

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CWP No.4029 of 2022 a/w**

**CWP No.4700 of 2022**

**Date of Decision: 31.10.2023**

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**1. CWP No.4029 of 2022**

Rajinder Singh and another

.....Petitioners

Versus

Himachal Pradesh State Co-operative Milk Producers Federation &  
Anr.

... Respondents

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**2. CWP No.4700 of 2022**

Surinder Kumar and others

.....Petitioners

Versus

Himachal Pradesh State Co-operative Milk Producers Federation &  
Anr.

... Respondents

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Coram:

**Hon'ble Mr. Justice Sandeep Sharma, Judge.**

Whether approved for reporting? <sup>1</sup>

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**For the Petitioner(s):** Mr. Surinder Kumar Saklani, Advocate.

**For the Respondents:** Mr. Imran Khan, Advocate, for respondent  
No.1.

Mr. Anup Rattan, Advocate General with Mr.  
Rajan Kahol, Mr. Vishal Panwar, Mr.  
B.C.Verma, Additional Advocate Generals  
and Mr. Ravi Chauhan and Ms. Sunaina,  
Deputy Advocate Generals, for the  
respondent-State.

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**Sandeep Sharma, Judge**(oral):

Vide order dated 12.10.2023, this Court specifically called  
upon Mr. Imran Khan, learned counsel representing respondent No.1 to

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<sup>1</sup>Whether the reporters of the local papers may be allowed to see the judgment?

have instructions to the effect that “when Himachal Pradesh State Cooperative Milk Producers Federation Service Rules 1994 were amended and on which date, notification with regard to same was issued.” Besides above, this Court also directed above named counsel to have instructions as to “whether before promulgation of the amended rules, necessary consent of Registrar Cooperative Societies was taken or with whom consent, same were notified”.

2. Pursuant to aforesaid order, Mr. Imran Khan, learned counsel representing respondent-Corporation has placed on record communications dated 24.5.2016 and 17.12.2016, issued under the signatures of Additional Chief Secretary (Finance) to the Government of Himachal Pradesh and Registrar Cooperative Societies, Himachal Pradesh, respectively. Vide communication dated 24.5.2016, Additional Chief Secretary (Finance) to the Government of Himachal Pradesh called upon all the Managing Directors/Chief Executive Officers of public sector undertakings to submit proposals, if any, concerning sanction of staff, revision of pay scales/upgradation and allied matters of the public sector undertakings to an expert committee on service matters i.e. the Service Committee for examination/consideration. Pursuant to aforesaid communication Managing Director, Himachal Pradesh State cooperative Milk Producers Federation submitted the proposal to the Registrar Cooperative Societies on 2.12.2016, who vide communication dated 17.12.2016, conveyed its approval to amend Clause No.2.9 Sr. No.3, 5, 6, 7, 8 and 13 of the Milkfed Employees Service Rules as resolved by the Board of Directors resolution No.1763/16

under rules 56(1) of the Himachal Pradesh Cooperative Societies Rules 1971. Pursuant to aforesaid amendment, post of Assistant Manager (Quality Control/ Purchase/ Store/ Marketing/ MIS/ P&I) is/was required to be filled up by promotion on merit-cum-seniority basis from amongst the feeder category of Technical Superintendent (Production/Store/Marketing/MIS/P&I) having five years regular service on the post with graduation in Dairy technology/diary husbandry or having four years degree in Dairy Technology/Diary Husbandry from the recognized university. Pursuant to aforesaid amendment, whereby earlier qualification of diploma came to be substituted by degree in Dairy Technology / Dairy Husbandry, petitioners herein came to be denied promotion to the post of Assistant Manager( Quality Control/Purchase/Store/Marketing/MIS/P&I) for the reason that though they had five years regular service on the post of Technical Superintendent (Production/Store/Marketing/MIS/P&I), but were not having degree in Dairy Technology or Dairy Husbandry.

3. Precisely, the grouse of the petitioners as has been highlighted in the petitions and further canvassed by Mr. Surinder Saklani, learned counsel representing the petitioners, is that cases of the petitioners for promotion to the post of Assistant Manager (Quality Control/ Purchase/ Store/Marketing /MIS/P&I) is/was required to be considered in terms of un-amended Rules because before amendment of Rules, not only promotional posts i.e. posts of Assistant Manager (Quality Control/ Purchase/ Store/Marketing /MIS/P&I) were available but at that relevant time

petitioners were having essential qualification prescribed in un-amended Rules.

4. Mr. Imran Khan, learned counsel representing respondent - Corporation fairly stated that in case petitioners herein were eligible in the years 2015, 2016 and 2017 for promotion to the post of Assistant Managers and at that relevant time posts of Assistant Manager were available, their cases for promotion to the post concerned are required to be considered in terms of un-amended Rules, however after 17<sup>th</sup> December 2016, on which date, Registrar Cooperative Societies Himachal Pradesh had conveyed its approval for amendment, an employee having graduation in Daily Technology/Diary Husbandry with five years regular service in the post of Technical Superintendent, shall be eligible for promotion.

5. Careful perusal of the pleadings as well as other material adduced on record, clearly reveals that all the petitioners, save and except two persons namely, Sh. Surender Kumar and Sh. Ghamanda Singh were eligible to be promoted against the posts of Assistant Manager (Quality Control/Purchase/Store/Marketing /MIS/P&I) in the year 2015-2016, if it is so, their cases are required to be considered and decided in terms of un-amended Recruitment and Promotion Rules. Since, it is not in dispute that all the petitioners, save and except two persons, detailed hereinabove, were eligible to be promoted against the post in question in terms of un-amended Rules, respondent-Corporation is under obligation to give benefit of promotion to the petitioners qua the vacancies available in the department prior to amendment of Recruitment and Promotion Rules.

6. Consequently, in view of the above, the present petitions are disposed of with a direction to the respondent-Corporation to consider the petitioners for promotion to the post of Assistant Manager (Quality Control/Purchase/Store/Marketing /MIS/P&I) against the vacancies, if any, available in the year 2015-2016 or in a period prior to amendment of Recruitment and Promotion Rules in terms of un-amended Rules. Since petitioners herein have been fighting for their rightful claim for years together, this Court hopes and trusts that needful in terms of instant judgment shall be done by the respondent-Corporation expeditiously, preferably within a period of six weeks. Since majority of the petitioners already stand retired, they shall be entitled to notional benefits but persons in service shall be entitled for actual benefits on account of promotion, if any, to the higher posts. Pending applications, if any, also stand disposed of.

**(Sandeep Sharma),  
Judge**

October 31,2023  
(shankar)