

CWP No.7796 of 2012 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7796 of 2012 (O&M)

Date of Decision: 28th February, 2020

Gurjaipal Singh

...Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Alka Chatrath, Advocate,
for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-4392-CWP-2017

Annexures P-17 to P-22 are taken on record, subject to all just exceptions.

Application stands disposed of.

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Petitioner has approached this Court praying for issuance of a writ of *mandamus* directing the respondents to consider the case of the petitioner for promotion to the post of Labour Inspector Grade-II under the physically handicapped (visually handicapped) quota from the post of Clerk.

2. It is the contention of the learned counsel for the petitioner that the petitioner is interested in promotion to the post of Labour Inspector Grade-II despite the pay-scale being lower than that of the feeder cadre i.e.

Clerk. He contends that the pay-scale of the Labour Inspector Grade-II is ₹ 5910-20200/- and that of the Clerk is ₹ 10,300-34800/- but the feeder cadre being that of a Clerk, the petitioner wants his promotion under the handicapped category as per the Punjab Government instructions dated 05.07.2011 (Annexure P-13). These instructions, counsel contends, had been issued in pursuance to the judgment passed by this Court in **Viklang Sang, Haryana Vs. State of Haryana & others** {2010 (29) S.C.T. 23}. Her submission is that this Court had passed an order dated 02.08.2018, which reads as follows:-

“Learned counsel for the petitioner(s) state that out of 30 posts falling to the share of promotional category for the post of Labour Inspector, Grade-II, none is presently on the establishment who joined against the handicapped category as Clerk.

This statement is controverted by learned State counsel. On instructions, learned State counsel submits that as on today, two persons from the handicapped category, namely, Sukhpal Singh and Vishal Devgan, who were appointed against handicapped category, are serving as Labour Inspector, Grade-II.

The State is directed to file a specific affidavit in this regard.

Post again on 16.01.2019.

A photocopy of this order be placed on the file(s) of the connected case(s).”

In pursuance thereto, an affidavit dated 16.01.2019 of the Additional Labour Commissioner, Department of Labour, Government of Punjab, has been filed, according to which, no person has been appointed

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directly or by way of promotion against handicapped category as Labour Inspector Grade-II since 2012. It has also been stated that one post is lying vacant under the handicapped category.

In view of the above factual position, when there is no assertion on the part of the respondents that apart from the petitioner, there is any other person, who is senior to him for promotion under the handicapped category, the non-consideration of the claim of the petitioner for promotion to the post of Labour Inspector Grade-II by the respondents cannot sustain.

In view of the above, the present writ petition is allowed. Direction is issued to the respondents to consider the claim of the petitioner for promotion to the post of Labour Inspector Grade-II, within a period of two months from today keeping in view the instructions dated 05.07.2011 (Annexure P-13).

28th February, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No