

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

**CM-2129-CWP-2023
IN/AND
CWP-7063-2017 (O&M)
Date of decision: 27.02.2023**

Dharshan Singh

...Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms. Niharika Gupta, Advocate for the applicant/petitioner

Mr. Gurpreet Singh, Addl. AG, Punjab

Ms. Supriya Garg, Advocate for respondent no.5

ANIL KSHETARPAL, J (Oral)

CM-2129-CWP-2023

1. After hearing the learned counsel representing the applicant and after going through the contents of the application, the same is allowed. The writ petition is restored to its original number and with the consent of the learned counsel representing the parties is taken on Board for final disposal.

Main case

2. During the pendency of the writ petition, the petitioner on attaining the age of superannuation stands retired in April, 2018. He prays for issuance of a writ in the nature of Certiorari to quash the orders passed on 11.04.2016 as well as 30.12.2016. In substance, the petitioner prays for direction to the respondents to consider him for promotion to the post of the Senior Assistant. The entire basis of the petitioner's claim is based on the fact that as per the Punjab Civil Services (General and Common

Conditions of Service) Rules, 1994, Steno-Typists are not entitled to be promoted as the Senior Assistant.

3. On the other hand, the respondents claim that the services of the Class III employees working in the Revenue Department are governed by the Punjab District Services (Class III) Rules, 1976 which do provide that the Steno-Typists working in the Department shall be entitled to promotion as the Senior Assistant in accordance with Rule 9(e), which reads as under:-

“9(e) In the case of Assistant including the post of District Revenue Accountant (Sadar Wasil Baqi Niwas)-

(i) 75 per cent of the posts by promotion from amongst Clerks and Steno-typists of the respective cadres of the district concerned; or
(ii) 25 per cent of the posts by direct recruitment.”

4. Learned counsel representing the petitioner submits that in view of Rule 20 of the 1994 Rules, 1976 Rules shall not be applicable. It is submitted that Rule 20 starts with a non-obstante provision. Hence, 1976 Rules cannot be applied to the case of the petitioner.

5. This Court in **Gurwinder Singh and others vs. State of Punjab and others**’ CWP-12435-2015 decided on 27.01.2023 has examined the overriding effect of Rule 20 of the 1994 Rules over the specific rules framed by the various Departments. It has been held that Rule 20 of 1994 Rules uses a non-obstante provision to a limited extent. It has further been held that 1994 Rules have been given the overriding effect for the limited periods on regulating the recruitment and conditions

of service for appointment to the public service and post in connection with the affairs of the State. The relevant discussion is in paragraphs 18 and 19 of the said judgment, which are extracted as under:-

“18. The second argument of the learned counsel representing the petitioners is with reference to Rule 20 of the 1994 Rules. The same needs to be cautiously examined and interpreted. On a careful reading thereof, it is evident that the various special Rules notified by the specific Departments have not been entirely/completely superseded except to the extent specified in Rule 20. In other words, Rule 20 uses a non obstante provision to a limited extent. The 1994 Rules have been given an overriding effect over the specific Rules of the various Departments only for the limited purpose of regulating the recruitment and conditions of service for appointment to public service and posts in connection with the affairs of the State. In other words, the 1994 Rules are applicable in all the Departments of Punjab only with respect to regulating the recruitment and conditions of service for appointment to public service and posts in connection with the affairs of the State. Moreover, the 1994 Rules, as is evident from the long title are relating to general and common conditions of service. These Rules do not deal with every aspect of service involved in various Departments of the State. Hence, the maxim of generaliaspecialibus non derogant shall be applicable to the facts of the present case.

19. While applying the interpretative tools, the Court is required to give meaning to each word used in the provision. On a plain and logical reading of Rule 20, it is evident that the State Government never intended to supersede the specific Rules which are peculiar to the situations arising in the individual Departments. Otherwise, the State Government could have stated that these Rules shall supersede the pre-existing Rules applicable to the various Departments. It is evident that this was never the intention of the Government. It was for this reason that the Rule 1994 Rules were given an overriding effect only with respect

*to the situations which have been, explicitly, envisaged
in the Rules, itself.”*

6. Keeping in view the aforesaid facts, no ground to issue the writ, as prayed for, is made out.

7. Hence, dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

27.02.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE