

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on :16.08.2022

+ **W.P.(C) 10159/2022 and CM Nos. 29478/2022, 29480/2022 & 29481/2022**

DHARMENDER JOSHI & ORS.

..... Petitioners

versus

THE HIGH COURT OF DELHI AND ORS. Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Tanmaya Mehta and Ms Mallika
B. Arora, Advocates.

For the Respondents : Mr Gautam Narayan and Ms Asmita Singh,
Advocates.

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HON'BLE MR JUSTICE VIBHU BAKHRU

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

VIBHU BAKHRU, J

1. The petitioners state that they are working at different levels of the High Court Establishment and belong to the cadre of Administrative Officers (Judicial)/Superintendents (hereafter also referred to as 'AOJ') and cadre of Court Masters (hereafter also referred to as 'CM'). The respondent nos. 2 to 84 are employed by this Court's Establishment as Private Secretaries (hereafter also referred to as 'PS'). The cadre of PS, AOJs and CM are feeder cadres for the post of Assistant Registrar (hereafter also referred to as 'AR').



2. The petitioners are aggrieved by the ratio of 3:4 between the PS cadre and CM plus AOJ cadre, for promotion to the level of an Assistant Registrar (AR).

3. The post of AR is a selection post. The Delhi High Court (Appointment and Conditions of Service) Rules, 1972 were amended by a Notification dated 15.10.2007 to provide for the allocation of vacancies arising in the post of Assistant Registrar in the said ratio of 3:4 between the cadres (3 for the PS Cadre and 4 for the AOJ plus CM Cadre). Prior to the said notification, the quota for promotion to the post of Assistant Registrar *inter se* PS cadre and AOJ plus CM cadre was 1:2. The petitioners claim that the amendment to the said ratio was premised on an incorrect assumption and *inter se* ratio was fixed earlier on the basis of the cadre strength. They state that the change in the ratio has stifled their promotion prospect and therefore, is liable to be set aside.

4. The petitioners also seek to challenge the creation of twenty additional posts of Private Secretaries, which were created in the year 2005. The petitioners claim that the posts of Private Secretaries to Senior Officers of this Court's establishment were created on an erroneous assumption that the Senior Officers (Registrar), Joint Registrar, Deputy Registrar were entitled to Private Secretaries in parity with officers of a similar rank with the Government of India. They claim that the post of Personal Assistant to the Registrar with the lower pay scale than Private Secretaries to Judges, existed and therefore, there was no requirement for creation of additional posts.



The petitioners are, essentially, aggrieved as creation of additional posts of Private Secretaries has increased the cadre strength of PS, which the petitioners claim would adversely affect their promotional prospect to the posts of Assistant Registrar.

Introduction

5. The first and foremost question to be considered is whether there is any merit in the challenge to the relevant Rules accepting the ratio of 3:4 (PS: AOJ plus CM cadre) on the basis of cadre strength for promotion to the post of Assistant Registrar.

6. Rule 7 of the Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972, as in force prior to 1995, provided for the mode of appointment to the posts as specified in the Schedules thereto. The appointment to the posts of an Assistant Registrar was required to be made by selection on merit from the concerned officers of categories 5, 6 and 7 of Clause I as mentioned in Schedule I to the said Rules. Category 5 is the Category of Superintendents, which was subsequently designated as Administrative Officers (Judicial); Category 6 comprised of CMs; and, Category 7 comprised of Private Secretaries (PS). These constituted the feeder cadres to the posts of AR. In terms of Rule 2(ii) of the Delhi High Court Staff (Seniority) Rules, 1971, read with Schedule II these posts are considered as “*equal status posts*”.

7. On 02.07.1994, the Superintendents (AOJs) and Court Masters (CMs) submitted a Representation stating that there was an imbalance



in promotion to the posts of Assistant Registrar. At the material time, selection process had been initiated for filling up five vacancies that had arisen in the post of AR. The Superintendent (AOJs) and CMs apprehended that the said posts would be filled by promoting Private Secretaries. The said representation was considered by a Committee (Justice Lahoti Committee) constituted by the Hon'ble Chief Justice of this Court. The said Committee held that there should be equitable representation of Superintendents (AOJs), Court Masters and Private Secretaries while selecting officers to the higher posts of Assistant Registrar. The Committee recommended that the relevant Rules be, accordingly, amended.

