
dated 6th June, 1997 was challenged nor the application for extension of time or for any other proper relief was moved before the learned trial Court.

(6) The learned counsel for the respondent has placed reliance on the case of *V.K. Natraja Gounder v. S.A. Bangaru Reddiar* (5) and *Premraj Mundra v. Md. Maneck Gazi & others* (6), to substantiate his contention that the order of the trial Court does not suffer from any jurisdictional error. Keeping in view the facts and circumstances of this case where there is eminent threat of disposal of properties with the intention to frustrate the decree which may be passed seen in the background of the defence which lacks in bonafide and substance. Further more the fact that an unpaid seller has a right over the property sold, it becomes necessary to protect the interest of the plaintiff in the suit. The inadequate facts in reply to the application under Order 38 Rule 5 and the averments being totally vague would lead to an inference which may not be favourable to the petitioner by the court at this initial stage of the suit.

(7) For the reasons aforesated I have no hesitation in dismissing both the revisions which are hereby dismissed. However, the petitioner herein is granted one month time to furnish security in terms of the order passed by the learned trial Court dated 6th June, 1997 in the interest of justice. Both these petitions stand dismissed.

J.S.T.

Before G.S. Singhvi & Iqbal Singh, JJ

TEJ SINGH,—*Petitioner*

versus

STATE OF PUNJAB & OTHERS,—*Respondents*

CWP No. 5884 of 1998

The 22nd July, 1998

Punjab Civil Service (Executive Branch) (Class I) Rules, 1976—Rls. 7 to 11 & 15—Appointment to service—Recommendation

(5) A.I.R. 1965 Madras 212

(6) A.I.R. 1951 Calcutta 156

by the Government—Right of the Government not to make recommendation to the Commission—Opportunity of hearing to such persons—Interpretation of rules.

Held that it is one of the well-established canons of interpretation that when the words of a statute are clear, plain or unambiguous i.e. they are reasonably susceptible to only one meaning, the Courts are bound to give effect to that meaning irrespective of consequences.

(Para 8)

Further held, that it is also an established principle of interpretation of statutes that if an Act of the Legislature or rule is open to two constructions, then one which advances the object of the Legislation/rule and makes it workable and functional should be adopted in preference to the other construction which may lead to anomalous results. If the above mentioned rules of interpretation are applied to the expression "who are not covered by any of the categories of officers or officials who are eligible to be nominated under Rules 9, 10 & 11 but who do not fulfil the conditions of eligibility prescribed in Rules 9(5), 10(2) or 11(2) cannot be nominated under Rule 15(2), if at all the rule making authority wanted to confer eligibility of nomination upon those officers/officials who fall in the categories specified in Rules 9, 10 & 11 but who do not fulfil the conditions of eligibility enumerated in those rules, nothing prevented it from incorporating a simple provision for consideration of the candidature of officers/officials specified in the various rules without laying down conditions of eligibility.

(Para 11)

Further held, that the Government is possessed with the inherent power to scrutinise the nominations received from various specified authorities and then forward the names to the Commission of only of those who fulfil the conditions of eligibility. The Commission is also empowered to reject the nomination of those who do not fulfil the conditions of eligibility. This process does not involve adjudication of any list or rights of the candidates who are nominated by the specified authorities. Therefore, a candidate like the petitioner, whose nomination has not been forwarded to the Commission, cannot be heard to make a grievance that he has been condemned unheard. It would have been a different situation if an eligible candidate had been denied consideration by the Commission.

(Para 12)

Rajiv Atma Ram *for the Petitioner.*

Rupinder Khosla, Deputy Advocate General, Punjab *for the Respondent.*

JUDGMENT

G.S. Singhvi, J.

(1) Whether the petitioner is eligible to be nominated for recruitment to the Punjab Civil Services (Executive Branch) (hereinafter referred to as 'the Service') in terms of Rule 15 of the Punjab Civil Service (Executive Branch) (Class-I) Rules, 1976 (hereinafter referred to as 'the 1976 Rules') and whether the decision of the government not to forward his name to the Punjab Public Service Commission (hereinafter referred to as 'the Commission') is liable to be quashed on the ground of arbitrariness? These are the questions which arise for adjudication in this petition.

