

**236 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-23688-2014 (O&M)

Date of Decision: 24.09.2018.

Mohinder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Kshitij Sharma, Advocate,
for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

JITENDRA CHAUHAN.J.(ORAL)

CM-14404-CWP-2018

The application is allowed as prayed for. Annexures

P-14 to P-16 are taken on record subject to all just exceptions.

Main case

Through the instant civil writ petition, the petitioner seeks issuance of a writ in the nature of mandamus directing the respondents to consider the case of the petitioner for promotion to the post of Data Entry Operator (DEO) or Assistant Foreman Special (AFS) with effect from the date his juniors were promoted and he be deemed to be regularised with effect from 13.03.1996.

It has been contended that the petitioner was appointed as skilled Mazdoor on 22.03.1988. He was retrenched on 28.02.1989. The petitioner challenged his retrenchment before the

Labour Court, Gurdaspur. Vide Award dated 10.02.1994, Labour

Court, Gurdaspur ordered reinstatement of the petitioner. The State of Punjab challenged the Award by way of civil writ petition which was dismissed on 06.09.1994. The petitioner submitted representation on 25.11.1994 for allowing him to join his duties however, he was allowed to join his duties only on 27.05.1995. In the meantime, 523 workmen junior to the petitioner were promoted. The petitioner was constrained to raise second industrial dispute in which the Labour Court directed the authority to consider and decide the representation of the petitioner and to promote the petitioner. The Award of the Labour Court was again challenged by the State by way of civil writ petition which was dismissed on 31.08.1999. The SLP filed by the State was also dismissed on 11.08.2003. Thereafter, the petitioner filed CWP No. 15093 of 2013 for implementing order dated 31.08.1999. The said civil writ petition was rendered infructuous as the Award dated 31.08.1999 had been implemented during the pendency of that civil writ petition. However, the respondents were directed to pay costs of Rs.25,000/- to the petitioner. The COCP filed by the petitioner was disposed of on 18.05.2010. Thereafter, the case of the petitioner for promotion is kept pending for one reason or the other.

It has been contended that despite the petitioner holding Diploma in Computer Applications since 01.03.1996 and working as Work Munshi and discharging the duties of a Computer Operator for the last 15-20 years, he is still being made to work as

Work Munshi and has not been promoted either as Data Entry Operator or Assistant Foreman Special and the juniors to the petitioner, namely, Sohan Singh, Pawan Kumar, Raj Kumar, Santokh Kumar etc. have been promoted as Assistant Foreman Special. The petitioner has moved representations (Annexure P-2 and P-4) but the case of the petitioner for promotion has not been considered.

In the reply filed on behalf of respondent Nos. 1 to 6, it has been pleaded that due to completion of Ranjit Sagar Dam Project, various categories of workmen including the petitioner have been declared surplus and instead of retrenching their services, they are being absorbed in different wings of the department of Irrigation and other entities of the State. In fact, the petitioner was recruited as unskilled Mazdoor on daily wages on 22.03.1988.

I have heard the learned counsel for the parties and have gone through the case file.

Vide Award dated 10.02.1994 passed by Labour Court, Gurdapsur, ordered the reinstatement of the petitioner with continuity of service. That finding of the Labour Court, Gurdaspur has attained finality. Admittedly, juniors to the petitioner, namely, Sohan Singh, Pawan Kumar, Raj Kumar and Santokh Kumar have been promoted as Assistant Foreman Special and Rajinder Kumar and Neena Kumari have been promoted as Data Entry Operators. However, the petitioner has been ignored by the respondents. The stand of the

respondents that the petitioner has already been promoted as Work Munshi, therefore, he does not deserve to be promoted further, is inconsequential in view of the fact that juniors to the petitioners as stated above, have been promoted either as Assistant Foreman Special or Data Entry Operators. The petitioner being a similarly situated persons cannot be treated differently. Like should be treated alike.

Consequently, the present civil writ petition is allowed. The respondents are directed to promote the petitioner either as Assistant Foreman Special or Data Entry Operator as per his entitlement, within a period of two months from the date of receipt of copy of the judgment.

24.09.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No