***IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH.***

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CWP No.22537 of 2012.

Ashok Kumar Ghai

-Petitioner.

Versus

State of Haryana and Ors.

—Respondents.

WRITTEN STATEMENT BY Sh.K.R. Sharma, Chief Manager (P&A), Haryana Seeds Development Corporation Limited, Panchkula on behalf of respondent No.2.

***RESPECTFULLY SHWOETH:-***

***PRELIMINARY SUBMISSIONS:***

1. That the present writ petition filed by the petitioner is not maintainable in the present form and the same deserves to be dismissed. Infact, the case for re-designation of the post of Sh.A.K. Ghai, Accountant (Sales Tax) to that of Section Officer is being dealt at separate file.
2. That infact, Sh. Ashok Kumar Ghai, present petitioner was appointed as Sales Tax Assistant in the Corporation on 24.11.1980. The service rules of the Corporation were not finalized at that time. The qualification for the post of Assistant (S.T.) was B.A. for direct recruitment or five years experience as Accounts Clerk in case of promotion. Similarly the qualification of Accounts Assistant was B.Com in case of direct recruitment or five years experience as Accounts Clerk. The pay scale of Sales Tax Assistant and Accounts Assistant were same. Sh. Ashok Kumar Ghai, present petitioner was promoted to the post of Accountant (Sales Tax) on 26.12.1985. The said post was at par with the post of Accountant. The HSDC Employees Service Regulation were framed in 1989 and the qualification for the Accounts personnel was fixed B. Com. The agenda for change the nomenclature of Accountant to that of Section Officer was placed before the BODs in their meeting held on 21.7.2006 and BOD approved the same subject to the approval of HBPE. However while discussing the matter, the Managing Director inadvertently gave statement in the meeting of Standing Committee that all the Accountant of the Corporation possess the qualification of B.Com. Accordingly, the Standing Committee approved the change of designation of Accountant to that of Section Officer who have B.Com qualification. Thus Sh. A.K. Ghai Assistant (S.T.) whose qualification is B.A. has been deprived from the said benefit. It is further submitted that the agenda for re-designation of Sh. A.K. Ghai, Accountant (S.T.) as Section Officer (S.T.) was placed before the BODs in their 151th meeting held on 26.6.2008 for consideration and approval. The BODs approved the agenda to change designation of Sh. A.K. Ghai, Accountant (ST) to that of Section Officer (ST) from the date from which the similar benefit was given to other accountants of the Corporation subject to the approval of Standing Committee of HBPE. Accordingly, the Agenda notes were sent to the State Govt. with the request to send the same to the Member Secretary, HBPE for placing before the Standing Committee for approval. The State Govt. sought clarifications from time to time and same have been provided to them. But the case is still pending with the State Govt.

***ON MERITS:-***

1. That the contents of para no.1 of the writ petition is correct to the extent that the petitioner is resident of State of Haryana. Rest of the contents of this para as stated are wrong and incorrect, hence denied. The petitioner is not competent to invoke extra ordinary writ jurisdiction of this Hon’ble court.

2. That the contents of para no.2 of the petition are matter of record, hence needs no reply.

3. That the contents of para No.3 of the writ petition are matter of record, hence needs no reply.

4. That the contents of para No.4 of the writ petition are matter of record. However, it is respectfully submitted that the petitioner filed objections against the seniority list and his name was accordingly separated from that of account.

5. That the contents of para No.5 of the writ petition are matter of record. The HSDC Employees Service Regulation were framed in 1989 and the qualification for the Accounts personnel was fixed B. Com. The agenda for change the nomenclature of Accountant to that of Section Officer was placed before the BODs in their meeting held on 21.7.2006 and BOD approved the same subject to the approval of HBPE.

6. That the contents of para no.6 of the petition are matter of record, hence needs no reply. Rule 3.7 and Chapter II of HSDC Employees Regulations 1979 as reproduced in this para is matter of record.

7.That the contents of para no.7 of the petition are matter of record, hence needs no reply. It is respectfully submitted that the qualification for the post of Assistant (S.T.) was B.A. for direct recruitment or five years experience as Accounts Clerk in case of promotion. Similarly the qualification of Accounts Assistant was B.Com in case of direct recruitment or five years experience as Accounts Clerk. The pay scale of Sales Tax Assistant and Accounts Assistant were same. Sh. Ashok Kumar Ghai, present petitioner was promoted to the post of Accountant (Sales Tax) on 26.12.1985. The said post was at par with the post of Accountant. The HSDC Employees Service Regulation were framed in 1989 and the qualification for the Accounts personnel was fixed B. Com. The agenda for change the nomenclature of Accountant to that of Section Officer was placed before the BODs in their meeting held on 21.7.2006 and BOD approved the same subject to the approval of HBPE. However while discussing the matter, the Managing Director inadvertently gave statement in the meeting of Standing Committee that all the Accountant of the Corporation possess the qualification of B.Com. Accordingly, the Standing Committee approved the change of designation of Accountant to that of Section Officer who have B.Com qualification. Thus Sh. A.K. Ghai Assistant (S.T.) whose qualification is B.A. has been deprived from the said benefit. Hence it is incorrect to say that the respondent No.3 was promoted as Accounts Officer illegally and in violation of services rules and regulations.

8. That the contents of para no.8 of the petition are matter of record, hence needs no reply.

9. That the contents of para no.9 of the petition are matter of record, hence needs no reply.

10. That the contents of para no.10 of the petition are misleading and hence denied. It is incorrect to say that respondent No.3 is junior to the petitioner. The respondent No.3 has rightly been promoted to the post of Accounts Officer vide order dated 11.11.2009.

11. That the contents of para no.11 of the petition are matter of record, hence needs no reply. It is correct that the petitioner made representation dated 12.11.2009.

12. That the contents of para no.12 of the petition are matter of record, hence needs no reply. It is correct that the petitioner made representation dated 17.8.2010.

13. That the contents of para no.13 of the petition are matter of record, hence needs no reply. It is correct that the petitioner’s case was ordered to be examined thoroughly and after considering the same, Shri Dev Raj and P.K.Joshi were promoted vide order dated 28.12.2011. It is incorrect to say that they are junior to the present petitioner.

14. That the contents of para no.14 of the petition as stated are wrong and incorrect, hence denied. The petitioner’s case has been considered and rejected. It is incorrect to say that petitioner has been ignored in violation of service rules. The law cited by the petitioner is not applicable to the facts of the present writ petition.

15. That the contents of para no.15 of the petition are matter of record, hence needs no reply.

16. That the contents of para no.16 of the petition are misleading. As stated above, The qualification for the post of Assistant (S.T.) was B.A. for direct recruitment or five years experience as Accounts Clerk in case of promotion. Similarly the qualification of Accounts Assistant was B.Com in case of direct recruitment or five years experience as Accounts Clerk. The pay scale of Sales Tax Assistant and Accounts Assistant were same. Sh. Ashok Kumar Ghai, present petitioner was promoted to the post of Accountant (Sales Tax) on 26.12.1985. The said post was at par with the post of Accountant. The HSDC Employees Service Regulation were framed in 1989 and the qualification for the Accounts personnel was fixed B. Com. The agenda for change the nomenclature of Accountant to that of Section Officer was placed before the BODs in their meeting held on 21.7.2006 and BOD approved the same subject to the approval of HBPE. However while discussing the matter, the Managing Director inadvertently gave statement in the meeting of Standing Committee that all the Accountant of the Corporation possess the qualification of B.Com. Accordingly, the Standing Committee approved the change of designation of Accountant to that of Section Officer who have B.Com qualification. Thus Sh. A.K. Ghai Assistant (S.T.) whose qualification is B.A. has been deprived from the said benefit. It is further submitted that the agenda for re-designation of Sh. A.K. Ghai, Accountant (S.T.) as Section Officer (S.T.) was placed before the BODs in their 151th meeting held on 26.6.2008 for consideration and approval. The BODs approved the agenda to change designation of Sh. A.K. Ghai, Accountant (ST) to that of Section Officer (ST) from the date from which the similar benefit was given to other accountants of the Corporation subject to the approval of Standing Committee of HBPE. Accordingly, the Agenda notes were sent to the State Govt. with the request to send the same to the Member Secretary, HBPE for placing before the Standing Committee for approval. The State Govt. sought clarifications from time to time and same have been provided to them. But the case is still pending with the State Government.