(2) The relevant facts of the case are that the petitioner who is M.A., LL.B. joined service as Clerk on 30th September, 1972 in the office of the Deputy Commissioner, Faridkot. He was first promoted as Senior Assistant on 17th April, 1985 and then as Naib Tehsildar on 3rd December, 1992. In pursuance of the circular issued by the Department of Personnel and Administrative Reforms in August, 1997, Minister Incharge, Department of Revenue and Rehabilitation, Punjab recommended his case for being considered for appointment to the Service under Rule 15 of 1976 Rules. However, the government refused to forward his nomination to the Commission for consideration for selection under Register 'C'. This has prompted the petitioner to invoke writ jurisdiction of the High Court for invalidation of Annexure P-5 and for directing the respondent No. 1 to forward his nomination to the Commission.

(3) The respondent No. 1 has defended the impugned decision by stating that the petitioner's case is not covered under Rule 15 of the Rules. Further case of the respondent No. 1 is that the letter Annexure P-5 was issued by the Department of Personnel and Administrative Reforms because at the time of scrutiny of the recommendations made by Hon'ble the Minister, it was found that the petitioner is not qualified to be nominated under the residuary provision.

(4) We have heard Shri Rajiv Atma Ram and Shri Rupinder Khosla.

(5) Rules 7, 8, 9, 10, 11 and 15 of the 1976 Rules, which have bearing on the questions raised in this petition read as under :—

“7. Appointment to the Service shall be made in manner herein provided from amongst accepted candidates whose names have been duly entered in accordance with these rules in the Registers of accepted candidates to be maintained under these rules.

8. The following Registers of accepted candidates shall be maintained by the Chief Secretary to Government, Punjab namely :—

- (1) Register A-I in which shall be entered the names of Tehsildars and Naib-Tehsildars accepted as candidates;
 - (2) Register A-II in which shall be entered the names of temporary members of Class II and members of Class III Services serving in connection with the affairs of the State of Punjab and holding ministerial appointments accepted as candidates;
 - (3) Register A-III in which shall be entered the names of persons accepted as candidates from amongst Excise and Taxation Officers, Block Development and Panchayat Officers and District Development and Panchayat Officers serving in connection with the affairs of the State of Punjab;
 - (4) Register B in which shall be entered the name of persons accepted as candidates as a result of the main competitive examination; and
 - (5) Register C in which shall be entered the names of persons accepted as candidates from amongst officers or officials serving in connection with the affairs of the State of Punjab, who are not covered by any of the categories of officers or officials herein before mentioned in this rule.
- 9.(1) Each Deputy Commissioner shall, at such time in a year as the Financial Commissioner, Revenue, may, by general or special order require, recommend to the Commissioner of the Division,

the name of the one Tehsildar or Naib-Tehsildar posted in his District whom he considers most suitable for appointment to the Service.

- (2) The Commissioner of a Division shall, forward the names recommended by the Deputy Commissioners under sub-rule (1) to the Financial Commissioner, Revenue, and may recommend to him the names of one or more persons from amongst the Tehsildars or Naib Tehsildars posted in the Districts under his charge, considered suitable by him for appointment to the Service.
- (3) The Financial Commissioner, Revenue shall consider the names of persons recommended by the Deputy Commissioners and the Commissioners and prepare a list from amongst such persons, of candidates considered suitable by him for appointment to the Service and may include the names of any other Tehsildars and Naib Tehsildars considered suitable by him in such list. Provided that the list prepared by the Financial Commissioner, Revenue shall not contain names exceeding twice the number of candidates to be brought on Register A-I.
- (4) The list prepared under sub-rule (3) shall be submitted by the Financial Commissioner, Revenue to the Chief Minister through the revenue Minister, each of whom may add any name to the list from amongst Tehsildars and Naib-Tehsildars considered suitable by them for appointment to the Service and the list so prepared shall be treated as the final list :

Provided that during the operation of a proclamation issued under clause (1) of Article 356 of the Constitution of India in the State, the list prepared under sub-rule (3) shall be submitted by the Financial Commissioner, Revenue to the Governor who may add any name to the list from amongst

Tehsildars and Naib Tehsildars considered suitable by him for appointment to the Service and the list so prepared shall be treated as the final list.

- (5) The name of a person shall not be included in the final list unless he—(a) is a confirmed hand and has completed eight years' service as Tehsildar or ten years' service as Naib Tehsildar or ten years' service as Tehsildar and Naib Tehsildar taken together;
- (b) was under the age of 45 years on the first day of November immediately preceding the date of submission of names by the nominating authorities; and
- (c) is a graduate of a recognised University.
- (6) Each year at such time as the Government may require, the Financial Commissioner, Revenue, shall submit to the Government the nomination rolls in Form I of persons borne on the final list prepared under sub-rule (4).
- (7) The nomination rolls submitted under sub-rule (6) alongwith the service record of the candidates shall be forwarded by the Government to the Commission which shall consider the merits of each candidate and recommend the name of the persons considered suitable for appointment to the Service duly arranged in the order of merit.
- (8) The names of persons recommended by the Commission under sub-rule (7), shall be entered in Register A-I in the order in which they are recommended by the Commission.
- 10.(1) Each of the authorities specified in the first Column of the table below may submit to the Government in Form I attached to these rules the nomination rolls of such number of persons as specified in each case in the second column of the said table from amongst the temporary members of Class II

Services and members of Class III Services, holding ministerial appointments and working in its office or in the offices subordinate to it :—

Table

Nominating Authority	Number of Nominations
1. Chief Minister	2
2. Speaker, Punjab Vidhan Sabha	1
3. Chief Justice of the High Court of Punjab & Haryana	2
4. Ministers and Ministers of State	1(each)
5. Deputy Ministers	1 (each)
6. Chief Parliamentary Secretary and Parliamentary Secretary	1 (each)
7. Chief Secretary	
8. Financial Commissioners	1 (each)

Provided that during the operation of a Proclamation issued under clause (1) of article 356 of the Constitution of India in the State, the Governor may nominate two persons from amongst the temporary members of Class II Service, and members of Class III services holding ministerial appointments and working in his office or in the offices subordinate to him.

(2) No nomination roll in respect of a persons shall be submitted under the provisions of sub-rule (1) unless such persons—

(a) is a confirmed hand and has completed 10 years' continuous service under the Government;

(b) was under the age of forty-five years on the first day of November immediately preceding the date of submission of names by the nominating authorities; and

(c) is a graduate of recognised University;

- (3) The nomination rolls submitted under sub-rule (1) along with the service record of the candidates shall be forwarded to the Commission which shall consider the merits of each such candidate and recommend such of the candidates as are considered suitable for appointment to the Service.
- (4) The names of persons recommended by the Commission under sub-rule (3) shall be entered in Register A-II in the order in which they are recommended by the Commission.
- 11.(1) Each of the authorities specified in the first column of the Table below may submit to the Government through the Administrative Secretary of the respective Department in Form I attached to the rules the nomination rolls of such number of persons as is specified in each case in the second column of the said Table from amongst Excise and Taxation Officers, Block Development and Panchayat Officers and District Development and Panchayat Officers :—

Table

Nominating Authority	Number of Nominations
1	2
Minister Incharge of the respective Category of post	1
Administrative Secretary of the respective Department.	1
Head of the respective Department	1

(Provided that during the operation of a Proclamation issued under clause (1) of article 356 of the Constitution of India in the State, the Governor may nominate one person from amongst the Excise and Taxation Officers, Block Development and Panchayat Officers and District Development and Panchayat Officers.

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- (2) No nomination roll in respect of a person shall be submitted under the provisions of sub-rule (1) unless such person—
- (a) is a confirmed hand and has completed 10 years' continuous service under the Government;
 - (b) was under the age of 45 years on the first day of November immediately preceding the date of submission of names by the nominating authorities; and
 - (c) is a Graduate of recognised University.
- (3) The nomination rolls submitted under sub-rule (1) along with the service record of the candidates shall be forwarded by the Government to the Commission, which shall consider the merits of each candidate and recommend such of the candidates as are considered suitable for appointment to the Service.
- (4) The names of the persons recommended by the Commission under sub-rule (3) shall be entered in Register A-III in the order in which they are recommended by the Commission:

Provided that the Commission shall, while recommending names from amongst Excise and Taxation Officers on the one hand and District Development and Panchayat Officers and Block Development and Panchayat Officers on the other, maintain *inter se* ratio of 7:4.

xx xx xx

- 15.(1) Each of the authorities specified in the first column of the Table below may submit to the Government through the Administrative Secretary of the respective Department in Form II attached to the rules the nomination rolls of such number of persons as is specified in each case in the second column of the said Table from amongst officers or officials working in its office or offices subordinate

to it who are not covered by any of the categories of officers or officials mentioned in rules 9, 10 and 11 :—

TABLE

Nominating Authorities	Number of nominations
Minister Incharge of the respective Department	1
Administrative Secretary of the respective Department	1
Head of the respective Department	1

Provided that during the operation of a Proclamation issued under clause (1) of article 356 of the Constitution of India in the State, the Governor may nominate one person from amongst the officers or officials working in his office or offices subordinate to him who are not covered by any of the categories of officers or officials mentioned in rules 9, 10 and 11.

- (2) No nomination roll in respect of a person shall be submitted under the provisions of sub-rule (1) unless such person—
 - (a) is a confirmed hand and has completed 10 years' continuous service under the Government;
 - (b) was under the age of 45 years on the first day of November immediately preceding the date of submission of names by the nominating authorities; and
 - (c) is a Graduate of a recognised University.
- (3) The nomination rolls submitted under sub-rule (1) alongwith the service record of the candidates shall be forwarded by the Government to the Commission which shall consider the merits of each candidate and recommend such of the candidates as are considered suitable for appointment to the Service.

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- (4) The names of the persons recommended by the Commission shall be entered in Register 'C' in the order in which they are recommended by the Commission."

(6) A careful reading of these rules shows that appointment to the service is to be made from amongst accepted candidates whose names are entered in Registers A-I, A-II, A-III, 'B' and 'C'. The names of Tehsildars and Naib Tehsildars accepted as candidates are required to be entered in Register A-I. The names of members of Class-II and Class-III services, serving in connection with the affairs of the state of Punjab and holding ministerial appointments, who are accepted as candidates are entered in Register-A II. Register A-III relates to the candidates who are selected from amongst Excise and Taxation Officers, Block Development and Panchayat Officers and District Development and Panchayat Officers serving in connection with the affairs of the State of Punjab. The names of direct recruits are entered in Register 'B'. The names of those who are selected on the basis of nomination from the residuary categories under Rule 15 are included in Register 'C'. Rule 9 lays down the procedure for selection of candidate for Register A-I. It empowers each Deputy Commissioner of the District, Commissioner of the Division, Financial Commissioner Revenue, Revenue Minister and Chief Minister to make nomination from amongst Tehsildars and Naib Tehsildars who are considered suitable subject to the condition that the candidate fulfils the following conditions of eligibility:—

- (i) He is a Graduate of a recognised University.
- (ii) He is a confirmed hand and has completed 8 years' service as Tehsildar or 10 years' service as Naib Tehsildar or 10 years' service as Tehsildar and Naib Tehsildar taken together.
- (iii) He is under the age of 45 years on the first day of November immediately preceding the date of submission of names by the nominating authority.

Nomination rolls of such candidates are required to be forwarded by the Government to the Commission along with their service record and the Commission is required to make recommendation by considering the merit of each candidate. Rule 10 lays down the procedure for selection of the candidates for inclusion in Register A-II. It empowers the Chief Minister, Speaker Vidhan Sabha, Chief Justice of the High Court of Punjab and Haryana, Ministers,

