

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

**CWP No.4855 of 2023
Date of decision : 17.03.2023**

Kashmir Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. H.C. Arora, Advocate
for the petitioner.

Mr. Sehajbir S. Aulakh, Asstt. Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition filed under Article 226/227 of the Constitution of India, the petitioner seeks writ in the nature of certiorari quashing the letter dated 13th of December, 2021 (Annexure P-4) whereby common seniority list for Class-IV employees working in State Headquarters as well as those working in field units/training centres of Punjab Home Guard and Civil Defence Service has been announced and also for quashing the letter dated 11th of March, 2022 (Annexure P-10) issued by respondent No.3 whereby the claim of the petitioner to promotion from Class IV to Class III in the Headquarter of Punjab Home Guards and Civil Defence Department is alleged to have been declined.

2. Petitioner is working as Class-IV employee at

Headquarters of Punjab Home Guards and Civil Defence Department. Service Conditions w.r.t. promotion are governed by Punjab Home Guards and Civil Defence State Headquarters (Class-III) Service Rules, 1999 (hereinafter referred to as '1999 Rules'). Counsel for the petitioner refers to Appendix 'B' attached to the Rules to submit that 15% quota has to be appointed by way of promotion which as per Rules is to be effected from amongst Class-IV employees who have experience of working as such for a minimum period of five years. Counsel further refers to definition of "service" as enumerated under Rule 2(f) to claim that the service means the service in Headquarters. He further relies upon Appendix 'A' to submit that the Cadres of Clerks are different in headquarters as well as in field offices. He further refers to corresponding entry *viz-a-viz* prescribed qualification for appointment by way of transfer which provides that the same shall be from amongst clerks serving in the field offices of the Department. Ld. Counsel thus submits that when the two qualifications are analyzed in comparison it is evident that the Rule Making Body specified 'field office(s)', wherever they wanted to make the employees working in the field offices eligible. He thus submits that once cadres of field offices and those working in head office are different as per Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 (hereinafter referred to as '1994 Rules'), the seniority has to be drawn

cadre-wise.

3. I have heard counsel for the petitioner and have gone through records of the case.

4. In order to appreciate the arguments raised by counsel for the petitioner it will be apt to peruse relevant provisions as contained in 1999 Rules which read as under :-

“2. Definitions – In these rules, unless the context otherwise requires ;

xxxxx
(f) “Service” means the Punjab Home Guards and Civil Defence (State Headquarters) Class III Service.”
xxxxx

Appendix 'B'
(See Rule 5)

S. No.	Designatio n of the Post	%age by promotion	Appointment		Method, experience and qualification for appointment by-		
			Direct appointment	Transfer			
8	Clerk	15%	--		85%	From amongst the Class IV employees who have experience of working as such for a minimum period of five years	-- From amongst clerks serving in the field offices of the Department

5. Likewise relevant provision that needs to be perused of 1994 Rules reads as under :

“2. Definitions – In these rules, unless the context otherwise requires ;

xxxxx
(g) “Service” means any Class I Service, Class II Service or Class III Service constituted in connection with the affairs

of the State of Punjab;”

6. The Punjab Home Guards and Civil Defence (Field) Class-III Service Rules, 1983 (for short '1983 Field Staff Rules'), which govern the Service Conditions of Class-III employees have also been appended at Annexure P-7/1. Relevant provision thereof reads as under :-

“8. Method of appointment and qualifications – All appointments to the Service shall be made in the following manner :-

xxxxxx

(4) In the case of Clerks. - (i) Ninety per cent by direct appointment from persons who are Matriculates :

Provided that a person to be appointed as Typist shall possess a type writing speed of thirty words in English or Punjabi languages ; and

(ii) Ten per cent by promotion from amongst the Class IV employees, working at State Headquarters or the field offices under the control of the Commandant General who have at least five years experience as such and have passed the Matriculation Examination with Punjabi as one of the subjects and have also qualified in a test in Punjab Typewriting at the speed prescribed by the Subordinate Services Selection Board, conducted by the Appointing Authority or any such authority to whom powers for doing so are delegated by the appointing authority.”

7. Combined reading of 1983 Field Staff Rules as well as 1999 Rules which are applicable to the employees working in Class-III service in headquarters shows that there is no exclusion of Class-IV

employees working in field staff for promotion as Clerks in the headquarters and *vice-versa* i.e. the Class-IV employees working at State headquarters are eligible to be promoted as Clerks in the field staff as well.

8. Contention raised by counsel for the petitioner w.r.t. no specific inclusion of Class-IV employees working in the field staff in the 1999 Rules for consideration for promotion to the post of Clerk in the headquarters is double-edged and rather cuts against him as well. This Court cannot lose sight of the fact that there is no specific exclusion and the fact that 1983 Rules provide that the Class-IV employees working at State Headquarters are also eligible to be considered for promotion as Clerks in the field offices further makes it clear that the Class-IV employees working with the Department irrespective of their place of posting whether it be State Headquarters or field offices have been made eligible for consideration for promotion as Clerks. Any interpretation of 1999 Rules to hold that the Class-IV employees working in the field staff are excluded from the zone of consideration for promotion as Clerks in the headquarters will amount to adding word to the Rules which definitely while exercising jurisdiction under Article 226/227 of the Constitution of India this Court cannot.

9. So far as the plea raised by counsel for the petitioner w.r.t.

separate cadre is concerned i.e. the cadre of Clerks i.e. Class-III, he has not been able to point out any provision in the Rules which separates the cadre of Class-IV employees working in headquarters and that in field staff. The plea based upon 1999 Rules is also misplaced as 1999 Rules apply to Class-III employees and not to Class-IV.

10. Consequently, finding no merit in the present writ petition, the same is dismissed.

March 17, 2023		(PANKAJ JAIN)
Dpr		JUDGE
	Whether speaking/reasoned :	Yes/No
	Whether reportable :	Yes/No