

Before M.M. Kumar & Rajesh Bindal, JJ.

JOGINDER SINGH AND OTHERS,—*Petitioners*

versus

MANAGING DIRECTOR, P.R.T.C. PATIALA AND
ANOTHER,—*Respondents*

C.W.P. NO. 8995 OF 2007

31st May, 2007

Constitution of India, 1950—Arts. 14, 16(1) & 226—Pepsu Roadways Transport Corporation (Conditions of Appointment and Service) Regulations, 1981—Appendix 'A', Entry Nos. 20 to 25—Petitioners working as Conductors for last 20 years—Claim for consideration for promotion to post of Inspector—1981 Regulations provide 15% posts of Inspectors are to be filled up by selection from amongst drivers who are atleast matriculates and have a minimum experience of 7 years—No legal infirmity in providing 15% quota for post of Inspector by promotion from amongst drivers—It cannot be said that conductors alone could perform duties of Inspector and no driver could perform such a duty—It cannot be concluded that rule is arbitrary and same deserves to be declared as ultra vires of Arts. 14 and 16(1)—Petition dismissed.

Held, that we find no legal infirmity in providing 15% quota for the post of Inspector by promotion from amongst the drivers. It cannot be concluded that the rule is arbitrary and same deserves to be declared as *ultra vires* of Articles 14 & 16(1) of the Consitution because it cannot be said that conductors alone could perform the duties of Inspector and no driver could perform such a duty. Moreover, it is primarily for the rule framing authority to consider these aspects and then allocate quota. The size of cadre, promotional avenues to go further up in the career, available channel of promotions, pay structure and host of other factors go into consideration of allocating quota for promotion. Such an exercise cannot be undertaken by this Court unless the rule is so arbitrary that on the face of it the Court comes to a conclusion that it would result into absurd consequences. Therefore, we do not find any legal infirmity in the Regulations.

(Para 5)

Devinder Kumar Kaushal, Advocate, *for the petitioners.*

JUDGMENT**M.M. KUMAR J.**

(1) Challenge in this petition is to the order dated 20th February, 2007 (P-1) passed by respondent No. 1 Managing Director, Pepsu Roadways Transport Corporation. The appeal filed by the petitioners has been dismissed by respondent No. 1. The petitioners who are working as Conductors in the Pepsu Roadways Transport Corporation have further prayed that Entry No. 20 of Appendix-A of the Pepsu Roadways Transport Corporation (Conditions of Appointment and Service) Regulations, 1981 (for brevity, 'the Regulations'), which stipulate that 15% posts of the Inspectors will be filled up by selection from amongst the drivers who are atleast Matriculates and have a minimum experience of 7 years as driver in the Corporation, be declared *ultra vires* of the Consitution and the same be struck down being unlawful, unconstitutional and against Articles 14 and 16 of the Constitution. The petitioners have claimed that they are entitled to be considered for promotion to the post of Inspector in preference to that of the drivers.

(2) The petitioners have been appointed on various dates between 1978 to 1989 as Conductors. It has been claimed that they have performed duties even as Adda Incharge. Their grievance is that they being conductors are entitled to be considered for promotion to the post of Inspector in preference to granting promotion to drivers. In that regard they had made representation which was decided in pursuance to the direction issued by this Court on 31st October, 2006 in C.W.P. No. 17207 of 2006 (P-4). The Managing Director has passed a speaking order, which reads as under :—

“Accordingly, in pursuance of the above directions of the Hon'ble High Court the legal notice dated 11th September, 2006 (Annexure P-3) served upon the respondent P.R.T.C. by the petitioners through their Counsel Shri Devinder Kumar Kaushal Advocate has been examined *vis-a-vis* the record of this office in order to decide the same by passing a speaking order. In nut shell, it may be added here that the petitioners had filed an appeal requesting that even

though they had been working as conductors for the last 20 years and fulfilled all the qualifications as per Rules to be promoted as Inspectors, yet due to illegal and unlawful provision, the Drivers are being promoted as Inspectors. According to them, this provision being illegal, arbitrary, *null* and *void* and unlawful is liable to be struck down.

According to PRTC Conditions of Appointment and Service Regulations, 1981 by which the class III and IV employees of PRTC including the petitioners are being governed, while the petitioners being appointed as Conductors are eligible for promotion as Sub Inspectors on completion of 3 years of service on the principle of seniority-cum-merit and Sub Inspectors are further eligible for promotion as Inspector after 3 years of service, 15% of the Drivers/Yard Masters who are Matriculate and have 7 years experience in the Corporation are eligible for promotion to the post of Inspector. Since the PRTC Regulations *ibid* have duly been certified by the competent authority after following the prescribed procedure of inviting objections/representations from the quarters concerned as well as the Workers' Unions, therefore, there is no illegality in these Regulations of 1981. In the circumstances, therefore, I find no merit in the claim of petitioners for promoting them directly on the post of Inspector in place of Drivers in contravention of the Regulations and as such the same is rejected being devoid of any merit."

