

(35) I would, therefore, allow this petition and quash the impugned order. In the circumstances of the case, there will be no order as to costs.

K. S.

CIVIL MISCELLANEOUS

Before D. K. Mahajan and P. C. Jain, JJ.

HARBANS LAL SURI,—*Petitioner*

versus

STATE OF HARYANA AND ANOTHER,—*Respondents*

Civil Writ No. 1266 of 1968

July 17, 1968

Punjab Excise Subordinate Services Rules, 1943—Rule 7(1)(c)(ii)—Phrase 'direct appointment'—Meaning of—Interpretation of statutes—Interpretation of set of rules—How to be made.

Held, that in rule 7(1)(c)(ii) of Punjab Excise Subordinate Services Rules, 1943, the phrase 'direct appointment' has been used merely to differentiate between persons not in Government service and persons in Government service. The use of the phrase 'direct appointment' further highlights that all appointments to the Service are direct appointments and it does not matter from which source the recruit is taken.

(Para 6)

Held, that it is a fundamental rule of construction that in interpreting a set of rules, they should be harmoniously read together and efforts should be made to reconcile them and not to render them otiose.

(Para 6)

Petition under Articles 226 and 227 of the Constitution of India, praying that a writ in the nature of certiorari, mandamus or any other appropriate writ order or direction be issued quashing the impugned order, dated 21st March, 1968 of respondent No. 2 and directing the respondents to permit the petitioner to continue as Taxation Inspector.

H. S. WASU, SENIOR ADVOCATE WITH B. S. WASU, ADVOCATE, for the Petitioner.
ANAND SARUP, ADVOCATE-GENERAL, HARYANA, for the Respondents.

ORDER

MAHAJAN, J.—It is conceded by Mr. H. S. Wasu, learned counsel for the petitioner, that besides the contention, which will be noticed hereinafter, other contentions in his petition stand concluded by our decision in Civil Writ No. 2485 of 1967.

(2) The additional contention of Mr. Wasu is that the petitioner is not a direct recruit. He was appointed Sub-Inspector by transfer from another Government Department in which he was serving. According to the learned counsel, rule 8(3)(iii) only applies to direct recruits and as he is not a direct recruit, his services as Sub-Inspector could not be terminated under that rule, and, therefore, his termination and reversion to his original post is not legal.

(3) In order to appreciate the contention of the learned counsel, it will be proper to set out rules 5, 7 and 8 together:—

EDUCATIONAL QUALIFICATIONS OF CANDIDATE

“5. No person shall be directly appointed to the service unless he has passed the intermediate examination (in arts or science) of a recognized university or the Senior Oxford or Senior Cambridge Local Examination, or the Diploma examination of the Aitchison College, Lahore.

Provided that the Excise and Taxation Commissioner, may, for special reasons to be recorded in writing, appoint any person who does not possess the qualifications prescribed by this rule.

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METHOD OF RECRUITMENT

7. (1) Posts in the service shall be filled—

(a) in the case of Inspectors—

(i) by appointment from among Sub-Inspectors.

(ii) by transfer on deputation of an official already in Government service;

(b) in the case of Sub-Inspectors scale—

(i) by appointment from among Sub-Inspectors Leave reserve; or

(ii) by transfer or deputation of an official already in Government Service.

(c) In the case of Sub-Inspectors Leave reserve—

(i) by transfer on deputation of an official already in Government Service; or

(ii) by direct appointment of persons not already in Government (Pensionable) Service.

(2) When any vacancy occurs, or is about to occur in the Service, the appointing authority shall determine in what manner such vacancy shall be filled.

(3) Appointment to any post by promotion shall be made strictly by selection and no such appointment shall be regarded as a refusal of promotion to any person.

(4) No post in the service shall be filled by transfer, or deputation of a person already in Government Service, unless the head of the office concerned has agreed in writing to retain his lien on his substantive post for a period of at least one year and to take him back if reverted.

8. (1) No member of the service shall be confirmed in any post specified in Appendix A (except in the post of Excise Sub-Inspector (time-scale) until he has served in that post on probation for a period of two years in the case of members recruited by direct appointment, or of one year in the case of members recruited otherwise.

Explanation.—Continuous officiating service shall be reckoned as period spent on probation but no member shall on the completion of his period of probation be confirmed otherwise than against a permanent vacancy.

Harbans Lal Suri v. State of Haryana, etc. (Mahajan, J.)

(2) If the work or conduct of any member during his period of probation is, in the opinion of the appointing authority, not satisfactory, the appointing authority may dispense with his services if he has been recruited by direct appointment, or may revert him to his former post if he has been recruited otherwise than by direct appointment.

