



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

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CWP-8887-2019

Date of Decision: 04.09.2025

Raj Kumar

....Petitioner

Versus

Union of India and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Ashish Rawal, Advocate
for respondent-UOI.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the order dated 07.01.2019 (Annexure P-12) passed by the Central Administrative Tribunal, Chandigarh Bench (hereinafter in short to be referred as 'the Tribunal), along with orders dated 18.12.2015 (Annexure P-7) and 20.06.2016 and 27.07.2016 (Annexure P-9) whereby, the prayer of the petitioner that he should be promoted to the post of Civilian Motor Driver (CMD), has been rejected.

2. Learned counsel appearing on behalf of the petitioner argues that prior to the year 2008, the Mates who fulfilled the qualification for promotion



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to the post of CMD were promoted on the said post but, as the Recruitment Rules of MT Driver, 1971, the Rules governing over service were amended in the year 2008 after which, there was no provision in existence which could provide for the Mates to be promoted to the post of CMD whereas, the claim raised by the petitioner for promotion was qua a post of CMD which post was available prior to the amendment of the rules in the year 2008, which fact has not been appreciated by the Tribunal in the correct prospective and therefore, the respondents are liable to consider the claim of the petitioner for promotion to the post of CMD qua the vacancies in the said post which existed prior to the amendment of the Rules done in the year 2008 with all consequential benefits.

3. The learned counsel appearing on behalf of the respondent-UOI submits that as per the impugned order dated 07.01.2019 (Annexure P-12) passed by the Tribunal, it has been clearly stated that there were no vacancy available qua post in question up to the year 2008 against which the claim of the petitioner could be considered for promotion to the said post of CMD and after the year 2008, when the Rules governing service got amended the category to which the petitioner belonged i.e. the Mate, were not eligible for promotion to said post of CMD and therefore, the claim being raised by the petitioner for promotion to the post of CMD against the vacancies which arose prior to the year 2008, is incorrect and has rightly been rejected by the Tribunal.

4. We have heard learned counsel for the parties and have gone through the record with their able assistance.



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5. Firstly, no record has been produced before this Court or even before the Tribunal that prior to the year 2008 when the Rules governing over service got amended any post of CMD was lying vacant which could allow for the respondent to consider the claim of the petitioner for promotion against such post. In the absence of any such data provided by the petitioner that there was a vacancy available qua the post of CMD prior to the amendment of Rule against which the petitioner was claiming consideration, no directions could have been given to the respondent-UOI by the Tribunal while passing the impugned order.

6. Even otherwise, as per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.9746 of 2011** titled as **State of Himachal Pradesh vs. Raj Kumar and others**, decided on 20.05.2022, it has been held that post which fell vacant prior to amendment of Rules would not be governed by old Rules and will be governed by new Rules and the judgment in **Y.V.Rangaiah and others vs. J.Sreenivasa Rao and others, (1983) 3 SCC 284**, has already been held to be incorrect and has been overruled and a direction has been given by the Hon'ble Supreme Court of India that the Rules which are in existent on the date of consideration for claim qua vacant post are to be made applicable hence, once, the consideration was being claimed after the year 2008, on which date the Rule did not prescribe the promotion from the post of Mate to Civilian Motor Driver (CMD), no claim can be raised qua the petitioner and no ground is made to interfere with the order dated 07.01.2019 (Annexure P-12) passed by the Tribunal and accordingly, the writ petition is dismissed.



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7. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 04, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No