



LPA-311-2012 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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LPA-311-2012 (O&M)
Date of Decision: 05.02.2025

The Haryana State Agriculture Marketing Board
Panchkula and another

..... Appellants

Versus

Jai Kishan Sharma and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Sanjeev Kaushik, Addl. A.G., Haryana,
for the appellants.

Mr. Praveen Moudgil, Advocate
for respondent No.1.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. The present appeal preferred by the Haryana State Agriculture Marketing Board Panchkula (for short referred to as 'Board') assailing the order dated 13.05.2011 passed by the learned Single Judge, whereby the writ petition filed by the petitioners (now herein respondents) was allowed and the Board was directed to consider the case of petitioners No.2 and 4 for the purpose of their promotion to the post of Sub Divisional Clerk by preparing a notional seniority list of Steno-typist and Clerks and determine their *inter se* seniority and if otherwise found suitable, to promote them.

2. Learned counsel appearing for the appellant-Board has contested the order and submits that the learned Single Judge has failed to



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take notice of the import of the Haryana State Agricultural Marketing Board Service Rules, 1974 (for short referred to as 'Rules of 1974') which were brought into force by a gazette notification dated 14.06.1974. It is submitted that as per the provisions of the said Rules which governed the service conditions of the employees engaged in the Haryana State Agriculture Marketing Board, there is a separate channel of promotion available respectively to the posts of Clerks and Steno-typists. He has invited our attention to the Schedule appended to the Rules which reflects that the post of Clerk is a separate cadre to that of Steno-typist. He, therefore, submits that both the posts cannot be included to have found a common seniority list. The directions issued by the learned Single Judge would, therefore, go contrary to the provisions of the said Rules.

3. Learned counsel has further submitted that the learned Single Judge has erred in relying on the provisions of Rule 14 of the Rules of 1974 to mean that wherever the Rules are silent, the service shall be governed by the Punjab Civil Services Rules as there was no such sub-silent provision in the rules and there was an express provision whereby promotion is available to the Clerks to the post of Sub Divisional Clerk while promotion is available to Steno-typists to the post of Junior Scale Stenographer, then Senior Scale Stenographer and further to the post of Personal Assistant. Thus, he submits that these are two different separate cadres which cannot be intermingled.

4. Learned counsel for the original writ petitioners however supports the order passed by the learned Single Judge and submits that there are instances where the Steno-typists have been shifted and considered as



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Clerks for the purpose of promotion to the post of Sub Divisional Clerk as similar treatment ought to be given to the petitioners too. He submits that in the month of March 1987, the Board resolved to provide promotion to the post of Steno-typists on the clerical side too to the extent of 75% and the writ petitioners were interested to be promoted on the clerical side. Instances of the year 1980 have been also cited to state that a Steno-typist was appointed and promoted as Sub Divisional Clerk whereas the petitioners were ignored.

5. It is further contended that the Punjab Civil Service Rules, 1961 would have an overriding effect to the provisions of the Rules of 1974 and the petitioners would be entitled to take the benefit of the said Rules. It is submitted that it is the State which is empowered to make the Rules for the employees and the Board on its own cannot make any such Rules.

6. We have carefully considered the submissions made by learned counsel for the parties and also perused the provisions of the Rules.

7. We find that in the exercise of powers conferred under Clauses 28, 29 and 30 of Sub-section (2) of Section 43 of the Punjab Agricultural Produce Markets Act, 1961 and all other powers enabling on its behalf, the Governor of Haryana makes the Rules called the 'Haryana State Agriculture Marketing Board Service Rules 1974' for regulating the recruitment and conditions of service of persons appointed to the marketing service. The same were notified with the gazette on 14.06.1974.

8. Thus, the contention raised by learned counsel for the writ petitioners that the Board on its own cannot make any such Rules is without force and the Rules have been framed by the State Government. Once the



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Rules have come into force at the time when the petitioners were appointed, they would be governed by the said Rules alone. They cannot take a leverage of the Punjab Civil Service Rules 1961 nor any promotions in the marketing service would be governed by it but by Haryana State Agriculture Marketing Board Service Rules 1974. Promotions cannot be made in terms of the said Rules of 1961. The provisions of Rules 14 and 15 of Rules of 1974 are for limited purposes as stated therein and have to be read in that context alone.

9. So far as the channel of promotion available under the Rules of 1974 is concerned, we find that the qualifications of Steno-typist are different from the qualifications for the Clerks. Not only this, the method of recruitment is also found to be different. The promotion challenge is also provided under the Schedule on different post namely for Steno-typists, Junior Scale Stenographers, Senior Scale Stenographers and Personal Assistants to Chairman while for Clerks, it is to the post of Assistants/Head Clerks alone.

10. We find, on perusal, of the judgment passed by the learned Single Judge that while Rule 14 of the Rules 1974 was noticed but the Schedule appended to the Rules of 1974 which expressly provides for the channel of promotion to the two different cadres namely Steno-typists and Clerks remained unnoticed. Once there are two different cadres, the same cannot be truncated to form a common seniority list.

11. In view of above, the directions issued by the learned Single Judge would thus go contrary to the very Scheme of the Rules of 1974 and therefore, we are unable to uphold the order passed by the learned Single



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Judge and accordingly, we set aside the order dated 13.05.2011 and allow the instant appeal. The Department shall be free to proceed in accordance with the provisions of Rules of 1974 and make promotions accordingly.

12. The pending misc. application, if any, shall stands disposed of accordingly.

**(SANJEEV PRAKASH SHARMA)
JUDGE**

**(MEENAKSHI I. MEHTA)
JUDGE**

05.02.2025
D.Bansal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No