

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

CWP No.15610 of 2011(O&M)

Date of Decision:10.02.2012

Deepak Kumar Goel, Deputy Chief Chemist son of Atma Ram Goel, presently working in Shahabad Cooperative Sugar Mills Limited Shahabad (M), District Kurukshetra.

... Petitioner

Versus

The State of Haryana through the Financial Commissioner and Secretary, Department of Cooperation, Government of Haryana, Haryana Civil Secretariat, Sector 17, Chandigarh and others.

... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present:Mr. Ashish Aggarwal, Advocate and
Mr. Kulwant Singh, Advocate,
for the petitioner.

Mr. Paramjit Batta, Addl. AG, Haryana,
for respondent No.1.

Mr. Anurag Goel, Advocate,
for respondents No.2 and 3.

1. Whether reporters of local papers may be allowed to see the judgment? NO
2. To be referred to the reporters or not? NO
3. Whether the judgment should be reported in the digest? NO

K. KANNAN, J. (Oral)

1. The petitioner, who is a Deputy Chief Chemist in the respondent-Organization, is aggrieved about change in qualifications made with retrospective effect that disqualified him for consideration to higher post as a Chief Chemist. The admitted fact is that the Deputy Chief Chemist is a feeder post for the Chief Chemist, though the post as Chief Chemist, in terms of the recruitment rules, could be filled up either by the

direct recruitment or by promotion. The petitioner's grievance that takes a second dimension is that even for a single post as Chief Chemist, there ought to be a quota or a roster system provided and without declaring such policy, they cannot fill up the post only by one mode.

2. It is an admitted case that at the time when he was promoted as Deputy Chief Chemist, the rules provided for a B.Sc. degree in Physics and Chemistry with 2nd division in Sugar Technology or equivalent qualification in Chemical Engineering or M.Sc. Tech. with 5 years experience. By the existing qualification, a person with 5 years experience as Deputy Chief Chemist was entitled to consideration for promotion as a Chief Chemist. The petitioner had the necessary qualification by the existing rules at the time when he was promoted as the Deputy Chief Chemist on 24.11.2004. He would have become eligible for consideration for the promotion post only after 5 years in the year 2009. However, an amendment to the rules was brought in the year 2007 providing for 60% marks in the degree course. This was modified in the year 2010 from 60% to 55% marks. Under the amendment of 2007 as well as under 2010, the petitioner lacked the necessary qualificationss since he had less than 55% marks in his B.Sc. degree. The learned counsel argues that any change in qualification that is made for promotion post, could be discarded if the petitioner had a right of consideration at the relevant time when the change was made. It can be noticed that even in the year, 2007 when the change was made providing for 60% marks, he became disqualified and if they were bringing a change in the year 2010 reducing it to 55%, they were not bringing the marks qualification for the first time in the year, 2010. It was, on the other hand, a relaxation of the qualifying marks from 60% to 55%. If he was not fulfilling the qualification by the rules of

2007 itself, then, a change that is brought subsequently in the year 2010 at the time when the petitioner became eligible for consideration, cannot improve his position. The same thing could have made a difference, if there had been no amendment in the qualification in the year 2007 and the marks qualification were introduced for the first time in the year 2010 when the petitioner became eligible for consideration. Since in this case, the change in qualification had come about even before he became eligible for consideration, the petitioner could not have a cause for complaint.

3. The other ground urged by the petitioner is that the single post for consideration as Chief Chemist by direct recruitment or by promotion ought to follow a particular roster and merely providing for two alternative modes would exclude a person, who is entitled to consideration for promotion. I would not examine this, for, it would be purely academic at least so far as the petitioner is concerned. The petitioner does not fulfill the qualification for consideration to the post of Chief Chemist and, therefore, the plea is not available for him to contend that the recruitment must also be done through promotion and a particular roster must be prepared for the same.

4. The petitioner cannot obtain a favourable consideration as sought for in the writ petition and the writ petition is dismissed.

10th February, 2012
Rajan

(**K. KANNAN**)
JUDGE