8. The proposed amendments were considered by Justice Lahoti Committee on 26.07.1995. The Committee modified its recommendations made earlier and recommended that for the posts of promotions to AR, two separate seniority lists be maintained. One comprising of Private Secretaries and the other being a Joint Seniority List of officers holding the posts of Superintendent and Court Masters. In regard to rotation of vacancies, the Committee recommended that the first vacancy to the post of AR be filled from the category of Private Secretary and the second and third vacancies be filled from the list of officers holding the post of Superintendents and Court Masters. It was recommended that the said amendments be made effective with retrospective effect from 01.07.1993.



9. The said recommendations were accepted and Schedule II to the Rules to the Delhi High Court Staff (Seniority) Rules, 1971 was amended. The relevant extract of the amended Rule read as under:

“AMENDMENT IN SCHEDULE II

S.No.	Category of Post	Minimum Qualification	Mode of Appointment
1.	2.	3.	4.
3.	Assistant Registrar (Selection Post)		By selection on merit from confirmed officers of the category 5, 6 & 7 of Class II mentioned in Schedule I by rotation in the following manner:- (a) First vacancy shall be filled in from the officers of category 7 of Class II mentioned in Schedule I (Private Secretary). (b) Second and third vacancies shall be filled in from the officers of categories 5 & 6 of Class II mentioned in Schedule I (Superintendent and Court Masters) and so on. For the purposes of



			selection, two seniority lists, one of the officers of category 7 of Class II mentioned in Schedule I (Private Secretary) and other jointed seniority list of officers of categories 5 & 6 of Class I (Superintendent and Court Master) shall be maintained.
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Provided that if there be no officer available or found not fit for promotion out of the officers falling in consideration zone in any one of the above said categories, the vacancy may be filled from the other category by rotation as above subject to adjustment at the future selection/selections but without prejudice to the seniority of the person (s) already appointed.

The above amendment shall come into force w.e.f. 01.03.1993.”

10. The said amendment was impugned by certain Private Secretaries by filing a Writ Petition (being ***W.P.(C) No.2944/1995*** captioned “***A.K. Mahajan and Anr. v. The Hon’ble Chief Justice and Ors.***”). After the appointments were made, another officer holding the post of Private Secretary filed a writ impugning the Notification dated 07.08.1995 being ***Writ Petition No. 500/1996*** captioned “***S.D. Sharma v. Hon’ble Chief Justice&Ors.***”. The petitioners confined their challenge to the amended Rule to the extent that it was brought in force retrospectively. The said writ petitions were allowed by a



common order dated 01.03.2001 by a Division Bench of this Court and the Court quashed the retrospective operation of the impugned Rule. In another words, the Court directed that the impugned Rule would be applied prospectively.

11. The Establishment of this Court successfully appealed the said order before the Supreme Court. On 15.05.2009 the Supreme Court held that there was no benefit that was taken away from any employee on account of the retrospective operation of the said Rule. It reiterated that promotion was not a right of an employee. Whilst to be considered for promotion is a right of the employee; it would not amount to a benefit. The Court further observed that a mere chance of promotion being affected would be inconsequential. Accordingly, the Supreme Court upheld the amended Rule, as framed, with retrospective effect.

12. On 08.11.2004, the Private Secretaries made a Representation to the Hon'ble Chief Justice that the relevant Rules be amended to provide that the promotion to the posts of AR be made from a Joint Seniority List of the three categories: PS, AOJ and CM as was the existing Rule prior to the amended Rule 3 of Schedule II of the Delhi High Court (Appointment and Condition of Service) Rules, 1972 coming into force.

13. Some AOJs made a counter representation dated 07.02.2006 seeking to contest the request made by the Private Secretaries for a



Joint Seniority List for the purpose of promotion to the post of Assistant Registrar.

