



CWP-4304-2016 (O & M)
CWP-8265-2021 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on 04.09.2024
Pronounced on:15.10.2024

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CWP-4304-2016 (O & M)

RAVINDER PAL SINGH AND ORS ...PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS ...RESPONDENTS

CWP-8265-2021 (O & M)

KULVIR KAUR AND ORS ...PETITIONERS

VERSUS

STATE OF PUNJAB AND ORS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Gaurav Chopra, Senior Advocate with
Mr. Karmanbir Singh Kharbanda, Advocate and
Ms. Himani Jamwal, Advocate
for the petitioners (in CWP-8265-2021).

Mr. A.S. Talwar, Advocate and
Mr. A.S. Rawaley, Advocate
for the petitioner (in CWP-4304-2016).

Mr. Maninder Singh, Sr. DAG, Punjab.

**CWP-4304-2016 (O & M)****CWP-8265-2021 (O & M)****-2-****SUDEEPTI SHARMA, J.**

1. Since notification No.G.S.R 51/Const./Art.309/2013 applicable to Punjab Agriculture (Group-A) Service Rules, 2013, is challenged, we shall decide both the petitions vide this common judgment.

2. The petitioners in the present petitions are asking for quashing the Government of Punjab Notification No.G.S.R 51/Const./Art.309/2013 applicable to Punjab Agriculture (Group-A) Service Rules, 2013 dated 26.08.2013, insofar as creation of post titled “Agriculture Extension Officer” (AEO) is concerned, and promotion avenues of the petitioners, who were appointed as Agriculture Sub Inspectors being B.Sc. (Agriculture) degree holders from recognized University under the Punjab Agriculture Department (Field Office) Group-C Service Rules, 2010 dated 01.11.2010 have been curtailed. The petitioners are further praying for direction to the respondents to govern the promotion avenues of the petitioners as were applicable to them at the time of their appointment.

SUBMISSIONS OF THE COUNSEL FOR THE PARTIES

3. Learned counsel for the petitioners contends that with the notification of Punjab Agriculture (Group-A) Service Rules, 2013 whereby Rule 6 has been amended by an amendment in Appendix ‘B’, column No.5 and 6 of Appendix ‘B’ whereby posts of ADOs is to be filled 100% by direct recruitment in column No.5 and post of AEOs is to be filled 100% through promotion from the post of ASIs in column No.6 and there is no further promotional avenues for the post of AEOs whereas for the post of ADOs, there are further promotion avenues to the post of Agriculture Officer and further to higher posts. Therefore, the present petitions be allowed.

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4. Per contra, learned State counsel contended that the service rules were notified in the year 2011 and the Service Rules, 2013 came into effect from 26.08.2013 much before the appointment of the petitioners as the petitioners in the CWP-4034 of 2016 were appointed on 05.02.2013 and the petitioner in CWP-8265-2021 were appointed on 02.11.2016 and now they are estopped from challenging the Rules. Therefore, the writ petitions be dismissed on this ground itself.

5. We have heard learned counsel for the parties and perused the whole record of this case.

6. Brief facts of the case are that the petitioners were appointed as Agriculture Sub-Inspector. Earlier, the post of Agriculture Sub Inspector was governed by Punjab Subordinate Agriculture Service Rules, 1933. Since there were no promotional posts as per Punjab Subordinate Agriculture Service Rules, 1933, a letter dated 19.01.1983 was issued by the Government for promotion from Agriculture Sub Inspectors to Agriculture Inspectors vide notification dated 26.08.1994. The Agriculture Development Officers, Class-III governed under the Punjab Subordinate Agriculture Rules, 1933 were declared as PAS Class-I. The above said letters/notifications were never brought in the relevant rules by way of any amendment and the promotion was being done on the basis of a letter and not through any service rules.

7. Further a perusal of service rules governing Punjab Agriculture Service (Class-I) Rules, 1974 shows that Agriculture Inspectors or Agriculture Development Officers have not been defined in the same as can be seen from Appendix 'A' attached to the Punjab Agriculture Service

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(Class-I) Rules, 1974 and Appendix 'B' as well. The post of Agriculture Inspector was renamed as Agriculture Development Officer.

8. The State of Punjab, Department of Agriculture notified Punjab Agriculture (Group-A) Service Rules, 2013 by repealing the earlier Punjab Agriculture Service (Class-I) Rules 1974 whereby a new post of Agriculture Extension Officer was created.

