

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No. 26673 of 2014
Date of decision : 23.10.2018**

RAJENDER KUMAR

.....Petitioner

versus

MUNICIPAL CORPORATION CHD AND ANR.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. D.R. Sharma, Advocate
for the petitioner.

Mr. Sanjiv Ghai, Advocate
for the respondents.

RITU BAHRI, J. (Oral)

Petitioner is seeking setting aside of order dated 29.08.2014 passed by respondent No. 2 (Annexure P-15), pursuant to direction issued by this Court in CWP No. 11511-2014.

Brief facts of the case are that petitioner was appointed as Sweeper on 13.07.1993 in the office of Medical Officer (Health) Municipal Corporation on compassionate grounds after the death of his father. Petitioner possesses qualification of B.Com and LLB and belongs to SC reserved category.

The grievance of the petitioner before this Court that respondents are not considering his case for promotion to the post of Clerk despite the fact that the petitioner had earlier filed CWP No. 12155-2006, which was allowed by this Court by observing that once the respondent-Corporation decided to fill up vacant posts of Clerk from amongst Class IV employees then it was not open to Corporation to exclude the petitioner from the consideration zone on the ground that he was serving on the post of Sweeper which is class IV post.

Pursuant to directions given by this Court, the Corporation took type test of the

petitioner in English on 15.04.2008 and the petitioner was declared fail on 22.05.2018 (Annexure P-2). Thereafter petitioner gave representations dated 28.01.2011 and 28.03.2011 (Annexure P-1 and P-4) to give another chance of promotion to the petitioner and to give him exemption from the type test in the light of Government of India, Department of Personnel Training O.M dated 29.09.1992 and adopted by Chandigarh Administration vide circular dated 31.01.2006 he having been crossed the age of 45 years, at the time of appointment in Group 'C' i.e Class III

The petitioner is relying upon Annexure P-7 to P-9 whereby the Corporation had promoted three peons namely Satyanand, Harbans Singh and Sushma Kumari as Clerk by giving them exemption from typing test in the light of Government of India OM dated 20.09.1992 and Chandigarh Administration dated 31.01.2006, as they were above the age of 45 years at the time of appointment in Group 'C' ie. Class III as Clerk.

The petitioner then again filed CWP No. 11511-2014 seeking directions to the respondents to fill up vacant posts of Class III clerk and consider his case by granting him age relaxation and exemption from type test. Vide order dated 30.05.2014 (Annexure P-14), a direction was given to the respondents to dispose of representation (Annexure P-11) given by the petitioner expeditiously, in accordance with law. Now the impugned order dated 29.08.2014 (Annexure P-15) has been passed by rejecting the claim of the petitioner.

On notice, a written statement has been filed by the respondents taking a stand that that now Municipal Corporation Chandigarh has notified the Municipal Corporation Chandigarh Service Regulations, 2012 (for short 'Rules 2012') in view of which it can be seen that since the Safai Karamcharies have

separate channel of promotion, therefore they are not to be considered for

promotion to the post of Clerk. The Safai Karamcharis can only be promoted as Sanitay Jamadar and Head Sanitary Jamadar and even Multi Purpose Worker, as per Rules, 2012. Further the Secretary Local Government, Chandigarh Administration vide its letter dated 21.03.2013 has intimated that “the existing Municipal Corporation Chandigarh Service Rules, 2012 provide a separate channel of promotions for Safaikarmcharies, which does not include the post of Clerk. Therefore, the demand raised by Safaikarmcharies does not hold good, which cannot be acceded too.”

Since as per Rules 2012, the Safai Karamcharies have separate channel of promotion i.e Sanitay Jamadar, Head Sanitary Jamadar and even Multi Purpose Worker, therefore they are not to be considered for promotion to the post of Clerk. This fact has further been clarified vide letter dated 21.03.2013 by Secretary Local Government, Chandigarh Administration. The petitioner cannot claim parity with Satyanand, Harbans Singh and Sushma Kumari.

Accordingly, the present writ petition is dismissed.

October 23, 2018
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No