14. The aforesaid representations were considered and rejected by a Committee (referred to as ‘Justice Thakur Committee’). The Report of Justice Thakur Committee was placed before the then Acting Chief Justice of this Court. The said Report was not accepted and the matter was remanded to the Committee for being considered afresh. The Hon’ble Acting Chief Justice’s note dated 15.11.2006 is relevant and set out below:-

“The report has been perused. The rules regarding promotion to the post of Assistant Registrar were amended on 7.8.1995 pursuant to the recommendation of a Committee comprising Justice P. K. Bahri and Justice R. C. Lahoti. Prior to amendment in 1995, a common seniority list was maintained of officers in the feeder cadre viz. Court Masters/Superintendents [now Administrative Officers (Judicial)]/Private Secretaries. Amendment was made at that time on the representation made by Court Masters/Superintendents [now Administrative Officers (Judicial)] seeking rota on the basis of the strength of Private Secretaries which was only 36 as against the combined strength of Court Masters/Superintendents[now Administrative Officers (Judicial)] of 61 (Superintendents 30, Court Masters 31).

It seems that the Committee in its present report has somehow not taken note that the strength of Private Secretaries has now increased from 36 to 61 whereas the combined strength of Court Masters/Administrative Officers (Judicial) is only 74. This aspect needs to be re-looked by the Committee. As such, the report is referred back to the Committee comprising Justice T. S. Thakur and Justice B. N. Chaturvedi. Since Justice S. Ravindra



Bhat who was a member of the said Committee has recused himself, Justice Sanjay Kishan Kaul is nominated as a member of the said Committee in his place. The Committee should reconsider the whole matter and submit its report preferably within a period of one month.”

15. While the matter was pending, some of the AOJs also made a further representation dated 23.08.2007 to counter the representation made by the Private Secretaries.

16. Justice Thakur Committee (which was in the meantime re-constituted), once again, considered the matter relating to promotion to the post of Assistant Registrars. The Committee was of the view that the ratio of 1:2, as fixed between the cadres of Private Secretaries and Court Masters/AOJs on the recommendation of Justice Lahoti Committee, was referable to the cadre strength of the feeder cadres. Justice Thakur Committee noted that there had been a material change in the strength of the feeding cadres. The cadre strength of Private Secretaries had increased from 36 to 61 and that of Court Masters/Administrative Officers (Judicial) had increased from 61 to 78. The Committee felt that that ratio between the two cadres (PS and AOJ + CM) broadly worked out 3:4 as against 1:2 that had existed in the year 1995. The Committee felt that in the circumstances, a proportionate allotment of vacancies in the cadre of Assistant Registrar would be “*the most fair and equitable thing to do*”.

17. It is material to note that before the Committee, representatives of both the cadres acknowledged that if the vacancies in the post of



Assistant Registrar were filled from the two feeder cadres (PS and AOJ+CM) based on their proportionate strength, it would solve the problems for all times. This was recorded by the Committee in its Report (minutes of the meeting held on 15.09.2007). It also proposed a further amendment to the Rule 3 of Schedule II of Delhi High Court Establishment (Appointment and Condition of Service) Rules, 1972.

18. The said report was accepted and the relevant rule (Rule 3 of Schedule II) was amended by a notification dated 05.10.2007. The said notification is set out below:-

“High Court of Delhi : New Delhi

No. 257/Estt./E1/DHC
Dated 5.10.2007

Notification

In exercise of the powers vested in him by Article 229 of the Constitution of India, Hon’ble the Chief Justice of this Court hereby makes the following amendment in item No.3 of Schedule-II of Delhi High Court Establishment (Appointment and Conditions of Service) Rules 1972, namely:-

AMENDMENT IN SCHEDULE II

The existing item No.3 shall be substituted as under:-

S. NO.	CATEGORY	MINIMUM QUALIFICATIONS PRESCRIBED FOR APPOINTED TO THE POSTS	MODE OF APPOINTMENT
3	Assistant Registrar	-	By selection on merit from confirmed Officers



			of (Selection Post) the Categories 5, 6 and 7 of Class II mentioned in Schedule I in the ratio of strength of the Cadres of the Officers of Category 7 of Class II mentioned in Schedule I (Private Secretary) and from the Officers of the Categories 5 and 6 of Class II mentioned in Schedule-I (Administrative Officer (Judicial) and Court Master). The first vacancy shall be filled in from the Officer of Category 7 of Class II mentioned in Schedule-I (Private Secretary) and thereafter by rotation dependent on the strength of the Cadres. Provided that if there be no officer available or found fit for promotion out of the officers falling in consideration zone in any one of the above said categories, the vacancy may be filled from the other category by rotation as above subject to adjustment at the future selection/selections but without prejudice to the seniority of the person(s)
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			already appointed.
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Note : The above amendment shall come into form with effect from 1.10.2007.