9. Clause-6 of Appendix 'A' further provided that the appointment to the post of Agriculture Development Officer is 100% through direct recruitment and the eligibility criteria is that the candidate should possess degree in M.Sc. in Agriculture 2nd class from any recognized University or Institution and appointment to the post of Agriculture Extension Officer is 100% through promotion from Assistant Sub Inspector and the eligibility criteria is from amongst the Agriculture Sub-Inspectors/Compost Inspectors/Grading Assistant working under the control of the Director, who have passed Agricultural Sub-Inspectors Training Course from any recognized institution and have an experience of working as such for a minimum period of ten years on the basis of their inter-se seniority prepared on the basis of their length of service in their respective cadres: Provided that preference would be given to the incumbents, who have acquired the qualification of Degree in B.Sc Agriculture from any recognized university or institution..

10. The same is under challenge in the present petitions.

11. There is further amendments vide notification dated 28.11.2016 in Punjab Agriculture (Group-A) Service Rules, 2013 namely Punjab Agriculture (Group-A) (Amendment) Service Rules, 2016.



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12. Punjab Agriculture (Group-A) Service Rules, 2013 is reproduced as under:-

“GOVERNMENT OF PUNJAB
DEPARTMENT OF AGRICULTURE
(AGRICULTURE – I BRANCH)
NOTIFICATION
The 26th August, 2013

No. G.S.R. 51/Const./Art.309/2013.- In exercise of the powers conferred by the proviso to Article 309 of the constitution of India, and all other powers enabling in this behalf, the Governor of Punjab is pleased to make the following rules regulating the recruitment, and conditions of service of persons appointed to the Punjab Agricultural (Group-A) Service, namely:-

RULES

1 to 4. xxx xxx xxx xxx

5. Pay of the Members of the Service.- *The members of the Service shall be entitled to such scales of pay, as may be authorized by the Punjab Government from time to time. The scales of pay, at present, in force are given in Appendix-A .*

6. Method of appointment, qualifications and experience.- *(1) All appointments to the Service shall be made in the manner specified in Appendix B:*

Provided that if, no suitable candidate is available for appointment by Promotion then appointment to the Service shall be made by transfer of a person holding a similar post or an identical post under a State Government or Government of India.



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(2) *No person shall be appointed to a post in the Service, unless he possesses the qualifications and experience as specified against that post in Appendix B.*

(3) *Appointment to the Service shall be made on seniority-cum-merit basis, but no person shall have any right to claim promotion on the basis of seniority alone:*

Provided that in the case of promotion to the post of the Director, the criterion specified in sub rule (I) of rule 18 of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 shall apply and in case the Government feels that no Joint Director of the Administrative Wing is suitable on merit for promotion as Director, it shall then consider the Joint Directors of the other Wings of the Department for promotion to the post of Director Agriculture.

Appendix 'A'

1 to 4. xxx xxx xxx xxx

*5. Agriculture Development Officer 934 934
15600-39100+5400*

*6. Agriculture Extension Officer 233 233 15600-
39100+5400.*



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Appendix 'B'

1 to 4. xxx xxx xxx xxx

5. *Agriculture Development Officer - Hundred percent Direct Appointment- should possess degree in M.Sc. in Agriculture 2nd class from any recognized University or Institution.*

6. *Agriculture Extension Officer - Hundred percent Promotion - From amongst the Agriculture Sub-Inspectors/Compost Inspectors/ Grading Assistant working under the control of the Director, who have passed Agricultural Sub-Inspectors Training Course from any recognized institution and have an experience of working as such for a minimum period of ten years on the basis of their inter-se seniority prepared on the basis of their length of service in their respective cadres:*

Provided that preference would be given to the incumbents, who have acquired the qualification of Degree in B.Sc Agriculture from any recognized university or institution.

