

Amit Kashyap Vs. Principal Secretary & Ors.

**CWP No. 15550/2024**

03.01.2025 Present: Mr. Ishan Kashyap, Advocate, for the petitioner.

Mr. Anup Rattan, Advocate General with Mr. Y.P.S. Dhaulta, Mr. L.N. Sharma, Mr. Amandeep Sharma, Additional Advocates General with Ms. Menka Raj Chauhan, Ms. Leena Guleria, Mr. Sikander Bhushan, Deputy Advocates General, for the respondents/State.

Mr. Vijay Kumar Arora, Sr. Advocate with Ms. Lalita Sharma, for respondent No.3.

None for respondent No.4.

Reply has been filed by respondents No.1 & 2.

2. Learned Senior Counsel for respondent No.3 has placed on record office communication dated 01.01.2025 from the under Secretary GST Council Secretariat and addressed to the Commissioner, CGST Shimla, which *inter-alia* records:-

2.....the Government of Himachal Pradesh had made a representation to GST council for invocation of the Proviso of Section 110(1) (d) of CGST Act, 2017 (i.e. relaxation of completing 25 years of service in Group A or equivalent) and the same was approved by the GST implementation committee vide Item No. 12 of Agenda for 53rd GST Council Meeting dated 22nd June 2024.

3. In this regard, it is submitted that in the 53rd GST Council meeting, an agenda regarding the decision of the GST Implementation Committee on relaxation in the eligibility criteria for selection to the post of Technical Member (State) of GSTAT in various states, which include the proposal of state of Himachal Pradesh for notifying an

*officer of Commercial Tax Department of Himachal Pradesh, who has completed at least twenty Five years of service in the Government as a Gazetted officer, to be eligible for the appointment as Technical Member (State) in the State Bench, was placed before the GST Council and Council took note of the GIC decisions.”*

3. The Minute Book has been appended with the instructions memo, which also records the proposal as sent by the State of Himachal Pradesh for approval to the GST Council:-

*“Minute Book*

*1-11.....*

*12. Decision by circulation on 2.5.2024 on relaxation in the eligibility criteria for selection to the post of Technical Member (State) of GSTAT in various states and notifying the rank of the officer who is the first Appellate Authority in the State of Mizoram.*

*A.....*

*b. The Agenda Note further states that the search for the Technical Member (State) of the respective State Benches in to be carried out by the concerned State. The eligibility for the Technical Member (State) is governed by section 110(1(d) of the CGST Act which states as follows:-*

*A person shall not be qualified for appointment as*

*a. Technical Member (State), unless he is or has been an officer of the State Government of an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax on the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A. or equivalent, with at least three years of experience in*

*the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:*

*Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification.*

*c. The Agenda Note further states that in this context it is to be mentioned that a State Government, on the recommendation of the GST Council, may relax the requirement of completion of twenty five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty five years of service in Group A, or equivalent, but has completed twenty five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification. Accordingly, it may be seen that for the issuance of the said notification, the following is required:*

*i. no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty five years of service in the Government.*

*ii. the relaxation sought*

*iii. such conditions subject to which the exemption is to be granted, and*

*iv. such period upto which the exemption is to be granted*

*d. In view of the above, following proposals were made in the Agenda note.*

*A. Relaxation allowing 25 years of service in the Government as Gazetted Officer (irrespective of whether or not in Group A or equivalent) for a period of 10 years from the date of notification as per the:-*

*1-2.....*

***“3. Proposal of State of Himachal Pradesh for notifying an officer of the Commercial Tax Department of Himachal Pradesh, who has completed at least twenty five years of service in the Government as Gazetted Officer to be eligible for the appointment as Technical Member (State) in the State Bench.***

4-9.....

*f. Decision: The Members of the GIC approved the above proposal.”*

Learned Senior Counsel for respondent No.3 prays for and is granted four weeks time to file reply.

3. Rejoinder to the reply filed by respondents No.1 & 2 be also filed within the aforesaid period.

4. Interim order to continue till the next date.

5. List on 27.02.2025

**Jyotsna Rewal Dua  
Judge**

3<sup>rd</sup> January, 2025 (rohit)