17. That the contents of para no.17 of the petition are matter of record, hence needs no reply. It is correct that the petitioner and other Accountants made representation for consideration to change the designation as Section Officer at Par with their counterparts in Finance Department, Haryana.

18. That the contents of para no.18 of the petition are matter of record, hence needs no reply.

19. That the contents of para no.19 of the petition are matter of record, hence needs no reply.

20. That the contents of para no.20 of the petition are correct to the extent that approval was received from the Govt. regarding change of designation and accordingly, letter dated 28.6.2007 was issued. However, it is incorrect to say that the petitioner was ignored for this benefit. The case of the petitioner has already been considered.

21. That the contents of para no.21 of the petition are matter of record, hence needs no reply.

22. That the contents of para no.22 of the petition are matter of record, hence needs no reply.

23. That the contents of para no.23 of the petition are matter of record, hence needs no reply.

24. That the contents of para no.24 of the petition are matter of record, hence needs no reply.

25. That the contents of para no.25 of the petition are matter of record, hence needs no reply.

26. That the contents of para no.26 of the petition are misleading, hence denied. As stated in foregoing paragraphs, the present petitioner was appointed as Sales Tax Assistant in the Corporation on 24.11.1980. The service rules of the Corporation were not finalized at that time. The qualification for the post of Assistant (S.T.) was B.A. for direct recruitment or five years experience as Accounts Clerk in case of promotion. Similarly the qualification of Accounts Assistant was B.Com in case of direct recruitment or five years experience as Accounts Clerk. The pay scale of Sales Tax Assistant and Accounts Assistant were same. Sh. Ashok Kumar Ghai, present petitioner was promoted to the post of Accountant (Sales Tax) on 26.12.1985. The said post was at par with the post of Accountant. The HSDC Employees Service Regulation were framed in 1989 and the qualification for the Accounts personnel was fixed B. Com. The agenda for change the nomenclature of Accountant to that of Section Officer was placed before the BODs in their meeting held on 21.7.2006 and BOD approved the same subject to the approval of HBPE. However while discussing the matter, the Managing Director inadvertently gave statement in the meeting of Standing Committee that all the Accountant of the Corporation possess the qualification of B.Com. Accordingly, the Standing Committee approved the change of designation of Accountant to that of Section Officer who have B.Com qualification. Thus Sh. A.K. Ghai Assistant (S.T.) whose qualification is B.A. has been deprived from the said benefit. It is further submitted that the agenda for re-designation of Sh. A.K. Ghai, Accountant (S.T.) as Section Officer (S.T.) was placed before the BODs in their 151th meeting held on 26.6.2008 for consideration and approval. The BODs approved the agenda to change designation of Sh. A.K. Ghai, Accountant (ST) to that of Section Officer (ST) from the date from which the similar benefit was given to other accountants of the Corporation subject to the approval of Standing Committee of HBPE. Accordingly, the Agenda notes were sent to the State Govt. with the request to send the same to the Member Secretary, HBPE for placing before the Standing Committee for approval. The State Govt. sought clarifications from time to time and same have been provided to them. But the case is still pending with the State Government.

27. That the contents of para no.27 of the petition as stated are wrong and incorrect, hence denied. Detailed reply has been given in the foregoing paragraphs.