(3) Mr. Devinder Kumar Kaushal, learned counsel for the petitioners has argued that Entry-20 of Appendix-A of the Regulations is liable to be declared as *ultra vires* of Articles 14 and 16(1) of the Constitution because the drivers are required to be promoted in their own line as Yard Masters and they have no reasonable nexus in respect of discharge of their duties with the promotional post of Inspector. It has been pointed out that it is conductors only who can perform the duties of Inspector as against the drivers. According to the learned counsel, the duties of the drivers are entirely different in nature than those of the conductors and, therefore, it is conductors only who would be able to discharge the duties of Inspectors if they are compared with the drivers. Therefore, the impugned order dated

20th February, 2007 (P-1) has been attacked and prayer has been made for quashing the same.

(4) After hearing the learned counsel we are of the considered view that this petition lacks merit and is, thus, liable to be dismissed. It would be appropriate to read Entry Nos. 20 to 25 as contained in Appendix-A of the Regulations and the same are as under :—

"Sr. No.	Designation	Qualification & Experience by Direct Recruitment	Qualification & Experience by Promotion
1 to 19	XXX	XXX	XXX
20.	Inspector	Graduate II Class or M.A. and 3 years experience in a private firm or Govt. Office.	Matriculate or equivalent. (ii) Experience on the post of Adda Conductor for a minimum period of 3 years. 15% posts of the Inspectors will be filled up by selection from amongst the drivers who are atleast Matriculates and have a minimum experience of 7 years as driver in the Corporation.
21.	Yard Master	Matriculate or equivalent and 3 years experience in line.	Middle Standard (ii) Experience on the post of Driver, Staff car driver for a period of 3 years.

22.	Driver	Middle Standard Holds valid heavy transport vehicle driving licence and experience of driving heavy transport vehicles for a minimum period of 5 years. Driving experience in the Military should be of 7 years out which one year should be in the civil.	
23.	Staff Car Driver	-do-	-do-
24.	Adda Conductor	Graduate or M.A.	Matriculate or equivalent. (ii) Experience on the post of conductor for a minimum period of 3 years.
25.	Conductor	Matriculate II Class or equivalent.	—”

(5) A perusal of the aforementioned Entries shows that for promotion on the post of Inspector, 15% posts are to be filled up by selection from amongst the drivers who are atleast Matriculate and have a minimum experience of 7 years. For the post of driver and conductor only mode of appointment is 100% by direct recruitment. For appointment as conductor, one has to be Matriculate IInd Class or equivalent and for driver Middle Standard who holds valid heavy transport vehicle driving licence along with minimum five years experience of driving heavy transport vehicles. The petitioner cannot be considered aggrieved if the drivers have been included to the extent of 15% of the posts for promotion as Inspector but such drivers have

to be Matriculate or equivalent and as compared to Adda Conductors who are to fulfill the period of experience of three years, the drivers are required to have qualification of atleast Matriculation and minimum experience of 7 years as driver in the Corporation. We find no legal infirmity in providing 15% quota for the post of Inspector by promotion from amongst the drivers. It cannot be concluded that the rule is arbitrary and same deserves to be declared as *ultra vires* of Articles 14 and 16(1) of the Constitution because it cannot be said that conductors alone could perform the duties of Inspector and no driver could perform such a duty. Moreover, it is primarily for the rule framing authority to consider these aspects and then allocate quota. The size of cadre, promotional avenues to go further up in the career, available channel of promotions, pay structure and host of other factors go into consideration of allocating quota for promotion. Such an exercise cannot be undertaken by this Court unless the rule is so arbitrary that on the face of it the Court comes to a conclusion that it would result into absurd consequences. Therefore, we do not find any legal infirmity in the Regulations.

(6) For the reasons aforementioned, this petition fails and the same is dismissed.

R.N.R.

Before Uma Nath Singh & Rajive Bhalla, JJ.

PHOOLWATI,—*Petitioner*

versus

STATE (UNION TERRITORY OF CHANDIGARH)

AND OTHERS,—*Respondents*

C.W.P. NO. 11943 OF 2007

9th October, 2007

Constitution of India, 1950—Art. 226—Death of a young boy aged about 21 years in police custody—Magisterial inquiry finding an SI guilty of negligence and gross dereliction in performance of his duties—Registration of case u/s 304 IPC against police official—Administration placing all relevant documents connected with case—No scope for tampering with record—Statements of witnesses already