

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-21860-2010  
DECIDED ON:30.10.2023

MADAN LAL AND ORS.

.....PETITIONERS

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gunjan Mehta, Advocate  
for the petitioners.

Mr. Sandeep Singh Mann, Addl. AG, Haryana.

Mr. Udit Garg, Advocate for respondent No.2.

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SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the order dated 30.08.2010 (Annexure P-10), whereby the representation of the petitioners for claiming seniority over and above the private respondents No.3 to 43, who have been promoted from amongst Class-IV employees against the promotion quota as stipulated in the Haryana State Agricultural Marketing Board Service Rules, 1974 (hereinafter referred to Service Rules Act) to be 20 % has been dismissed.

2. The challenge in the said order is primarily and solely on the ground that they have usurped the quota of direct recruitments, which is prescribed as per Rule to the extent of 80%.

3. When countered with the said query, learned counsel for respondent

No.2 could not refer to any clarification to that effect from his written statement, but

only plea raised before this Court that the deemed date promotion to the private respondents No.3 to 43 was granted w.e.f. 01.04.1982 on which date, the petitioners were not even in service, who joined the services in January 1990, as is evident from a chart (Annexure P-4) prepared by the petitioners reflecting seniority of their cadre.

4. Be that as it may, in any case, admittedly the details of cadre strength is not available with the respondents and has also not been considered in the right earnest, while passing the speaking order. In fact, the whole record ought to have been examined before passing the order dated 30.08.2010 (Annexure P-10), which was in pursuance to the directions passed by this Court vide order dated 19.05.2010 in CWP-9306-2010, the issue in hand had been decided in a very casual manner, despite recording that from the record it is evident that method of recruitment is that 80 % of the posts are to be filled by direct recruitment, whereas 20 % posts are to be filled by promotion from the 4<sup>th</sup> class employees. Even the employees in the promotional quota has been admitted to be exceeded due to modification of eligibility grade for promotion by the Board in the year 1989 on account of promotion of Class-IV employees of Marketing Committees as Clerk/Arrival Recorder/Care Take/Storekeeper provided that they passed the typing test with the requisite standard.

5. Though, the observations made in the order passed by the Chief Administrator, which is under challenge before this Court, even the legal position is not discussed properly. It may be a case, where correct picture of the cadre strength and the rules might not have been informed to the Courts at that stage and in any case, the service condition of an employee, who is regulated by specific Service Rules framed for the said purpose, are to be strictly adhered to within those parameters, the authorities ought to have been examined the case thoroughly on the

well as the direct quota as per the ratio provided in the Service Rules, which is totally absent in this case and as such the order dated 30.08.2010 (Annexure 10) is actually cryptic and not justifiable.

6. At this stage, Mr. Udit Garg, Advocate for respondent No.2, who submits that the respondent-Board will decide the case afresh, after considering the record and the observations made herein after strictly adhering to Rules governing the service condition in the said cadre, as per prescribed quota.

6. In the light of above, order dated 30.08.2010 (Annexure P-10) is set aside.

7. Respondent No. 2 is directed to decide the case afresh within a period of two months from the date of receipt of certified copy of this order.

8. A copy of order so passed be supplied to the petitioners within one week thereafter, who shall be at liberty to challenge the same, if still any grievance is left out.

9. The petition stands disposed off in the aforesaid terms.

(SANDEEP MOUDGIL)  
JUDGE

30.10.2023  
Meenu

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |