance of a writ in the nature of mandamus directing the respondents to make necessary amendment in the Veterinary Service Rules as per the proposed amendment.

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

3. While there is no quibble about the proposition that in the absence of any promotional avenues, the scheme of Assured

Career Progression is merely a salve on the heartburns caused to the long serving employees without any incentive of further promotion. Such monetary benefits remain a poor substitute of promotion. However, in the present case, it is neither the case of the petitioner nor otherwise borne out from the records that there is a total lack of promotional avenues.

4. Grievance rather is that the promotional avenues are not adequate, despite there being 75% of posts reserved for promotion, the waiting period is as long as 25 to 30 years. Many of the aspirants in the interregnum superannuate without getting promoted. Same may be true, as is borne out from the stand taken by the State Government through the Departmental Administrative Secretary in paras 4 and 5 of the short reply, which is reproduced hereinbelow:

“4. It is relevant to mention here that the proposal with regard to the amendment in Haryana Veterinary (Group-A) service rules 1995 inter-alia the provision for promotion for all the posts of Animal Husbandry and Dairying Department was made to Haryana Public Service Commission vide letter dated 04.08.2014. After considering the proposal dated 04.08.2014 Haryana Public Service Commission vide letter dated 19.11.2014 accepted the proposed amendment in Haryana Veterinary (Group-A) Service Rules 1995 except the proposal of experience of SDO from the post of Veterinary Surgeon as well to fill up the post of SDO 100% by promotion amongst the cadre of Veterinary Surgeon. In continuation of the proposal made on 04.08.2014 a request was again made to HPSC on 19.06.2015 to approve the amendment proposed including experience for SDO from the post of Veterinary Surgeon and to dispense with direct recruitment of SDOS. TIPSC vide letter dated 13.07.2015 communicated to Principal Secretary to Govt. of Haryana, Animal Husbandry & Dairying Department that they have considered the matter again and reiterated its earlier stand. It is further submitted that Annexure P-5 was written to Secretary HPSC on

which the Secretary HPSC asked the department to provide the approval given by the Hon'ble Chief Minister, Finance Department and Chief Secretary Haryana for the post of SDO (AH) and HPSC was disagree with the proposal to fill up the posts of SDO (AH&D) in the department 100% by promotion amongst the Veterinary Surgeon vide letter dated 21.02.2018. Copies of the letters in vernacular are appended as annexure R-1(Colly).

5. It is imperative to mention here that to avoid stagnation there is time scale/ACP schemes of the Government for those employees who never got promotion due to non-availability vacancy in the department. Therefore, no question of stagnation or nay pecuniary loss has been arises to the petitioners.”

4. In the return filed by the HPSC, following stand has been taken:

“8. That contents of para no 8 of the writ petition needs no reply, being informative. However, it is submitted that by the proposed amendment, all the posts would be filled up through promotion only. In case the amendment is allowed, there would be monopoly of the department and the candidates, who aspire to become Sub-Divisional Officers and having high caliber through direct recruitment, would lose the said opportunity to become a Class-I officer. In any case, by permitting the said amendment in the Rules, the posts would be taken away from the purview of the Commission as well. It is submitted that in case there is no recruitment to the posts by way of direct recruitment then a complete un- fettered monopoly of employees in line of promotion would be there, without there being any opportunity for deserving and brilliant candidates, who work in the various fields, to realize their potential by skipping the queue and become a Class-I officer on their own merit by passing a competitive exam. In case the said avenue is taken away, then there would be no competition at all. Further, it is submitted that the State Government seems to have accepted the said refusal on part of the Commission, as is evident from the fact that the State Government had further sent requisition for additional 5 posts.”

5. A collective reading of the stand taken by the State vis-à-vis, the HPSC, it does appear that on one hand, State had

recommended for an amendment to the service Rules and on the other hand, onus has been shifted on HPSC. Allegedly, the recommended amendment has been stalled for lack of approval by the HPSC. Not only that, State Government continues to make recruitments in the prescribed ratio of 75: 25, and in the meanwhile it has itself sent requisition to HPSC for making appointments by direct recruitment. Thus by tacit conduct, State Government, instead of exercising its own powers under the law, seems to have shrugged off its responsibility of doing the needful and merely resorted to the ruse of HPSC, having not accorded approval.

6. Be that as it may, no grounds are made out to interfere under extraordinary writ jurisdiction. Writ petition is dismissed. However, petitioners are at liberty to pursue their cause with the State Government.

(ARUN MONGA)
JUDGE

November 16, 2022
vandana

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