13. Punjab Agriculture (Group-A) (Amendment) Service Rules, 2016 is reproduced as under:-

***“PART III
GOVERNMENT OF PUNJAB
DEPARTMENT OF AGRICULTURE***



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(A G R I C U L T U R E - I B R A N C H)
NOTIFICATION
The 28th November, 2016

No. G.S.R. 80/Const./Art.309/Amd.(1)/2016.- In exercise of the powers conferred by the proviso to Article 309 of the constitution of India, and all other powers enabling in this behalf, the Governor of Punjab is pleased to make the following rules further to amend the the Punjab Agricultural (Group-A) Service Rules, 2013, namely:-

RULES

1. xxx xxx xxx xxx

2 (i) xxx xxx xxx xxx

(ii) *in serial No.5, under column 5, for the words “Should possess degree in M.Sc. in Agriculture 2nd class from any recognized University or Institution”, the word “Should possess degree in B.Sc. (Agriculture) (with minimum sixty percent marks) from a recognized University or Institution.*

Provided that preference shall be given to a person, who possesses a degree in M.Sc. (Agriculture) from any recognized University or Institution”, shall be substituted.”

14. A perusal of the record shows that salaries to the post of Agriculture Development Officer and Agriculture Extension Officer are the same as per Appendix ‘A’ attached to Service Rules, 2013.

15. A perusal of the Appendix ‘B’ to Service Rules, 2013 which is reproduced above and amendment in 2016 shows that for the post of ADO

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which is 100% through direct recruitment, a person should possess degree in B.Sc. in Agriculture IInd Class from any recognized University or Institution and the post of AEO, which is 100% through promotion is from amongst the Agriculture Sub-Inspectors/Compost Inspectors/ Grading Assistant working under the control of the Director, who have passed Agricultural Sub-Inspectors Training Course from any recognized institution and have an experience of working as such for a minimum period of ten years on the basis of their inter-se seniority prepared on the basis of their length of service in their respective cadres: Provided that preference would be given to the incumbents, who have acquired the qualification of Degree in B.Sc Agriculture from any recognized university or institution.

16. Therefore, the qualification of both the posts is the same.

17. A perusal of the above further shows that as per the Punjab Agriculture Service (Class-I) Rules, 1974, the Agriculture Sub Inspectors, who have cleared training course can be promoted to the post of Agriculture Extension Officer and the petitioners are chiefly aggrieved by the enactment of entry 6 of Appendix 'A' and entries 5 and 6 of Appendix 'B' and Rule 11 of the 2013 Rules by way of which a new post of Agriculture Extension Officer has been created, the avenues of promotion of the petitioners have been totally curtailed, and the erstwhile rules of service and promotion applicable to the petitioners (1974 Rules) have been repealed.

18. It is relevant to note that the pay- scale of Agriculture Extension Officer and Agriculture Development Officer is the same. As per Rule 6 of Punjab Agriculture (Group 'A') Service Rules, 2013, all the appointments to the service, their method of appointment, qualification and experience shall



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be made in the manner specified in Appendix 'B', which is reproduced as under:-

“Appendix ‘B’

5. Agriculture Development Officer - Hundred percent Direct Appointment- should possess degree in M.Sc. in Agriculture 2nd class from any recognized University or Institution.

6. Agriculture Extension Officer - Hundred percent Promotion - From amongst the Agriculture Sub-Inspectors/Compost Inspectors/ Grading Assistant working under the control of the Director, who have passed Agricultural Sub-Inspectors Training Course from any recognized institution and have an experience of working as such for a minimum period of ten years on the basis of their inter-se seniority prepared on the basis of their length of service in their respective cadres:

Provided that preference would be given to the incumbents, who have acquired the qualification of Degree in B.Sc Agriculture from any recognized university or institution.”

19. The reading of the aforementioned provisions would thus reveal that the promotion avenues of the petitioners, who are B.Sc. Agriculture degree holders (and who are not Diploma holders), have been completely



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curtailed and restricted. Neither the petitioners are any more eligible to be promoted as ADO, since the promotion to said post has been made 100% by direct recruitment, nor the petitioners are eligible to be promoted to the new post of AEO, as that post is only for ASIs who have done training course and who possess minimum ten years' experience. A preference to such ASIs having an additional B.Sc. degree is provided for, but the same does not cover the case of the petitioners who are only B.Sc. degree holders and have not done any training course. Not even the promotional avenues of the petitioner have been completely severed but even the newly created post of AEO, has no promotional avenue.

20. The enactment of the Government of Punjab, Notification applicable to Punjab Agriculture (Group-A) Service Rules 2013 rules curtails completely the promotion avenues of the petitioners. As per the said rules a totally new post of Agriculture Extension Officer (AEO) has been created, which would be a "Group A" post, which has been shown to be equivalent in pay- scale to that of Agriculture Development Officer (ADO). The highest level of promotion of the Agriculture Sub-Inspector (training course) has been curtailed to the said post of Agriculture Extension Officer (AEO).

