

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

**CWP No.22882-2025 (O&M)
Date of Decision:21.01.2026**

Ram Niwas Nain and another

....Petitioners

VS.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sanchit Punia, Advocate
for the petitioners

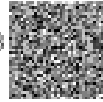
Mr. Teevar Sharma, D.A.G, Haryana

Ms. Harpriya Khaneka, Advocate
for HPSC

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of Advertisement No. 10/2025 dated 15.07.2025 qua Sr. No. 4 whereby respondent has advertised two posts of Assistant Director (Toxicology).

2. The petitioner No. 1 was recruited as Laboratory Assistant (Chemistry) on 23.05.2003 in the office of Director, Forensic Science Laboratory, Madhuban. He was promoted as Scientific Assistant (Chemistry) on 11.08.2003. Petitioner No. 2 joined aforesaid office as



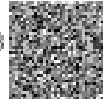
Scientific Assistant (Chemistry) on 05.08.2009. The petitioner No. 1 in view of his experience and qualification was assigned duties of Senior Scientific Officer (for short “SSO”) on 21.06.2013. Similarly, petitioner No. 2 was assigned duties of SSO on 08.09.2016. The respondent by impugned advertisement has invited applications for the post of Assistant Director (Toxicology). The respondent wants to make direct recruitment. The petitioners are aggrieved from aforesaid action of the respondent.

3. Learned counsel for the petitioners submits that as per Haryana Forensic Science (Group-A) Service Rules, 1980 (for short “1980 Rules”) as amended, the post of Assistant Director (Toxicology) has to be filled by promotion. In case of non-availability of eligible candidates, the applications may be invited for direct recruitment. The petitioners are eligible still respondent by impugned advertisement has invited applications for the aforesaid post.

4. *Per contra*, learned counsel for the respondents submit that petitioner No. 1 was assigned duties of SSO in 2013 and No. 2 in 2016, however, they were promoted as SSO in 2021. They had not worked for more than five years as SSO prior to impugned advertisement because they were assigned regular duty of SSO in 2021. The service rendered by them without actual promotion could not be considered for the sake of five years’ experience.

5. Heard the arguments and perused the record.

6. The service in question is governed by 1980 Rules. The aforesaid Rules were amended by Notification dated 11.08.2003. Rule 9



which governs method of recruitment was substituted. The substituted Rule 9 reads as:-

“9. Method of recruitment.- (1) Recruitment to the Service shall be made,-

(a) in case of Director -

(i) by promotion from amongst Deputy Directors.

(ii) by direct recruitment; or

(iii) by transfer or deputation of an officer already in the service of any State Government or the Government of India;

(b) in case of Deputy Director-

(i) by promotion from amongst Assistant Directors (Chemistry, Physics, Biology, Serology, Documents, Lie-Detection. Instrumentation or General Section); or

(ii) by direct recruitment; or

(iii) by transfer or deputation of an officer already in the service of any State Government or the Government of India;

(c) in case of Assistant Director (Chemistry, Physics, Biology, Serology, Documents, Lie-Detection, Instrumentation or General Section).-

(i) by promotion from amongst Senior Scientific Officers (Group B); or

(ii) by direct recruitment; or

(iii) by transfer or deputation of an officer already in the service of any State Government or the Government of India.

(2) Appointment to any post in the service by promotion shall be made on seniority -cum- merit basis and no person shall be entitled to claim promotion on the basis of seniority alone.”

[Emphasis supplied]

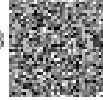


7. The aforesaid Rule was further amended by Notification dated 30.07.2012. For the case in hand, amended Clause (c) of Rule 9(1) is relevant which reads as:-

"(c) in case of Assistant Directors in different divisions as mentioned at serial number 3 to 14 in Appendix A,
(i) by promotion from amongst Senior Scientific Officers in concerned divisions; or
(ii) by direct recruitment; or
(iii) by transfer or deputation of an officer already in the service of any State Government or the Government of India;"

8. There are few Appendix of the aforesaid Rules. In Appendix A, designation of posts and scale of pay have been prescribed. In Appendix B, academic qualifications and experience have been prescribed. Entry at Sr. No. 13 of Appendix B deals with the post in question. The said Entry is reproduced as below:-

13 Assistant Director (Toxicology)	by direct recruitment:	by promotion:
	(i) M.Sc. (1st division) Chemistry/ Bio-Chemistry/ Toxicology/ Forensic Science with Forensic Chemistry and Toxicology subjects or its equivalent qualification in any one of the above subjects/ disciplines: (ii) Eight years research and analytical experience in Forensic	(i) M.Sc. (2nd division) in Chemistry/ Bio-Chemistry/ Toxicology/ Forensic Science with Forensic Chemistry and Toxicology subjects or its equivalent qualification in any one of the above mentioned subjects; and



Toxicology; and

(iii) Hindi/Sanskrit upto Matric standard or Higher education

(ii) Five years experience as Senior Scientific Officer (Toxicology).