EXPLANATIONS:

1. The vacancies available prior to coming into effect the above amendment will be filled in by the pre-amended rule.
2. The present cadre strength of Private Secretaries and Admn.Officer (Jud.)/Court Master is 61 and 78 respectively. Thus, the rotation of the vacancies in the cadre of Assistant Registrar will be filled in the ratio of 3 (PS): 4(AOJ/CM); that is first vacancy from PS, second from AOJ/CM, third from PS, fourth from AOJ/CM fifth from PS and sixth and seventh from AOJ/CM and so on and so forth.

By order

Sd/-
(Ajit Bharihoke)
Registrar General”

Submissions

19. Mr. Mehta, learned counsel appearing for the petitioner, submits that Justice Thakur Committee’s Report had proceeded on an erroneous premise. Justice Lahoti Committee’s Report had fixed a ratio of 1:2 on the basis of the cadre strength of Private Secretaries and AOJs/CMs. He submitted that the ratio 1:2 was fixed on equitable basis with a view to address the concerns of AOJs (then known as Superintendents)/ CMs. He submitted that the cadre strength of two streams cannot be a sole basis. Therefore, fixing a ratio of 3:4 was arbitrary and liable to be set aside. He referred to the decision of the Supreme Court in *Dwarka Prasad & Ors. v. Union of India (UOI) &Ors.: (2003) 6 SCC 535*, in support of his contention.



20. On a pointed query from this Court that the representatives of AOJs/CMs had consented to fill up the vacancies for the post of Assistant Registrar in the ratio of their cadre strengths of PSs and AOJs/CMs. Mr. Mehta submitted that there could be no estoppel against fundamental rights.

21. Next, he submitted that creation of twenty additional posts of Private Secretaries to Senior Officers and equating them to the Post of Private Secretaries to Judges was arbitrary. He stated that the Hon'ble Chief Justice had ignored that a post of PA to Registrar, with a low pay scale, existed and there was no requirement to create additional posts. He also submitted that PS to Officers could not be equated to the Post of PS to Judges.

Conclusions.

22. This Court finds no ground to set aside the impugned rule (Rule 3 of Schedule II of Delhi High Court Staff (Seniority) Rules, 1971. There is no dispute that the posts of PS, AOJs and CMs are posts of equal status. The post of Assistant Registrar is a selection post and the vacancies are required to be filled by officers holding the post of PSs, AOJs and CMs.

23. Undisputedly, the cadre strength of relevant feeder cadres is a relevant consideration for determining allocation of vacancies to be filled up in the promotional post. Under Article 229 of the Constitution of India, the Chief Justice is empowered to make the rules as to appointment of officers and employees of High Court. The



amendment of the rules can by no stretch stated to be arbitrary or violative of Article 14 or 16 of the Constitution. The question as to how promotional post ought to be filled is a matter be determined by the Employer. Merely because the petitioners feel that there ought to be another basis for filling up the vacancies in the post of Assistant Registrar, it is clearly no ground to accept the same.

24. Mr. Mehta submissions rests on the premise of Justice Lahoti's Committee that it had not recommended the ratio of 1:2 on the basis of cadre strengths of PSs and AOJs/CMs. He drew the attention of this Court to the minutes of the meetings of Mr. Lahoti's Committee held on 19.04.1995 and 26.07.1995. He submitted that Justice Lahoti's Committee had recommended the ratio 1:2 with a view to mitigate frustration among the officers holding the post of Superintendents/Court Masters and in the interest of service; and not on the basis of the cadre strength of the Private Secretaries, Court Masters and Superintendents (AOJs).

25. It is material to note that Justice Lahoti's Committee had made a recommendation to alleviate the grievance of Court Masters/Superintendents that Private Secretaries calling a lion's share of the senior post. Justice Lahoti's Committee had examined the record and found that the vacancies of Assistant Registrars had been filled in greater proportion from the cadre of Private Secretaries than from categories of Superintendents/Court Masters. It is apparent that the recommendations made by Justice Lahoti's Committee were to correct the imbalance in filling the vacancies of Assistant Registrar



disproportionate to the respective cadres of Private Secretaries and Superintendents/Court Masters. Thus, the contention that Justice Thakur's Committee had erred in assuming Justice Lahoti's Committee had recommended the ratio of 1:2 to fill the vacancy (PSs:AOJs/CMs) on the basis of cadre strength is unpersuasive.