21. In Council of Scientific and Industrial Research and another versus K.G.S. Bhatt and another, (1989) 4 Supreme Court Cases 635, it has been held as under:-

“8. It seems to us that the submission of counsel for the appellant is not unjustified. Apparently the bye-law



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governs only the promotion of junior scientific and technical staff grade-II who are engaged in the scientific work. One who is "engaged in the scientific work" is alone entitled to the benefit of the bye-law. It is a necessary qualification for being considered for accelerated promotion. A person who is not engaged in the scientific work, therefore, stands excluded from the bye-law. In other words, it has no application to the staff who are doing administrative work. Under the categorisation of jobs, respondent-1 falls under the "administrative" category and therefore, stands excluded from bye-law 71(b)(ii).

9. That then is the scope of bye-law 71(b)(ii). But that does not mean that we should interfere with the relief granted to respondent-1. By pointing out the error that crept into the decision of the Tribunal, we need not to lake to its logical end which will defeat justice. Respondent-1 is not a lay-man. He is a highly qualified engineer. Although joined service with a diploma in Engineering, he later passed Bachelor of Engineering (B.E.) and also acquired M. Tech. degree and one more diploma (D.P.M.). He was however, left without opportunity for promotion for about twenty years. This is indeed a sad commentary on the appellant's management. It is often said and indeed, adroitly, an



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organisation public or private does not 'hire a hand' but engages or employees a whole man. The person is recruited by an organisation not just for a job, but for a whole career. One must, therefore, be given an opportunity to advance. This is the oldest and most important feature of the free enterprise system. The opportunity for advancement is a requirement for progress of any organisation. It is an incentive for personnel development as well. Every management must provide realistic opportunities for promising employees to move upward. "The organisation that fails to develop a satisfactory procedure for promotion is bound to pay a severe penalty in terms of administrative costs, misallocation of personnel, low morale, and ineffectual performance, among both no managerial employees and their supervisors". There cannot be any modern management much less any career planning, man-power development, management development etc. which is not related to a system of promotions. The appellant appears to have overlooked this basic requirement of management so far as respondent-1 was concerned till N.R. & A.S. was introduced."

22. In Dr. Ms. O.Z. Hussain versus Union of India and others,

1990 AIR (Supreme Court) 311, it has been held as under:-



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“This Court, has on more than one occasion, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other Ministries would have the benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers. It is, therefore, necessary that on the model of rules framed by the Ministry of Science and Technology with such alterations as may be necessary, appropriate rules should be framed within four months from now providing promotional avenue for the 'A' category scientists in the non-medical wing of the Directorate.”

23. In State of Tripura and others versus K.K. Roy, (2004) 9

Supreme Court Cases 65, it has been held as under:-

“5. The matter came up for consideration again in Dr.

Ms. O.Z. Hussain Vs. Union of India [1990 (Supp) SCC



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688] wherein this Court in no uncertain terms laid down the law stating:

"...Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other ministries would have the benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers..."

6. It is not a case where there existed an avenue for promotion. It is also not a case where the State intended to make amendments in the promotional policy. The appellant being a State within the meaning of Article 12 of the Constitution should have created promotional avenues for the respondent having regard to its constitutional obligations adumbrated in Articles 14 and 16 of the Constitution of India. Despite its constitutional obligations, the State cannot take a stand that as the respondent herein accepted the terms and conditions of the offer of appointment knowing fully well that there was no avenue of appointment, he cannot resile therefrom. It



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is not a case where the principles of estoppel or waiver should be applied having regard to the constitutional functions of the State. It is not disputed that the other States in India Union of India having regard to the recommendations made in this behalf by the Pay Commission introduced the scheme of Assured Career Promotion in terms whereof the incumbent of a post if not promoted within a period of 12 years is granted one higher scale of pay and another upon completion of 24 years if in the meanwhile he had not been promoted despite existence of promotional avenues. When questioned, the learned counsel appearing on behalf of the appellant, even could not point out that the State of Tripura has introduced such a scheme. We wonder as to why such a scheme was not introduced by the Appellant like the other States in India, and what impeded it from doing so. Promotion being a condition of service and having regard to the requirements thereof as has been pointed out by this Court in the decisions referred to hereinbefore, it was expected that the Appellant should have followed the said principle.