Ministers of States and Deputy Ministers, Chief Parliamentary Secretary and Parliamentary Secretary, Chief Secretary and Financial Commissioners to nominate the specified number of candidates from amongst temporary members of Class-II and Class-III services holding ministerial appointments and working in their offices or in the offices subordinate to them. The conditions of eligibility for nomination under Rule 10(1) are contained in sub-rule 2 of the said rule. They are more or less similar to those prescribed for Tehsildars/Naib Tehsildars. Nomination from amongst Excise and Taxation Officers, Block Development and Panchayat Officers and District Development and Panchayat Officers for selection of candidates for Register A-III is required to be made under Rule 11 by the Minister Incharge of the respective category of post, Administrative Secretary of the respective department and Head of the respective department. The conditions of eligibility enumerated in Rule 11(2) for nomination in these categories are similar to those enumerated in Rules 9(5) and 10(2). Since we are not concerned with Rules 12, 13, 13-A and 14, which contain procedure for selection of candidates for Register 'B', it is not necessary to make detailed analysis of the same. Rule 15 contains provision for selection of candidates for Register 'C' from amongst the residuary categories of officers or officials. It lays down that the Minister Incharge of the respective department, Administrative Secretary of the respective department and Head of the respective department can make nomination from amongst officers or officials working in their offices or offices subordinate to them who are not covered by any of the categories of officers or officials mentioned in Rules 9, 10 and 11. The conditions of eligibility for nomination under Rule 15(1) are enumerated in Rule 15(2). They are similar to those contained in Rules 9, 10 and 11.

(7) Shri Rajiv Atma Ram argued that the decision of the government not to forward the petitioner's name to the Commission is *per se* illegal and arbitrary and violative of Articles 14 and 16 of the Constitution. He further argued that the petitioner's nomination under Rule 15(1) by the Hon'ble Revenue and Rehabilitation Minister is consistent with the plain language of that Rule and the government has gravely erred in refusing to forward his name to the Commission. Shri Atma Ram submitted that the petitioner's case falls within the ambit of expression "*who are not covered by any of the categories of officers or officials mentioned in Rules 9, 10 and 11*" because the petitioner is not eligible to be nominated under Rule 9 due to non-fulfilment of the conditions of eligibility prescribed

under Rule 9(5) of the 1976 Rules. Another argument of Shri Atma Ram is that the government's decision not to forward the petitioner's name to the Commission is liable to be declared as void on the ground of violation of the principles of natural justice, inasmuch as no action-oriented notice or opportunity of hearing was given to the petitioner by the government before it took the impugned decision. Shri Rupinder Khosla justified the decision of the government by arguing that the petitioner belongs to the category of officials eligible to be nominated under Rule 9. He submitted that merely because the petitioner does not satisfy the conditions of eligibility prescribed under Rule 9(5), he cannot seek nomination under the residuary provision.

(8) In our opinion, the government has rightly declined to forward the petitioner's name for consideration by the Commission. It is one of the well-established canons of interpretation that when the words of a statute are clear, plain or unambiguous i.e. they are reasonably susceptible to only one meaning, the Courts are bound to give effect to that meaning irrespective of consequences. This rule was laid down by Tindal, C.J. in *Sussex Peerage* case (1). The learned Chief Justice observed:

“If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best—declare the intent of the lawgiver.”

(9) In *State of U.P. v. Vijay Anand Maharaj* (2), (as his Lordship then was), stated the rule in the following words:

“When a language is plain and unambiguous and admits of only one meaning no question of construction of a statute arises, for the Act speaks for itself.”

(10) Similarly, in *Kanailal Sur v. Paramnidhi Sadhu Khan* (3), Gajendragadkar, J. observed:

“If the words used are capable of one construction only then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act”

(1) (1944) 11 CI & F 143
(2) A.I.R. 1963 S.C. 936
(3) A.I.R. 1951 S.C. 907

(11) It is also an established principle of interpretation of statutes that if an Act of the Legislature or rule is open to two constructions, then one which advances the object of the Legislation/ rule and makes it workable and functional should be adopted in preference to the other construction which may lead to anomalous results. If the above-mentioned rules of interpretation are applied to the expression "who are not covered by any of the categories of officers or officials mentioned in Rules 9, 10, and 11", there is no difficulty in holding that the officers or officials who are eligible to be nominated under Rules 9, 10 and 11 but who do not fulfil the conditions of eligibility prescribed in Rules 9 (5), 10(2) or 11(2) cannot be nominated under Rule 15(2). In other words, the residuary rule provides for nomination of only of those categories of officers or officials whose cases are not covered under Rules 9, 10 and 11. The acceptance of interpretation of Rule 15(1) as suggested by Shri Atma Ram will not only lead to total frustration of the scheme of rules which contemplates selection of different categories of officers and officials for Registers A-I, A-II and A-III but, as will be seen hereafter, it will lead to an extremely anomalous results. Rule 9(1) empowers the Deputy Commissioner of the District, Commissioner of the Division, Financial Commissioner, Revenue Minister and Chief Minister to make nomination of the candidates for selection for register A-I. It does not empower the Administrative secretary of the department and Head of the department to make nomination of the candidates. Likewise, Rule 10(1) empowers various authorities to make nominations from amongst temporary members of Class-II and Class-III services holding ministerial appointments and working in their offices or the offices subordinate to them. This rule also does not envisage nomination by the Administrative Secretary and Head of the respective departments. However, if we read Rule 15(1) in the manner suggested by Shri Atma Ram, the Administrative secretary and Head of the department will also become entitled to nominate Tehsildars, Naib-Tehsildars and members of Class-II and Class-III services for the purpose of selection for Registers A-I and A-II. This, in our opinion, is not permissible because that would amount to re-writing of Rules 9 and 10 by adding the Administrative secretaries and Heads of concerned departments in the list of authorities competent to make nominations

under Rules 9 and 10 and there does not appear to be any cogent reason why the Court should assume the role of rule making authority and indirectly amend the rules in the guise of interpreting it. That apart, if at all the rule making authority wanted to confer eligibility of nomination upon those officers/officials who fall in the categories specified in Rules 9, 10 and 11 but who do not fulfil the conditions of eligibility enumerated in those rules, nothing prevented it from incorporating a simple provision for consideration of the candidature of officers/officials specified in the various rules without laying down conditions of eligibility. Then the rule would have been worded in a manner which would entitle every Tehsildar or Naib Tehsildar or temporary member of Class II and Class-III services holding ministerial appointment and working in the specified office, Excise and Taxation Officer, Block Development and Panchayat Officer and District Development Officer to be nominated by the concerned authority without requiring the candidates to fulfil particular qualifications. However, the fact of the matter is that the plain language of the rules does not lend support to such interpretation. Therefore, we are unable to agree with Shri Atma Ram that the petitioner should be treated eligible for nomination under Rule 15(1) of the Rules. Logically, we do not find any error in the government's decision not to forward the petitioner's name to the Commission.

(12) We also do not find any substance in the argument of Shri Atma Ram that the decision of the government is liable to be invalidated on the ground of violation of the principle of natural justice. The scheme of the rules do not confer authority to the Revenue Minister to make final nomination for the purpose of selection of the candidates for Register A-I. A candidate nominated by the Revenue Minister in the category of Tehsildar and Naib-Tehsildar does not acquire a vested right to be considered for selection. Rather, the government is possessed with the inherent power to scrutinise the nominations received from various specified authorities and then forward the names to the Commission of only of those who fulfil the conditions of eligibility. The Commission is also empowered to reject the nomination of those who do not fulfil the conditions of eligibility. This process does not involve adjudication of any list or rights of the candidates who are nominated by the

specified authorities. Therefore, a candidate like the petitioner, whose nomination has not been forwarded to the commission, cannot be heard to make a grievance that he has been condemned unheard. It would have been a different situation if an eligible candidate had been denied consideration by the commission. In that event, the court may have intervened and ordered the government to forward his nomination to the commission for consideration of merit.

(13) For the reasons mentioned above, the writ petition is dismissed.

S.C.K.

Before R.S. Mongia & S.S. Sudhalkar, JJ

MANDEEP SODHI,—*Petitioner*

versus

P.G.I., CHANDIGARH & OTHERS,—*Respondents*

CWP No. 13789 of 1998

23rd September, 1998

Constitution of India, 1950-Art. 226-Admission to four different courses-only one application form-one joint test—Preference for different courses made by candidate in the application-Basis for admission.

Held that there was only one application form and one entrance test for the four courses, it would follow that after the merit list was prepared then the admission was to be granted in order of preference (and not performance) of the candidates for the courses applied for. The candidates on the basis of their merit were to be given admission in the course of their first choice and if seat was not available then they may be offered admission in the course of second choice and so on. Even respondent-PGI understood the method of selection as indicated by us inasmuch as while compiling the result, the choice given by the candidates in their application forms has been indicated in the result. A candidate cannot be allowed to change the order of preference.

(Para 13)