26. In any view of the matter, the impugned Rule (Rule 3 of Schedule II of the High Court Establishment (Appointment and Conditions of Service) Rules 1972) cannot be set aside on the ground that it is arbitrary or violates any right of the petitioner.

27. It is also material to note that the present petition is highly belated. The petitioners seek to challenge the amended rule that was notified on 05.10.2007 and came into force with effect from 01.10.2007. A large number of AOJs cum CMs were appointed after the amended rule came into force and they were fully aware of the conditions of the service at the time of appointment.

28. It is also material to note that a representation of AOJs and Court Masters for seeking a modification in the ratio of 3:4 (3 for PSs and 4 for AOJs/CMs) was also considered by another Committee headed by Justice Sanjeev Khanna (Justice Sanjeev Khanna's Committee). The said committee had also considered the representation and rejected the same.

29. Recently, another Committee, headed by Justice V. K Rao (Rao's Committee) had reviewed the representations made by the petitioners. The said Committee had, after considering the Reports



submitted by the various Committees, found no merit in the representation made by the petitioners.

30. This Court is not required to examine relative merits or demerits of the rule in question. The scope of examination is limited to whether the amendment to of Rule 3 of Schedule II of the High Court Establishment (Appointment and Conditions of Service) Rules 1972, falls foul of Article 14 or 16 of the Constitution of India or violates rights granted to the petitioner. As stated above, this Court is unable to accept that the impugned rule violates any of the rights granted to the petitioner.

31. Mr. Mehta had referred to paragraph no. 16 of the decision of the Supreme Court in ***Dwarka Prasad & Ors. v. Union of India (UOI) & Ors.*** (*supra*). On the strength of the said decision, he submitted that mere cadre strength of the feeder cadre could not be the sole criteria for allocation of vacancies in the promotional post of Additional Registrar and the quota of 3:4 for filling up vacancies in the post of Additional Registrar was, thus, amenable to challenge.

32. The aforesaid contention is unmerited. The reliance placed on ***Dwarka Prasad & Ors. v. Union of India (UOI) & Ors.*** (*supra*) is also misplaced. It is relevant to refer to paragraph 16 of the said decision, which reads as under:

“16. Fixation of quotas or different avenues and ladders for promotion in favour of various categories of posts in feeder cadres based upon the structure and pattern of the Department is a prerogative of the



employer, mainly pertaining to policy making field. The relevant considerations in fixing a particular quota for a particular post are various such as the cadre strength in the feeder quota, suitability more or less of the holders in the feeder post, their nature of duties, experience and the channels of promotion available to the holders of posts in the feeder cadres. Most important of them all is the requirement of the promoting authority for manning the post on promotion with suitable candidates. Thus, fixation of quota for various categories of posts in the feeders cadres requires consideration of various relevant factors, a few amongst them have been mentioned for illustration. Mere cadre strength of a particular post in feeder cadre cannot be a sole criteria or basis to claim parity in the chances of promotion by various holders of posts in feeder categories.”

33. It is apparent from the above that the Supreme Court had held that employees could not claim parity in the chances of promotion solely on the basis of the strength of a particular post in the feeder cadre. This is not an authority for the proposition that the cadre managing authority cannot take into account the cadre strength for fixing a quota of feeder cadre for filling vacancies in promotional posts. It is well settled that the question of fixation of quota in the promotional posts is a matter of policy to be decided by the employer and therefore would not be amenable to judicial review except on the ground that the same is arbitrary or violative of any of the rights guaranteed by the Constitution. In ***Dwarka Prasad & Ors. v. Union of India (UOI) & Ors.*** (*supra*), the Supreme Court reiterated the same and observed that fixation of quotas for different avenues of promotion in favour of various categories of posts in feeder cadres is a



prerogative of the employer and a matter pertaining to policy making field.