28. That the contents of para no.28 of the petition as stated are wrong and incorrect, hence denied. Sub-paras (a) to (f) as stated are also wrong and incorrect, hence denied. As stated above, the present petitioner was appointed as Sales Tax Assistant in the Corporation on 24.11.1980. The service rules of the Corporation were not finalized at that time. The qualification for the post of Assistant (S.T.) was B.A. for direct recruitment or five years experience as Accounts Clerk in case of promotion. Similarly the qualification of Accounts Assistant was B.Com in case of direct recruitment or five years experience as Accounts Clerk. The pay scale of Sales Tax Assistant and Accounts Assistant were same. Sh. Ashok Kumar Ghai, present petitioner was promoted to the post of Accountant (Sales Tax) on 26.12.1985. The said post was at par with the post of Accountant. The HSDC Employees Service Regulation were framed in 1989 and the qualification for the Accounts personnel was fixed B. Com. The agenda for change the nomenclature of Accountant to that of Section Officer was placed before the BODs in their meeting held on 21.7.2006 and BOD approved the same subject to the approval of HBPE. However while discussing the matter, the Managing Director inadvertently gave statement in the meeting of Standing Committee that all the Accountant of the Corporation possess the qualification of B.Com. Accordingly, the Standing Committee approved the change of designation of Accountant to that of Section Officer who have B.Com qualification. Thus Sh. A.K. Ghai Assistant (S.T.) whose qualification is B.A. has been deprived from the said benefit. It is further submitted that the agenda for re-designation of Sh. A.K. Ghai, Accountant (S.T.) as Section Officer (S.T.) was placed before the BODs in their 151th meeting held on 26.6.2008 for consideration and approval. The BODs approved the agenda to change designation of Sh. A.K. Ghai, Accountant (ST) to that of Section Officer (ST) from the date from which the similar benefit was given to other accountants of the Corporation subject to the approval of Standing Committee of HBPE. Accordingly, the Agenda notes were sent to the State Govt. with the request to send the same to the Member Secretary, HBPE for placing before the Standing Committee for approval. The State Govt. sought clarifications from time to time and same have been provided to them. But the case is still pending with the State Govt. Hence the present writ petition is premature at this stage because the decision of State Govt. is still awaited.

29. That the contents of para No.29 of the writ petition as stated are wrong and incorrect, hence denied. No law points are involved in this case to invoke the extraordinary jurisdiction of the Hon’ble High Court.

30. That the contents of para No.30 of the writ petition are wrong and incorrect, hence denied. The petitioner is not competent to file the present writ petition.

31. That the contents of para No.31 denied for want of knowledge.

In view of the submissions made above, it is respectfully prayed that the present writ petition may kindly be dismissed with costs being devoid of any merits.

***CHANDIGARH Sh.K.R. Sharma, Chief***

***Dt: Manager (P&A), Haryana Seeds Development Corporation Limited, Panchkula on behalf of respondent No.2***

THROUGH COUNSEL

***( SURESH AHLAWAT )***

***ADVOCATE***

***COUNSEL FOR RESPONDENT NO.2***

**VERIFICATION:-**

Verified that the contents of para no.1 to 3 of Preliminary Submissions as well as Paras 1 to 28, 30 and 31 of the written statement are true and correct to my knowledge and information derived from the official record and that of contents of para No.29 of written statement are based on legal advice of my counsel which is believed to be correct. No part of it is false and nothing has been concealed therein.

***CHANDIGARH Sh.K.R. Sharma, Chief***

***Dt: Manager (P&A), Haryana Seeds Development Corporation Limited, Panchkula on behalf of respondent No.2***

***IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH.***

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**I N D E X**

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| Sr.No | Particulars | Dated | Pages | Court fee |
| 1. | Written statement on behalf of respondents No.2 | 18.3.2014 | 1-18 | - |
| 2. | Power of Attorney |  | 19 |  |
|  | Total court fee |  |  |  |

***CHANDIGARH (SURESH AHLAWAT)***

***DT:18.3.2014 ADVOCATE***

***COUNSEL FOR RESPONDENT NO.2***