

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

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CWP No.11633 of 2021

Date of decision:27.04.2023

Renu and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Amit Jhanji, Sr. Advocate with
Mr. Shashank Shekhar Sharma, Advocate
for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana
for the respondents.

SUVIR SEHGAL, J. (Oral)

1. Petitioners have invoked a writ jurisdiction of this Court *inter alia* for commanding the respondent-authorities to consider their case for promotion to the post of Senior Accounts Officer against vacancies under the Haryana Accounts (Group-B) Service Rules, 1982 (for short “the old rules”) by exercising the power of relaxation. Another prayer has been made for directing the respondent-authorities to consider the case of petitioners No.4 and 5 for notional promotion from the post of Assistant Treasury Officer to Treasury Officer with retrospective effect i.e. 11.10.2017.

2. Factual matrix leading to filing of the petition deserves to be noticed. Petitioners were appointed as Assistant Treasury Officers in the Department of Treasuries and Accounts, Haryana on the recommendation of the Haryana Public Service Commission, vide memo dated 29.11.2004

(Annexure P-1). At that time, their services were governed by the old rules and on fulfilling of the condition regarding six years experience, they became eligible for promotion to the post of Treasury Officer. However, vide notification dated 28.03.2013, Haryana State Accounts Service (Group-B) Rules, 2013 (for short “the new rules”) came into force. By office order dated 21.06.2016 (Annexure P-5), petitioners No.1 to 3 and by order dated 19.09.2016 (Annexure P-6), petitioners No.4 and 5 were promoted as Treasury Officer. However, their cases for further promotion have not been considered.

3. Upon notice, writ petition has been contested by respondents by filing a reply.

4. Learned senior counsel for the petitioners has contended that four senior officers namely, Mithilesh Kumar Gupta, Sanjay, Rajeev Kumar and Rakesh Kumar were appointed as Treasury Officer, vide letter dated 29.11.2004 (Annexure P-2). Despite the fact that they became eligible for further promotion to the post of Senior Accounts Officer, they repeatedly gave it up as is apparent from Annexure P-3. Counsel submits that after coming into force the new rules, they filed a writ petition challenging the eligibility criteria and by order dated 19.09.2016 (Annexure P-6), a Division Bench of this Court turned down the challenge but granted the liberty to the petitioners to approach the respondent-authorities to seek relaxation of the rules. He submits that on the basis of their representations, the authorities by order dated 11.10.2017 (Annexure P-7) granted them relaxation and promoted them to the post of Senior Accounts Officers under the old rules.

He submits that the petitioners are claiming parity with the said seniors. Counsel has pointed out that nine vacancies on the post of Senior Accounts Officers were available till 30.04.2019, which have now increased to 12. Learned senior counsel submits that new rules prescribe three years experience as Accounts Officer, or three years experience as Treasury Officer and passing of Haryana State Accounts Service Examination (for short "HSASE"), for promotion to the post of Senior Accounts Officer. Upon instructions, learned senior counsel has made a categorical assertion that even though one of the essential eligibility requirement for promotion as Senior Accounts Officer is passing of HSASE, however, no examination has been held from 2013 to 2023 and notification has now been issued for the holding of the examination but no date has been fixed.

5. Learned senior counsel submits that the petitioners have submitted representations (Annexure P-11) on 10.10.2019, which are pending with respondent No.1.

6. Controverting the arguments addressed on behalf of the petitioners, State counsel submits that the petitioners have not acquired the qualification for promotion to the post of Senior Accounts Officer under the new rules. It has been submitted that at the time of promulgation of new rules, 07 posts of Senior Accounts Officer were vacant. He has tried to distinguish the case of their seniors by submitting that they have been granted promotion vide order (Annexure P-7) under the old rules in compliance of the order passed by this Court.

7. Be that as it may, it cannot be disputed that the seniors have

been granted promotion under the old rules and some vacancies in the promotional posts were available when the new rules came into force. Considering the fact that HSASE has not been conducted for the last more than a decade and representations submitted by the petitioners seeking relaxation from clearing the examination are pending, it will be in the fitness of things that a direction is to be issued to respondent No.1 to consider the representations.

8. In view of the above, writ petition is disposed of with a direction to respondent No.1 to examine the representation (Annexure P-11) submitted by the petitioners within a period of four months from the date of communication of copy of this order keeping in view the background as well as the orders passed by this Court. In case respondent No.1 finds that request made by the petitioners does not deserve to be accepted, an administrative order be passed giving reasons for rejection and in case respondent No.1 accedes to the request of the petitioners, necessary orders be passed within the aforesaid period.

April 27, 2023

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No