34. This Court is also unable to accept that the quota of 3:4 has been fixed disregarding the other considerations such as suitability of candidates from the feeder cadre to fill up vacancies or proportional avenues. The Rule 3 of Schedule II of the Delhi High Court Staff (Seniority) Rules, 1971 was amended keeping in view the promotional avenues for candidates for various cadres. Fixation of the quota is a matter pertaining to the structure of the organization and clearly a matter of policy, which cannot be interfered with.

35. The next question to be examined is whether the creation of additional post of Private Secretaries is required to be interfered with.

36. In meeting held on 17.11.2005, the Administrative Committee of the establishment of this Court directed the Registrar General to examine as to the requirement of further posts of stenographers.

37. The Registrar General in its Report recommended creation of 25 posts of Private Secretaries, which included 20 posts of Private Secretaries for officers and 5 for Judges of this Court. In addition, the Registrar General also recommended creation of post of SPAs and PAs. The Report indicates that the post of the Registrar General was considered as equivalent in rank to the Special Secretary to the Government of India; the post of Registrars was equivalent to the rank of Additional Secretaries to the Government of India; and, the post of



Joint Registrars was equivalent in rank to the Joint Secretaries to the Government of India. The stenography requirements of these officers were, *inter alia*, considered as the basis for recommending creation of additional posts of Private Secretary for the Registrar General, Registrar and Joint Registrars with 10% additional as reserve for leaves. The said Report was accepted and the Administrative Committee resolved to create 25 additional posts for Private Secretaries in addition to 51 additional posts of SPA and 11 additional posts of PA.

38. Mr. Mehta contended that post of Private Secretary to an officer cannot be equated with a post of the Private Secretary to a Judge of this Court. It is pointed that there also existed a post of SPA to the Registrar, which was at a lower pay grade than a Private Secretary and therefore, the memorandum issued by the Government of India regarding stenographic assistance to various officers could not have been relied upon to create additional 20 posts of PS to officers with an equivalent pay scale that of PS to Judges.

39. The additional posts are created keeping in view the requirement of the establishment. The needs of the establishment are required to be examined by an employer. Under Article 229 of the Constitution of India, the Chief Justice of the Court is empowered to appoint the officers and servants of the High Court. Sub-Article 2 of Article 229 of the Constitution of India, provides that the conditions of service of officers and servants of the High Court may be prescribed



by the rules made by the Chief Justice of the Court. The appointment of Private Secretaries was considered by the Administrative Committee and in exercise of the powers, the Chief Justice had created additional post keeping in view the requirements of the establishment. This Court is unable to accept the contention that creation of additional post of Private Secretaries was not in the interest of the establishment.

40. The question whether a post of Private Secretary to an officer can be equated to a post of Private Secretary to a Judge requires to be considered by taking into account various parameters including the nature of work and responsibility. These factors are required to be considered by the concerned authority (in this case the Hon'ble Chief Justice). Clearly, it is not open for the petitioner to question the creation of additional posts, which is within the powers of Chief Justice of this Court.

41. It is relevant to refer paragraph 10 of the judgment of the Supreme Court in *P.U. Joshi & Ors. v. Accountant General, Ahmedabad & Ors.*: (2003) 2 SCC 632. The same reads as under:

10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the



limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/substruction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”

42. The question of creation of posts is a matter of policy and unless the Court finds the same violates of any of the rights guaranteed by the Constitution or any statute, the creation of additional posts cannot be interfered with.



43. It is also relevant to note that additional posts had been created over 14 years ago. Certain AOJs/CMs had filed a writ petition, *inter alia*, impugning the creation of additional 25 posts. However, the said petition was subsequently withdrawn on 01.11.2017. Although the petitioner was granted liberty to agitate the grievance in regard to the order dated 22.03.2017 rejecting their representation, it is relevant to note that the present petition has been filed more than four years after the petition was withdrawn.

44. This Court finds no merit in the petitioners' challenge. This Court is unable to accept that the petitioners' can question the decision of the Hon'ble Chief Justice regarding need for creation of additional post. The petitioners' challenge to the creation of the additional post, is rejected.

45. This Court is also of the view that the present petition is insubstantial and an unjustified imposition on judicial time. Although this Court is inclined to impose costs, this Court is refraining from doing so.

46. The petition is, accordingly, dismissed. All pending applications are disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

AUGUST 16, 2022
RK/Ch