

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-21233-2020(O&M)

Date of Decision: 30.01.2023.

Dr. Anil Kumar Yadav

...Petitioner.

Versus

The State of Haryana and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Mr. V.K. Jindal, Sr. Advocate with
Mr. Samar Ahluwalia, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Mr. Aditya Gautam, Advocate
for respondent No.4-HPSC.

Ms. Alka Chatrath, Advocate and
Mr. Abhivrat, Advocate
for respondent No.5-UPSC.

M.S. RAMACHANDRA RAO, J.(Oral)

In this writ petition, the petitioner has challenged the order dt.24.11.2020 (Annexure P7) passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh in OA No.060/00524/2020.

The petitioner was appointed as a Medical Officer in the Haryana Civil Medical Services, Class-II (Group-B), on 21.02.2009 (Annexure P1). He was put on probation which he completed on 21.02.2011. He sought appointment by selection to one of the five posts of Indian Administrative Service of Haryana Cadre from Non State Civil

Service Officers in terms of the Indian Administrative Service (Appointment by Selection) Regulations, 1997 which came into effect w.e.f. 01.01.1998. These posts had been advertised through a notification dt.09.06.2020 (Annexure P6) for select list year 2019.

The said Regulations provided for filling up of the posts in the Indian Administrative Service of Haryana Cadre from the Non State Civil Service Officers through appointment by selection for the year 2019 by reference to a committee. Regulation 4 thereof enjoins the State Government to consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State who, (i) is of outstanding merit and ability; (ii) holds a gazette post in a substantive capacity; (iii) has completed not less than 8 years of continuous service under the State Government on the first day of January of year (i.e. 01.01.2019) in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service; and (iv) requires the persons to be below the age of 56 years on 01.01.2019.

Through another notification dt.31.12.1997 issued by the Government of India, the State Government had issued an order dt.11.03.2011 declaring all Group A posts (previously Class-I posts) in all Departments under the Government of Haryana equivalent to the post of Deputy Collector in the State Civil Service for the limited purpose as specified in the above Regulation excluding officers from the State Police Service, State Forest Service, Haryana Civil Service (Judicial Branch) and All Boards, Corporations and other autonomous bodies which are not covered in the definition of State Government.

The State of Haryana had issued another Government order dt.09.06.2020 stating that Officers of Class-I other than those mentioned above whose posts have been declared equivalent to the post of Deputy Collector vide Haryana Government order dt.11.03.2011 and who fulfil all eligibility conditions mentioned above can apply online to the Haryana Public Service Commission on a link mentioned therein from 20.06.2020 upto 28.06.2020.

It was the contention of the petitioner before the Tribunal that his application form was not forwarded for selection to the Indian Administrative Service of Haryana Cadre from Non State Civil Service Officers, pursuant to the Advertisement No.1 dt.20.06.2020 erroneously.

The petitioner contended that when the petitioner was appointed, he was governed by the Haryana Civil Medical Service Class-II Rules 1978 which were replaced by the Haryana Civil Medical Service Group-A, Rules 2014; that on 09.04.1992, the Haryana Government had issued a notification declaring that after satisfactory completion of the period of probation, the members of the Haryana Civil Medical Service Class-II (Group-B) would become members of the Haryana Civil Medical Service Class-I (Group-A); since the petitioner had been appointed on 21.02.2009 in the Class-II Medical Officer position and he satisfactorily completed the period of probation on 21.02.2011, he should be treated as having completed the requisite eight years of continuous service under the State Government taking 21.02.2009 as the starting point; and therefore he is eligible to be considered for selection to the Indian Administrative Service.

He contended that the Department had considered the eligible service from the date of confirmation erroneously in view of the notification dt.04.03.1992, which stood repealed by the 2014 Rules; that said Rules declared the posts of Medical Officer as Class-I (Group-A), and that declaration of the post of Medical Officer as Class-I (Group-A) would relate back to the date of his initial appointment as Medical Officer and not prospectively from 2014.

The respondents refuted the said contentions and insisted that the petitioner had completed his probation as Medical Officer Class-II (Group-B) only on 21.02.2011 and by 01.01.2019 he did not complete eight years of continuous experience in the Class-I (Group-A) post and therefore, he is not eligible.

The Central Administrative Tribunal dismissed the OA holding that a Class-II (Group-B) Officer is not eligible for induction into IAS under the Non State Civil Service quota; that the post of Medical Officer held by the applicant was declared as a Class-I (Group-A) post only under the 2014 Rules, which repealed the 1978 Rules under which the petitioner was appointed as a Class-II (Group-B) Officer; and the service rendered by the petitioner under the 1978 Rules as a Class-II (Group-B) Officer cannot be counted as eligible service for the purpose of appointment to the IAS against the Non SCS quota.

Challenging the said order, this writ petition is filed.

Learned Senior Counsel for the petitioner contended that the Central Administrative Tribunal had erred in rejecting the contention of the petitioner and it ought to have held that the petitioner is eligible for consideration for appointment to the Indian Administrative Service under

the Non SCS quota by counting the period of service rendered in the Class-II (Group-B) service commencing from 21.02.2009 as well since he would then have completed the requisite eight years of continuous service by 01.01.2019.

Learned counsel for the State supported the order passed by the Tribunal.

We have quoted the Regulation 4 of the Indian Administrative Service (Appointment by Selection) Regulations, 1997 which deals with appointments by selection to the Indian Administrative Service of Haryana Cadre from the Non SCS Officers.

Regulation 4(iii) prescribes completion of not less than eight years of continuous service under the State Government on 01.01.2019 in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service.

Admittedly, Class-I (Group-A) posts in all Departments under the Government of Haryana were declared to be equivalent to the post of Deputy Collector in the State Civil Service for the purpose of the above Regulations except Officers from the State Police Service, State Forest Service, Haryana Civil Service (Judicial Branch) etc. only on 11.03.2011.

Thus, only from the date the petitioner occupies a Class-I (Group-A) post, his service is to be treated as service in a post equivalent to the post of Deputy Collector in the State Civil Service.

Admittedly, the petitioner was appointed in Class-II (Group-B) Medical Officer post and only by virtue of the Notification issued on 09.04.1992, he became a member of the Haryana Civil Medical Service Class-I (Group-A) after the satisfactory completion of his period of

probation on 21.02.2011. Thus, his service from 21.02.2009 to 20.02.2011 would be treated as service only in the Class-II (Group-B) post and cannot be counted as service in the Haryana Civil Medical Service Class-I (Group-A) post.

Consequently, the eligibility of the petitioner is to be considered only from 21.02.2011 and the period of service rendered by him in the Class-II (Group-B) post prior thereto cannot be counted at all.

The contention of the petitioner that such service also should be taken into account cannot be countenanced in view of the language used in Regulation 4(iii) which requires such continuous service of eight years under the State Government to be “in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service”.

The petitioner seems to contend that the eight years continuous service should be treated as service rendered in “any Class or Group” provided it is under the State Government as on 01.01.2019 by ignoring the words “in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service”.

The whole of the Regulation should be taken into account and no part of the Regulation should be ignored and rendered otiose as per settled principles of statutory interpretation.

In this view of the matter, we do not find any error committed by the respondents in not considering the case of the petitioner for the post of Indian Administrative Service of the Haryana Cadre advertised on 20.06.2020 from Non SCS Officers.

Therefore, we do not find any merit in the writ petition and it is accordingly dismissed.

All pending applications, if any, stand disposed of accordingly.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

30.01.2023
Komal

Whether speaking/reasoned? : Yes/ No
Whether reportable? : Yes/ No