(3) On the completion of the period of probation of any member, the appointing authority may appoint such member substantively, with retrospective effect if a vacancy exists, or, if his work or conduct has, in the opinion of the appointing authority, not been satisfactory, the appointing authority may dispense with his services if he has been recruited by direct appointment, or revert him to his former post if he has been recruited otherwise than by direct appointment, or may extend the period of probation and thereafter pass such order as it could have passed on the expiry of the first period of probations—

- (i) provided that the total period of probation, including extensions, if any, shall not exceed three years in the case of persons recruited by direct appointment, and two years in the case of persons recruited otherwise;
- (ii) provided further that, without the sanction of the Excise and Taxation Commissioner to be given only for a special reasons, no person shall be appointed substantive Sub-Inspector time-scale or leave reserve, unless he has passed the departmental examination prescribed from time to time by the Excise and Taxation Commissioner;
- (iii) provided further that no person directly appointed to the service shall be retained in the service, unless he passes the departmental examination for Excise Sub-Inspectors within three years of continuous officiating or substantive service from the date of his appointment.

* * * * *

(4) Mr. Wasu contends that the person directly recruited is one mentioned in rule 7(1)(c) (ii) and only to this category of recruits, rule 8(3)(iii) applies. He further stresses that the educational qualifications in rule 5 are only provided for a direct recruit and

they do not hold good for those who come on transfer from other Government departments.

(5) Mr. Anand Swarup, learned counsel for the State, on the other hand, contends that all persons, who joined the service under rule 7, are direct recruits and a distinction was necessary in rule 7(1)(c) because the appointment was to Sub-Inspectors (Leave reserve), and it is only in the case of Sub-Inspectors (Leave reserve) that a provision was made for direct recruitment. But that does not mean that there could be no direct recruitment in the case of Inspectors or Sub-Inspectors. He further points out that though there is a provision for appointment to any post by promotion, there is no reservation quota fixed for promotees. Wherever persons are appointed by promotion, a reservation quota is always fixed for them. It is further stressed that if the interpretation placed by Mr. Wasu is accepted, then rule 5 will become redundant because it will only be applicable to a very limited class of entrants to service and it could not be the intention of the framers of the rules that persons should enter the service without possessing the qualifications prescribed in rule 5.

(6) It is between the relative merits of the respective contentions that the matter has to be settled. As a matter of fact, in rule 7(1)(c)(ii), the phrase 'direct appointment' has been used merely to differentiate between persons not in Government service and persons in Government service. The use of the phrase 'direct appointment' further highlights that all appointments to the service are direct appointments and that appears to be so, if a reference is made to rule 5, where again the phrase 'direct appointment' is used or, to be exact, 'directly appointed'. The same phrase occurs in rule 8(3) (iii). It appears to me that the contention of Mr. Anand Swarup is sound that all appointments under rule 7 are 'direct appointments'. It does not matter from which source the recruit is taken. It is a fundamental rule of construction that in interpreting a set of rules, they should be harmoniously read together and efforts should be made to reconcile them and not to render them otiose. I am, therefore, not in agreement with the contention of Mr. Wasu and I must repel the same.

(7) No other contention has been advanced.

Bhagwan Dass *v.* The Estate Officer, Capital Project, Chandigarh, etc.
(Narula, J.)

For the reasons recorded above, this petition fails and is dismissed with no order as to costs.

PREM CHAND JAIN, J.—I agree.

R.N.M.

LETTERS PATENT APPEAL

Before R. S. Narula and S. S. Sandhawalia, JJ.

BHAGWAN DASS,—*Appellant*

versus

THE ESTATE OFFICER, CAPITAL PROJECT, CHANDIGARH, AND

ANOTHER,—*Respondents*

Letters Patent Appeal No. 399 of 1967

July 25th, 1968

Punjab Land Revenue Act (XVII of 1887)—Ss. 75, 76, 77, 98 and 99 in Chapters VI and VII—Scheme of —Other amounts recoverable as arrears of land revenue—Recovery of—How made—S. 77—Whether applicable to such recovery—S. 98(dd) Amount due under—Whether can be recovered by sale of other property of the defaulter—Property sold under S. 75—Tenant under the owner—Whether entitled to give only symbolic possession to the purchaser—Property sold under section 77—Purchaser—Whether entitled to have actual possession for the tenant.

Held, that the scheme of Chapters VI and VII of Punjab Land Revenue Act is, that whenever arrears of land-revenue have to be recovered, all the processes available under sections 68 to 76 must first be exhausted, and if it is not possible to recover the entire amount by those processes or those processes are considered to be inexpedient, resort may be had to section 77 for putting the other property of the defaulter to sale. The opening words of section 77 make the exhausting of the processes provided before section 77, a condition precedent for availing that provision in normal cases.

(Para 9)