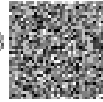
by transfer or deputation:

(i) M.Sc. (1st division) or Ph.D. in Chemistry/ Bio-Chemistry/ Toxicology/ Forensic Science with Forensic Chemistry and Toxicology subjects or its equivalent qualification in any one of the above subjects/ disciplines;

(ii) Eight years research and analytical experience in Forensic Toxicology; and

(iii) Hindi/ Sanskrit upto Matric standard or Higher education.”

9. The aforesaid entry (Sr. No. 13) was further amended by Notification dated 13.06.2016 whereby five years' experience as SSO (Chemistry) was made eligible besides five years' experience as SSO (Toxicology), meaning thereby, an employee may be having five years' experience as SSO (Chemistry) or SSO (Toxicology).



10. The conceded position emerging from the afore-stated factual and legal provisions is that the petitioners No. 1 and 2 were assigned duty of SSO (Chemistry) in 2013 and 2016 respectively. They were actually promoted as SSO in 2021. They are governed by 1980 Rules which were amended in 2003, 2012 and 2016. As per amended Rule 9, the post of Assistant Director has to be filled through promotion. In case candidates are not available for promotion, direct recruitment may be made. The petitioners are claiming that they have requisite experience, however, respondent is claiming that they don't have. Thus, question which erupts for the adjudication by this Court is whether petitioners on the date of impugned advertisement were having requisite experience or not.

11. The petitioners, prior to impugned advertisement, worked for more than five years as SSO (Chemistry). As per respondent they were assigned charge of SSO (Chemistry) much prior to 2021, however, were actually promoted as SSO in 2021. The experience as SSO prior to regular promotion cannot be considered for promotion as Assistant Director. In the absence of candidates having experience of more than five years, the department was bound to invite applications for direct recruitment.

12. From the perusal of qualification prescribed in the Appendix, it is evident that an employee for promotion as Assistant Director is required to have five years' experience as SSO (Chemistry/Toxicology). The Rule nowhere provide that experience should be against regular promotion or as regular employee. The requirement is only that there should be five years' experience as SSO.

13. In *Dharminder Sharma vs. Chandigarh Administration and others, CWP No. 11606 of 2022*, this Court has considered almost similar controversy. In the said case, the petitioner was having six years’ experience as Executive Engineer which included period of additional charge. In the Municipal Corporation, Chandigarh Service Regulations, 2012, it was provided that Executive Engineer must have six years’ experience as regular service. This Court considering the applicable Rules held:-

“3. As per regulations governing the post of Superintending Engineer, a person having experience of 6 years of ‘Regular Service’ of the post of Executive Engineer with Municipal Corporation, Chandigarh is eligible for the post of Superintending Engineer. The respondent prior to filing of instant petition appointed Mr. Inderjit Gulati as Superintendent Engineer. The petitioner prior to filing petition was not having 6 years experience, thus, he was not even considered for the said post. For the ready reference, relevant extracts of the Municipal Corporation, Chandigarh Service Regulations, 2012 are reproduced as below:

<i>Name of the post</i>	<i>Superintendent Engineer</i>
<i>Method of recruitment whether by Direct Recruitment or by Promotion or by Deputation Transfer and Percentage of the vacancies to be filled by various methods.</i>	<i>100% by promotion failing which by deputation.</i>
<i>In case of recruitment by promotion/Deputation/Transfer is to be made.</i>	<i>By Promotion From amongst the Executive Engineer, who possess Degree/AMIE qualification with a minimum 6 years experience as regular</i>

posts of Assistant Director (Toxicology) is liable to be set aside.
Accordingly, petition is allowed and impugned advertisement to the extent of two posts of Assistant Director (Toxicology) is hereby set aside.

15. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

21.01.2026
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	