

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: April 17, 2018

+ W.P.(C) 6445/2016

HANIF KHAN Petitioner
Through: Mr. R.K. Kapoor & Ms. Rekha
Giri, Advocates

Versus

THE CENTRAL CIVIL SERVICES BOARD Respondent
Through: Mr. A.P. Sahay, Central
Government Standing Counsel

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Creation of post of *Mali* and regularization of petitioner's service as *Mali*, is sought in this petition while claiming parity with *Krishna Mohan Kumar Singh*. Grant of same pay scale is also sought by petitioner, who claims that he is working as *Mali* with respondent since 6th October, 1995.

2. At the outset, petitioner's counsel places reliance upon a decision of 28th August, 2006, of a Coordinate Bench of this Court in W.P.(C) 782/1996 *Raj Kishore Singh & Ors. Vs. The Central Civil Services Board (Annexure P-2)* to seek the relief claimed in this petition.

3. Vide aforesaid order of 28th August, 2006 (*Annexure P-2*), *Krishna Mohan Kumar Singh* was granted the relief of regularization of his service whereas remaining petitioners were denied the relief. To seek a mandamus to respondent to create the posts, reliance is placed by

petitioner's counsel upon Supreme Court's decision in *Nihal Singh & Ors. Vs. State of Punjab & Ors.* (2013) 14 SCC 65. Learned counsel for petitioner submits that petitioner is entitled to the relief prayed for, as his case is at par with the case of *Krishna Mohan Kumar Singh*.

4. On the contrary, learned counsel for respondent maintains that the existence of respondent-Board is temporary and it is running on *grant-in-aid* from Government and no sanctioned posts exists. It is submitted on behalf of respondent that *Krishna Mohan Kumar Singh* was senior to petitioner, so his service was regularized in light of Court order of 28th August, 2006 (*Annexure P-2*) and his co-petitioners, who have been denied the relief, are also senior to petitioner, and so relief sought by petitioner cannot be granted to him.

5. Upon hearing and on perusal of order of 28th August, 2006 (*Annexure P-2*), material on record and the decision cited, I find that reliance placed upon Supreme Court's decision in *Nihal Singh (Supra)* is of no avail, as in the said decision, the appointments made were not irregular, whereas in the instant case, the appointment of petitioner and co-petitioners of *Krishna Mohan Kumar Singh* was not duly made and so, mandamus cannot be issued to respondent to create the post, particularly when the appointments are made by respondent on temporary basis. Upon scrutiny of order of 28th August, 2006 (*Annexure P-2*), this Court finds that the case of petitioner is not at par with the case of *Krishna Mohan Kumar Singh* but is quite akin to the case of his co-petitioners – *Raj Kishore Singh and others* who has been already declined similar relief in the order (*Annexure P-2*). So, no case for grant of relief, as prayed for, in this petition is made out.

6. Consequentially, this petition is dismissed, while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

APRIL 17, 2018
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