7. We are, thus, of the opinion that the respondent herein is at least entitled to grant of two higher grades, one upon expiry of the period of 12 years from the date of



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his joining of the service and the other upon expiry of 24 years thereof.

8. *The learned counsel appearing for the appellant, is, however, correct in his submission that the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India could have issued a writ of or in the nature of Mandamus directing the appellant herein to grant a scale of pay which would be equivalent to Grade II or Grade I of the Judicial Service of the State.”*

24. In **Dwarka Prasad and others versus Union of India and others**, 2003 AIR Supreme Court 2971, it has been held as under:-

“15. Fixation of quotas or different avenues and ladders for promotion in favour of various categories of posts in feeder cadres based upon the structure and pattern of the Department is a prerogative of the employer, mainly pertaining to policy making field. The relevant considerations in fixing a particular quota for a particular post are various such as the cadre strength in the feeder quota, suitability more or less of the holders in the feeder post, their nature of duties, experience and the channels of promotion available to the holders of posts in the feeder cadres. Most important of them all is the requirement of the promoting authority for manning the post on promotion with suitable candidates. Thus, fixation of quota for various categories of posts in the



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feeder cadres requires consideration of various relevant factors, a few amongst them have been mentioned for illustration. Mere cadre strength of a particular post in feeder cadre cannot be a sole criteria or basis to claim parity in the chances of promotion by various holders of posts in feeder categories.

16. Normally, where officers are to be drawn for promotion from different posts in the feeder cadre, quota for each post in the feeder cadre is maintained proportionately to the sanctioned strength in that post. This, however, cannot be an inviolable rule of strict application in every case, with any absolute equality of arithmetical exactitude but may vary case to case depending upon the pattern, structure and hierarchies in the Departmental set up as well as exigencies and balancing needs of Administration. There are other relevant considerations, some of which have been mentioned above, which may require departure from the practice of fixation of quota for each post in the feeder cadre, solely proportionate to its strength.

17. In the instant case, on behalf of the UOI, full and overall justification has been shown for fixing only 20% quota for POs as against 75% quota for EOs. It has been stated in the counter- affidavit by the UOI that regular channel of promotion for POs in their own line is to the



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post of Superintendent (Customs)(Group B) and in that they have 100% promotion quota. EOs and Superintendents (Group C) can claim no consideration for promotion on those posts which are exclusively earmarked for POs. It is submitted that keeping in view the availability of large number of POs with severe competition for them for limited number of posts of promotion in their own line, additional avenue of promotion to the extent of 20% has been provided to them for the posts of Appraiser which is ex cadre post for them outside their own channel and to which otherwise they would not be entitled to. Thus, the amended rules which provide them dual chances of promotion i.e. 100% in their own channel and 20% for the ex-cadre post of Appraisers along with EOs who have 75% quota more than sufficiently takes care of their interests as well and cannot be said to be so arbitrary, discriminatory, unreasonable as to call for interference in these proceedings.

18. On behalf of POs argument advanced is that even taking together the quota of 20% fixed of promotion to the post of Appraiser and 100% fixed for Superintendent (Custom), Group 'B', the total posts available for promotion to POs are far less than those available to EOs. In actual practice, as is sought to be demonstrated,



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many EOs within comparatively lesser period of service secure a march over POs in getting promotions earlier. Sometimes, EOs, who were promoted from ministerial staff and who worked under the POs get chance of promotion earlier than the latter.

19. Subject to further verification by the department, accepting the realities as have been pointed out to us, that many times EOs with lesser length of service get early promotion to posts of Appraisers in Group 'B', in our opinion, that alone can be no ground to declare quota of 75% and 20% fixed for EO's and PO's respectively, as either discriminatory or arbitrary. It has been pointed out on behalf of the UOI that if, as prayed by POs, there 20% quota is stepped up to make it 50% or above, there is likelihood that even in the ex-cadre line of Appraisers the POs would surpass the EOs and there would be stagnation for latter. In such a situation, in order to balance the chances of promotion, EOs who have only one channel of promotion as compared to POs who have two channels of promotion, POs have been consciously given smaller quota in the channel of EOs. We do not find any arbitrariness or discriminatory treatment on the part of the department in fixing such a quota for the two posts. The lesser chances of promotion to POs in the line of ex cadre post of Appraiser is a



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natural consequence of such balancing of chances of promotion between EOs in their own channel and POs in an additional channel provided to them keeping in view their larger cadre strength.

20. On behalf of the appellants much emphasis has been laid on the observation of the Second Pay Commission in which uniform scale of pay had been recommended for POs and EOs on the ground that their duties are somewhat similar and sometimes in certain custom offices of big cities, overlap. Need or desirability for parity in the pay scales of posts turn on different and ever so many other considerations and it cannot be indicative of any identity among such posts or suggestive of need for parity of treatment in all and every respect, too. It cannot, however, be seriously denied that the essential function of EOs is to assist the Appraisers in assessment of custom duties whereas POs have duties mainly in the field for checking smuggling and evasion of duties. It is open to the department to treat and consider EOs as more suitable for the post of Appraisers and yet consider for a limited number of those posts POs, who also occasionally and in certain offices do the work of Appraiser. It is also found desirable to augment their chances of promotion to Group 'B' posts by considering them for 20% of post of Appraiser which is outside their



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own line. From the nature of duties, functions and availability of two channels of promotion to POs as compared to EOs, the two cadres constitute two different and distinct classes which can be given different treatment by providing dissimilar quota for their promotion to higher Group 'B' post. See the following observations in the case of Kuldeep Kumar Gupta vs. HP State Electricity Board [2001 (1) SCC 475 at page 484-85 (para 6):

"Providing a quota is not new in the service jurisprudence and whenever the feeder category itself consists of different category of persons and when they are considered for any promotion, the employer fixes a quota for each category so that the promotional cadre would be equibalanced and at the same time each category of persons in the feeder category would get the opportunity of being considred for promotion. This is also in a sense in the larger interest of the administration when it is the employer who is best suited to decide the percentage of posts in the promotional cadre, which can be earmarked for different category of persons. In other words this provision actually effectuates the constitutional mandate engrafted in Article 16(1), as it would offer equality of



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opportunity in the matters relating to employment and it would not be the monopoly of a specified category of persons in the feeder category to get promotions."

21. *Learned Senior Counsel arguing for the POs submits that the most typical feature of this case is that although below Group 'B' post EOs & POs constitute two different cadres but once they are promoted to Group 'B' post either as Superintendent (Customs) in the line of POs or Appraisers in the joint channel available to POs and EOs, for the purpose of next higher promotion of Group A, they again join in one feeder post. It is therefore contended that because of this typical feature of their conditions of service, the holders of two posts of POs and EOs deserve just and similar treatment.*

22. *This contention also is unacceptable. As has been pointed out, in Group 'B' posts POs have two channels of promotion; 100% to the post of Superintendent Group 'B' and 20% for the post of Appraiser, EOs have only one channel of promotion with quota of 75% for promotion to Group 'B' post. Thus the holders of two posts constitute two distinct classes with different conditions of service and nature of duties. It is open to the promoting authority to treat them differently in the matter of providing avenues of promotion to Group 'B' posts. In the case of*



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State of Rajasthan vs. Rajendra Kumar Godika [1993 Suppl. (3) SCC 150 at 167, this Court relied and quoted with approval the following passage from constitutional law by Prof. Willis and repelled similar contention on grievance of discrimination:-

"Mathematical nicety and perfect equality are not required. Similarity, not identity of treatment, is enough. If any state of facts can reasonably be conceived to sustain a classification, the existence of that state of facts must be assumed. One who assails a classification must carry the burden of showing that it does not rest upon any reasonable basis."

23. *Articles 14 & 16 of the Constitution of India cannot be pressed into service to describe the fixation of lower quota for POs as discriminatory. It is well established in law that the right to be considered for promotion on fair and equal basis without discrimination may be claimed as a legal and a fundamental right under Article 14 & 16 of the Constitution but chances of promotion as such cannot be claimed as of right (see Ramchnadra Shankar Deodhar vs. State of Maharashtra AIR 1974 SC 259 para 12 at page 267). The decision relied on behalf of the appellants in the case of All India Federation of Central Excise vs. UOI [1977 (1) SCC*



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520] is of little assistance to the appellant's case. In that case, this Court has considered the proposals made by the department for re-fixation of quota to redress the grievance of the petitioners to some extent. In the other case between the same parties reported in 1999 (3) SCC 384, the Court could not be persuaded to issue any direction for alteration of the quota fixed. None of the two decisions therefore is helpful in supporting the contention advanced on behalf of the appellants."

