

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-11572-CWP-2023 in/and
CWP-4905-2022 (O&M)
Date of Decision: 26.07.2023

Anju Bala and others
..... Petitioners

Vs.

State of Punjab and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Vinod Kumar Sharma, Advocate
 for the petitioners.

Mr. Paramjit Batta, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The case was put up today as *CM-11572-2023* has been filed by the petitioners praying for restraining respondent No.3 from making promotions from the posts of Senior Assistants to the post of Superintendent Grade-II.
2. On the request of the learned counsel for the petitioners, the main case is taken on board today itself and is heard on merits.
3. Learned counsel for the petitioners submits that the respondents do not have the power to re-designate the post of Sub Divisional Assistant to the post of Superintendent Grade-II (Revenue) and the post should have been re-designated only as Superintendent Grade-II (General).
4. On account of the change of designation from Superintendent Grade-II (General) to Superintendent Grade-II (Revenue), the avenues of

promotion of the petitioners have been affected. The petitioners do not have the experience of working in Revenue and therefore in terms of Rule 9 (b) of the Rules governing the promotion to the post of Superintendent Grade-II, the petitioners would be denied consideration.

5. Learned counsel submits that if the order of year 2014 would have been kept intact, treating re-designation of Assistants to the post of Superintendent Grade-II (General), the promotion would have been awarded to the petitioners in terms of Rule 9(c) of the Rules.
6. Learned counsel submits that unless the Rules are amended, the power of re-designation is not available to the respondents.
7. I have considered the submissions.
8. A look at Annexure P-3 reflects that on 12.08.2014, a decision was taken by the Government of Punjab to upgrade the post of Sub Divisional Assistants to Superintendent Grade-II in the offices of all Sub Divisional Magistrates in the State.
9. While upgrading, the Government declared that the upgradation of Sub Divisional Assistant (Senior Assistants) carrying existing pay scale of Rs.10,300-34,800+4400 grade pay would be upgraded to the post of Superintendent Grade-II in the pay scale of Rs.10,300-34,800+4800 grade pay.
10. A clarification was thereafter sought whether the post is to be treated as Superintendent Grade-II (General) or Superintendent Grade-II (Revenue).
11. It appears that the issue continued for deliberation before the State Government and ultimately, they took a decision on 10.06.2021 to

re-designate the Superintendent Grade-II (General) post as Superintendent Grade-II (Revenue).

12. It was further clarified vide order dated 07.12.2021 that the posts of Superintendent Grade-II (Revenue and Record) as re-designated, shall be filled by way of promotion in terms of the provisions contained in Rule 9(b) of the Punjab District Service (Class-III) Rules, 1976.
13. The contention of learned counsel for the petitioners, if taken to a logical end, would mean that the petitioners would be satisfied if the re-designation is done to the post of Superintendent Grade-II (General) and not to Superintendent Grade-II (Revenue), which would in turn falsify the argument raised by learned counsel that such re-designation could only be done by making amendment in the Rules. A person cannot be allowed to *approbate and reprobate* at the same time.
14. Merely by re-designation, question still arises whether rules are required to be amended.
15. In the opinion of this Court, the Rules govern the method of appointment and promotion, and general conditions governing the cadre. However, certain number of posts or all posts in a cadre may be upgraded to a higher grade of pay, and for that purpose, there is no requirement of amending the rules. It is a policy decision which may be taken by the Government at their own end. The said decision cannot be said to be arbitrary or discriminatory as it covers all the employees working in the department.

16. Grievance raised by the petitioners to treat Superintendent Grade-II (re-designated post) as General and not of Revenue and Record, is also without basis.
17. Essentially all the Sub Divisional Assistants who are working in the offices of the Sub Divisional Magistrates in the State have been upgraded. It is not doubted that the said Sub Divisional Assistants (Senior Assistants) working in the Sub Divisional Magistrates perform work of Revenue as the SDM office does the work of revenue and decides revenue matters.
18. In the circumstances, the decision taken to re-designate the post as Superintendent Grade-II(Revenue and Record) instead of Superintendent Grade-II(General) does not warrant any judicial interference.
19. The Writ Petition being devoid of merits is accordingly dismissed.
20. Pending application(s), if any, also stands disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

July 26, 2023

Mohit goyal

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |