



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

CWP No.19734-2025

Date of Decision : **August 06, 2025**

SIKANDER AND OTHERS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Dr. Pankaj Nanhera, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Shubham Gupta, Advocate for respondent No.4.

ROHIT KAPOOR, J.

1. The present petition has been filed under Article 226 of the Constitution of India, wherein the petitioner has challenged the vires of the amended Haryana State Agriculture Marketing Board, Service Rules, 2008, as notified vide notification No.1199-A.S.-1-09-9143 dated 23.06.2009 (Annexure P-8), to the extent that 'Appendix B' has been substituted at serial no. 26, to fill 20% posts of the District Marketing Enforcement Officer (DMEO) through direct recruitment, instead of only by way of promotion, and quashing of the impugned notification, to such extent is sought.

The Petitioner also prays for setting aside advertisement No.3/2005 dated 14.05.2025 (Annexure P-13) and all subsequent proceedings arising therefrom, whereby four posts of DMEO have been advertised to be filled up by direct recruitment, besides seeking issuance of directions to respondents No.1 to 3 to fill the said posts, strictly on the basis of promotion



from the post of Executive Officer-cum-Secretary, Marketing Committees, based on relevant seniority.

2. Shorn of unnecessary details, the brief facts involved in the present petition are that petitioner No.1 is working as Assistant Secretary and the remaining petitioners are working as Executive Officers-cum-Secretaries in different Market Committees in Haryana State Agriculture Marketing Board (hereinafter referred to as 'the HSAMB'), which is a feeder post of DMEO. The services of the employees of the HSAMB were earlier governed under the 'Haryana State Agriculture Board Services Rules, 1974, which were repealed in the year 2008 and the Government of Haryana, in exercise of its powers conferred by Sub-section (1), read with Clauses (xxvii), (xxix) and (xxx) of Sub-section (2) of Section 43 of the Punjab Agriculture Produce Markets Act, 1961 (as applicable to Haryana), notified the Haryana State Agriculture Marketing Board Services Rules, 2008 vide notification dated 04.01.2008. As per Rule 6 of the said Rules, the appointment to the posts specified in column No.2 of the table given therein, were to be made by the authorities mentioned against each such post. Perusal of serial No. 20 and 23 of the table, would show that the appointment to the posts of 'District General Manager (Enforcement)' and 'Executive Officer-cum-Secretary' was to be made by the Administrative Committee. As per Appendix 'B' of the said Rules, the post of the District General Manager (Enforcement) was to be filled by way of promotion from amongst the Executive Officer-cum-Secretary.

3. The Government of Haryana vide notification No.1199-A.S.-1-09-9143 dated 23.06.2009 (Annexure P-8) amended the 2008 Rules, wherein *inter-alia*, Rule 6 was substituted, and the posts of the 'District General Manager (Enforcement)' was renamed as 'District Marketing Enforcement



Officer'. Appendix B, was substituted inter alia to the extent that at serial No.26, the mode of filling up the post of DMEO was changed as under:

“20% by direct recruitment or by transfer or deputation of an officer already in the service of the State Government or Government of India or Board or Corporation or Statutory Body and 80% by promotion from amongst the Executive Officer-cum-Secretaries.”

4. The petitioners allege that they approached the respondents and protested regarding the aforesaid amendment and at that point of time, it was ensured by the respondents that the amendment will never be made operative. Further a decision was taken by the Board of Directors of HSAMB in the meeting held on 06.01.2014 for creation of more posts and that as the post requires vast experience, the same should be filled up by way of promotion only. The Board decided that the case for 8 more posts of DMEO be sent to the Government/Bureau for approval. Thereafter 9 available posts of DMEO were stated to have been filled up by way of promotion vide order dated 29.08.2014 (Annexure P-11). It is further alleged that the posts of DMEO were filled up continuously by way of promotion from the post of Executive Officer-cum-Secretary of the Market Committees, and the amended Rules of 2009 were never made operative. It is the case of the Petitioners that now, advertisement No. 3-2025 dated 13.5.20235 (Annexure P-13) has been issued by respondent No.3-Haryana Public Service Commission, whereby 4 posts have been advertised to be filled through direct recruitment, by relying upon the amended service rules of 2009.

5. Aggrieved from this action of the respondents, the petitioners have approached this Court, seeking the relief, as mentioned hereinabove.



6. The learned counsel appearing for the petitioners has argued that the impugned Rule in question, was notified without proper consultations and without seeking objections from the petitioners, who were working on feeder posts, and was not even implemented by the respondents themselves. Therefore the implementation thereof, after such a long gap of time is in violation of provisions of principles of natural justice. It is argued that the act and conduct of the respondents in not following the amended Rules and filling up the posts of DMEO by way of promotion, raised the legitimate expectations of the petitioners that the Rules have been rendered redundant and their promotions will be done as per the unamended Rule. It is further argued that since the respondents filled up the posts of DMEO for the past 16 years strictly by promotion, and there was an alleged promise to continue with the said practice, the doctrine of promissory estoppel would stand invoked. It is further urged that filling up the posts of DMEO through direct recruitment is unconstitutional and violative of Article 14 of the Constitution of India, as there is no rational basis/intelligible differentia for taking candidate directly to the post of DMEO and has no nexus with the object sought to be achieved. Learned counsel for the petitioners has contended that the right to be treated fairly and transparently for promotion as well as recruitment forms an integral part of right to life as enshrined under Article 21 of the Constitution of India, which stands violated by implementation of the Rules in question. He relies upon the judgements in the cases of '*H.L.Trehan Vs. Union of India, (1989) 1 SCC 764, Dev Dutt Vs. Union of India (2008) 8 SCC 725, Council of Civil Services Unions& Others Vs. Minister For the Civil Service (1984) 3 WLR 1174, Punjab Communications Ltd. Vs. Union of India (1999) 4 SCC 727, Union of India and others Vs. Anglo-Afghan Agencies Ltd., 1968 (2) SCR*



366, Coimbatore Distt. Central Cooperative Bank Vs. Employees Association (2007) 4 SCC 474 and **Bannari Amman Sugars Ltd. Vs. CTO & Others(2005) 1 SCC 625'**, in support of his arguments.

7. Per contra, the learned counsel for the respondents, have controverted the arguments raised on behalf of the petitioners, by arguing that petitioners cannot assail a validly amended rule merely on the ground that the same was not implemented for some time. It is contended that the discretion of the employer in laying down the mode of appointment to a particular post, is only circumscribed by the provisions contained in the Statute itself, or if it is demonstrated that the said process is vitiated on the ground of any alleged malafides, which the petitioners have failed to point out. It is also argued that the petitioners have not been able to show that how the amended rule is in violation of Articles 14 and 21 of the Constitution of India, as wrongly alleged. It is also urged that the advertisement in question (Annexure P-13) was issued on 14.5.2025, strictly in consonance with the statutory Rules, which are currently in force, and have not been withdrawn or amended.

8. We have heard the learned counsel for the parties and have gone through the documents appended with the petition, with their able assistance.

9. As regards the challenge to the vires of the amended Rule is concerned, it is settled law that such a challenge can be raised on limited grounds, like lack of legislative competence, violation of fundamental rights, the rules being ultra vires of the Parent Act or any Constitutional Provision, or if found patently unreasonable, arbitrary or discriminatory, or if it is a colourable and mala fide exercise of power.

10. In order to test the arguments regarding the validity of the amended rule in question, it is imperative at the outset, to examine the

enabling provision of the Parent Act. Section 43 of the Punjab Agriculture Produce Markets Act, 1961, (renamed as Haryana Agriculture Produce Markets Act, 1961 vide amendment dated 19.12.2012), confers the powers upon the State Government to make rules for carrying out the purposes of the Act. Under Sub-section 2(ii)(xxviii), the State Government is *inter-alia* empowered to frame rules that may be required for governing the services, recruitment etc. of the Staff of the Board and Committees. The relevant provisions of Section 43 Sub-section 2(ii)& (xxviii) are re-produced as under:-

“43. Power to make rules. –

XXX XXX XXX

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for –

XXX XXX XXX

(ii) the powers to be exercised and the duties to be performed by the Board or Committees and their officers and servants;

XXX XXX XXX

(xxviii) service rules, recruitment rules, provident fund rules, pension rules and such other rules as may be required for the employment of the staff of the Board and Committees.”

11. Perusal of the aforesaid statutory provisions would show that the State was well within its powers to fix the mode of recruitment, which was done by carrying out the amendment in the applicable rules, vide notification dated 23.6.2009 (Annexure P-9). Undisputedly, the said amended rules are still in vogue and have neither been substituted/amended, nor withdrawn, after following the due process of law. The learned counsel for the Petitioners has



failed to show that the amended rule is required to be declared ultra vires, on any of the grounds recognized under law. The only argument raised before us is that the respondents themselves did not act upon the amended rules for a long period of time and, therefore, they are now estopped from filling up any vacancy on the basis of the said amended rules. It was also pointed out that the Board of Directors in its meeting held on 06.01.2014 had decided to fill up the posts of DMEO, by way of promotion alone.

12. We are not convinced with this argument raised by the learned counsel of the petitioners. The mere fact that the respondents allegedly did not fill up the posts in accordance with the statutory rule in the past, would not by itself be a ground for challenging the vires of the Rule, which was framed in consonance with the enabling provisions under the Parent Act, or for holding that the respondents would be debarred from filling up the posts in accordance with the same. Likewise, the decision taken by the Board of Directors in its meeting dated 06.01.2014, would not have the effect of effacing the statutory rule, or making it redundant, as it is only within the competence of the government to withdraw, substitute or amend the Rules, after following the due process of law.

13. The judgments cited by the learned counsel appearing for the petitioners, pertain to the broad principles of natural justice, legitimate expectation and promissory estoppel. However, in our view, the ratio of the said judgements, do not come to the aid of the Petitioners, for declaring the amended rule in question, as ultra vires. The petitioners have failed to show how the amended rule (Annexure P-8) violates Articles 14 and 21 of the Constitution of India.



14. In any case, the Petitioners, who are existing employees, cannot claim promotion, as a vested right. It is trite law, that no employee has any right outside the rules governing the services. It would be fruitful to advert to the observations of the Hon'ble Supreme Court in the case titled as '***State of Himachal Pradesh and others Vs. Raj Kumar and others, 2023(3) SCC 773***' as contained in paragraphs No. 9 and 10, which are extracted as under:-

“9. It is in this background that the employment of a public servant is to be understood. Though the relationship between the employee and the State originates in contract, but by virtue of the constitutional constraint, coupled with the legislative and executive rules governing the service, the relation attains a unique position. Identifying such a relationship as being a ‘status’, as against a contract, this Court in [Roshan Lal Tandon v. Union of India](#), explained what such a ‘status’ constitutes. We have extracted hereinbelow the exposition of the concept of ‘status’ as explained by the Constitution Bench for ready reference. In this case, the petitioner Roshan Lal Tandon was appointed as Train-Examiner – Grade ‘D’. At the time when he joined the service, the promotion to the next post in Grade ‘C’ was governed by certain rules which later came to be amended. Questioning the amendment, he contended that he had a right to be promoted to Grade ‘C’ when he joined the service and such a right could not have been altered by way of a subsequent amendment. Rejecting this argument, this Court explained the relationship of Government employment as a ‘status’ as under:

“6. We pass on to consider the next contention of the petitioner that there was a contractual right as regards the condition of service applicable to the petitioner at the time he entered Grade ‘D’ and the condition of service could not be altered to his disadvantage afterwards by the notification issued by the Railway Board. It was said that the order of the Railway Board dated January 25, 1958, Annexure ‘B’, laid



down that promotion to Grade 'C' from Grade 'D' was to be based on seniority-cum-suitability and this condition of service was contractual and could not be altered thereafter to the prejudice of the petitioner. In our opinion, there is no warrant for this argument. It is true that the origin of Government service is contractual. There is an offer and acceptance in every case. But once appointed to his post or office the Government servant acquires a status and his rights and obligations are no longer determined by consent of both parties, but by statute or statutory rules which may be framed and altered unilaterally by the Government. In other words, the legal position of a Government servant is more one of status than of contract. The hall-mark of status is the attachment to a legal relationship of rights and duties imposed by the public law and not by mere agreement of the parties. The emolument of the Government servant and his terms of service are governed by statute or statutory rules which may be unilaterally altered by the Government without the consent of the employee. It is true that [Article 311](#) imposes constitutional restrictions upon the power of removal granted to the President and the Governor under [Article 310](#). But it is obvious that the relationship between the Government and its servant is not like an ordinary contract of service between a master and servant. The legal relationship is something entirely different, something in the nature of status. It is much more than a purely contractual relationship voluntarily entered into between the parties. The duties of status are fixed by the law and in the enforcement of these duties, society has an interest...



7. We are therefore of the opinion that the petitioner has no vested contractual right in regard to the terms of his service and that Counsel for the petitioner has been unable to make good his submission on this aspect of the case.”

10. The principle [laid down in](#) Roshan Lal Tandon’s case is followed in a number of decisions of this Court. The following are the propositions emanating from the principles [laid down in](#) these precedents.

(i) Except as expressly provided in the Constitution, every person employed in the civil service of the Union or the States holds office during the pleasure of the President or the Governor ([Article 310](#)). Tenure at pleasure is a constitutional policy for rendering services under the state for public interest and for the public good, as explained in [Tulsiram Patel](#) (supra).

(ii) The Union and the States are empowered to make laws and rules under [Articles 309, 310](#) and [311](#) to regulate the recruitment, conditions of service, tenure and termination. The rights and obligations are no longer determined by consent of the parties but by the legal relationship of rights and duties imposed by statute or the rules. The services, thus, attain a status.

(iii) The hallmark of status is in the legal rights and obligations imposed by laws that may be framed and altered unilaterally by the Government without the consent of the employee.

(iv) In view of the dominance of rules that govern the relationship between the Government and its employee, all matters concerning



employment, conditions of service including termination are governed by the rules. There are no rights outside the provision of the rules.

(v) In a recruitment by State, there is no right to be appointed but only a right to be considered fairly. The process of recruitment will be governed by the rules framed for the said purpose.

(vi) Conditions of service of a public servant, including matters of promotion and seniority are governed by the extant rules. There are no vested rights independent of the rules governing the service.

(vii) With the enactment of laws and issuance of rules governing the services, Governments are equally bound by the mandate of the rule. There is no power or discretion outside the provision of the rules governing the services and the actions of the State are subject to judicial review .”

15. We also consider it necessary to reiterate the settled legal position, that matters relating to creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, criteria of selection, evaluation of service records of the employees fall within the exclusive domain of the employer. What steps should be taken for improving efficiency of the administration is also the preserve of the employer. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated due to mala fides. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post be filled by direct recruitment or promotion or by transfer. The Court has no role in determining the methodology of recruitment or laying down the criteria of selection.

16. In view of the above discussion, we do not find any merit in the present petition and the same is dismissed accordingly.

(ASHWANI KUMAR MISHRA)	(ROHIT KAPOOR)
JUDGE	JUDGE
August 06, 2025	
<i>ajaysharma</i>	
Whether speaking/reasoned. :	Yes
Whether Reportable. :	Yes