

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

CWP-10255 of 2001

Date of decision: 12.03.2024

Nand Lal and another

.....Petitioners

Versus

Pepsu Road Transport Corporation

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - None for the petitioners.

Mr. Anupam Singla, Advocate,
for the respondent.

NAMIT KUMAR, J.

1. Present writ petition has been filed by the petitioners seeking a writ of *mandamus* for directing the respondent-Pepsu Road Transport Corporation (hereinafter referred to as 'the Corporation') to consider the claim of the petitioners for promotion to the post of General Manager under 20% quota under Rule 9 (iv) (c) of the 'Draft Pepsu Road Transport Corporation Officers (Condition of Appointment and Service) Regulations, 1988'. Further a writ of prohibition has been sought, restraining the Corporation from filling up the posts of General Manager, except in accordance with Rule 9 (iv) (c) of the Draft Rules till such time the ratio as prescribed in Rule 9 (iv) (c) is fulfilled in the cadre of General Managers by promotion.

2. Brief facts of the present case, as have been pleaded in the petition, are that the petitioners were working as Legal Advisors in the Corporation. In the instant petition, they are claiming promotion to the

post of General Manager in terms of quota of 20% prescribed under Rule 9 (iv) (c) of the Draft Rules. The respondent-Corporation is incorporated under Section 3 of the Road Transport Corporation Act, 1950 (hereinafter referred to as 'the Act'), hence the Corporation is an independent and autonomous body. As per Section 5 of the Act, the management and business of the Corporation vest in the Board of Directors of the Corporation. Sections 3 to 5 and 45 of the Act read thus: -

"3. Establishment of Road Transport Corporations in the State.

The State Government having regard to

- a) The advantages offered to the public, trade and industry by the development of road transport,*
- b) The desirability of co-ordinating any form of road transport with any other form of transport,*
- c) The desirability of extending and improving the facilities for road transport in any area and for providing an efficient and economical system of road transport service therein,*

May, by notification in the Official Gazette, establish a Road Transport Corporation for the whole or any part of the State under such name as may be specified in the notification.

4. Incorporation.

Every Corporation shall be a body corporate by the name notified under Section 3 having perpetual succession and a common seal, and shall by the said name sue and be sued.

5. Management of Corporation and Board of Directors.

- (1) The general superintendence, direction and management of the affairs and business of a Corporation*

shall vest in a Board of Directors which, with the assistance of its committees and Managing Director, may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

(2) The Board shall consist of a Chairman and such other Directors, being not less than five or not more than seventeen, as the State Government may think fit to appoint.

(3) The State Government may, if it so think fit, appoint one of the other Directors as the Vice-Chairman of the Board.

(4) Rules made under this Act shall provide for the representation, both of the Central Government and of the State Government concerned, on the Board in such proportion as may be agreed to by both the Government and of appointment by each Government of its own representatives thereto and where the capital of a Corporation is raised by the issue of shares to other parties under sub section (3) of section 23, provision shall also be made for the representation of such share-holders on the Board and the manner in which the representatives shall be elected by such share-holders.

(5) The term of office of and the manner of filling casual vacancies among the Directors shall be such as may be prescribed.

xx xx xx xx

45. Power to make regulations

(1) A Corporation may with the previous sanction of the State Government and by notification in the Official Gazette, make regulations not inconsistent with this Act the rules made thereunder, for the administration of the affairs of the Corporation.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely

(a) the manner in which, and the purpose for which, persons may be associated with the Board under section 10,

(b) the time and place of meetings of the Board and the procedure to be followed in regard to transaction of business at such meetings,

(c) the conditions and appointment of service and the scales of pay of officers and other employees of the Corporation other than the Managing Director, the Chief Accounts Officer and the Financial Advisor, or as the case may be the Chief Accounts Officer-cum-Financial Advisor."

3. Learned counsel for the respondent contended that Draft Rules were never approved either by the Board of Directors of the Corporation or by the State Government, hence, no benefit can be claimed on the basis of such Draft Rules. In the year 2007, during the pendency of the writ petition, Rules were again drafted and approved by the Board of Directors but the same were not approved by the State Government. Again in the year 2013, Rules were framed, but not approved by the State Government. He further contended that no Legal Advisor has been promoted as General Manager till date. He further submitted that petitioner No.1 has already retired from service on attaining the age of superannuation on 31.01.2004 and petitioner No.2 has sought voluntary retirement w.e.f. 31.07.2002 and has unfortunately died on 26.09.2002.

4. I have heard learned counsel for the respondent and perused the record.

5. It is well-settled proposition of law that promotion cannot be claimed on the basis of draft rules. In the present case, no Legal Advisor has been promoted to the post of General Manager. Petitioners have already retired from service on 31.01.2004 and 31.07.2002. No legal right of the petitioners has been infringed. Therefore, nothing survives in the present petition and the same is disposed of accordingly.

12.03.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No