25. Relevant portion of the reply filed by the State is reproduced hereunder:-

"1. The petitioners have wrongly challenged the Punjab Agriculture 'Group A' Services Rules 2013 (Annexure R-1) notification, as no right of petitioner has been infringed. The Promotional avenues of petitioners are available as the Pay scale of Agricultural Extension officer (AEO) and that of Agricultural Development officer (ADO) is the same.

2. The petitioners applied for post of Agriculture Sub Inspectors (ASI) and they were offered the post of Agriculture Sub Inspector with the condition that their services will be governed by the Punjab Agriculture Department (Field Office) Group-C Service Rules, 2010. (Annexure R-2). The petitioners have accepted the offer



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and given in writing and then they joined the service.

Hence, the petition needs to be dismissed with cost.

3. *That the petitioners are deliberately referring the case of CWP 5985 of 2010 and misleading the Hon'ble Court. It is pertinent to mention here that the petitioners have joined the department in 2013 at that time the Punjab Agriculture Group A rules 2013 are enforced. According to these rules they are eligible for the post of Agricultural Extension officer as their Promotional Avenue.*

4. *It is submitted that some of the petitioners appeared in the examination held for the post of Agriculture Development officer and they did not qualify for that and hence they have no reason to challenge the entries of Punjab Agriculture (Group A) Service Rules 2013."*

26. A perusal of the reply shows that there is no justification as to what is the object and reasoning behind the introduction of post of AEO. And if the salaries of both the posts (ADO and AEO) are same, then there is no reasoning/explanation for introduction of a parallel posts of AEO in Punjab Agriculture (Group-A) Service Rules, 2013, which is 100% through promotion. Further, why promotional avenues have been curtailed for AEOs.



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27. A perusal of the record further shows that even the nature of duties of AEOs and ADOs are the same, still there is no justification with the State for curtailing the promotional avenues to the AEOs.

28. Once the salary of both the posts are same and the qualifications are also the same, the post of ADOs is 100% by direct recruitment and the post of AEOs is 100% by promotion, then the curtailing of further promotional avenues to the post of AEO which is rather a parallel post to the ADO is not acceptable to this Court.

29. In view of the law laid down by the Hon'ble Supreme Court in above referred to judgments, the action of the State in allowing promotional avenues to one post i.e. ADOs and denying promotional avenues to the parallel post of AEOs is not justified. It is well established in law that when the cadre consists of promotees as well as direct recruits, no discrimination can be made for further promotion between them.

30. In Ramchandra Shankar Deodhar versus The State of Maharashtra and others, 1974 (1) SCC 317, it has been held as under:-

“Held, so far as the question of validity of the second proviso to rule 1 of the Rules of 30th July, 1959 is concerned, there can be no doubt that the, Bombay High Court was right in declaring it to be invalid. It can hardly be disputed that both the directly recruited Mamlatdars as well as the promote Mamlatdars form one class. They are both known by the same designation. They have same scales of pay. They discharge the same functions. The posts held by them are interchangeable.



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*There is nothing to show that the two groups are kept apart. Both are merged together in the same class. It is not competent to the Government thereafter to discriminate between directly recruited Mamlatdars and promotee Mamlatdars in the matter of further promotion to the posts of Deputy Collector. That would be violative of Article 16 of the Constitution. This is abundantly clear from the decisions of this Court in **Meryn Coutindo v. Collector of Customs, Bombay (1956) 3 SCR 600** and **S. M. Pandit v. The State of Gujarat, AIR 1972 Supreme Court 252**. In fact S. M. Pandit's case (3) is directly in Districts of the present case are almost indistinguishable from S. M. Pandit's case (3). The second proviso to rule 1 of the Rules of 30th July, 1959 must consequently be held to be bad as being in conflict with Article 16 of the Constitution."*

31. In view of the above, the present writ petitions are allowed to the extent of opening up promotional avenues for the post of Agriculture Extension Officer as well.

32. Since a perusal of the record shows that against the newly created post of AEO under Punjab Agriculture (Group-A) Service Rules, 2013, many persons have been promoted, it would not be in the interest of justice to quash the introduction of the post of AEO in Punjab Agriculture (Group-A) Service Rules, 2013. Accordingly, the State is directed to amend

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the Rules by giving promotional avenues to both the posts i.e. ADOs and AEOs equally, since pay scales of both the posts are the same.

33. In view of the above, the present writ petitions are partly allowed.

34. Pending application(s), if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

15.10.2024
A.Kaundal

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No