

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

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**CWP-676-2020 (O&M)
Decided on : 10.02.2021**

Rajpal Singh

... Petitioner

Versus

Haryana State Federation of Consumers Cooperative Wholesale Sources Ltd.
& another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Naveen Daryal, Advocate, for the petitioner.

Mr.Arun William, Advocate, for the respondents.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India is for issuance of directions to the respondents to revert him to Peon which is his original lower post as Peon/Helper in CONFED, as per the order dated 05.08.2014 (Annexure P-2) on the ground that the petitioner is unable to qualify the State Eligibility Test in Computer Appreciation since in another case, one Moti Ram, who had been promoted, had been allowed to be reverted.

In the reply filed by the respondents, it has been averred that after the promotion on the post of Clerk on 05.08.2014, his pay was fixed in the promotional scale of Rs.10,760/- in the pay scale of Rs.5200-20200 + Grade Pay of Rs.1900 w.e.f. 05.08.2014, vide order dated 25.11.2014(Annexure R-1). The petitioner, however, failed to qualify the test and therefore, as per the Government instructions, no increment could be granted to the petitioner. It is further averred that the petitioner is 58 years of age and is going to retire on 31.03.2021 whereas the retirement age of Class IV employees is 60 years.

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It is in such circumstances the claim has been made on account of the fact that he would have 2 additional years of service. It is further averred that he has received the promotional scale as mentioned above since 2014 and now, started making claims of reversion by submitting representation which would be clear from the representation dated 30.08.2018 (Annexure P-7).

In such circumstances, it is apparent that the petitioner has enjoyed the benefits of the promotional post but has not been able to qualify the written test to get the increments and therefore, now, is wanting to seek the benefit of longer service period.

Accordingly, this Court is of the opinion that no writ of mandamus can be issued as there is no legal right of the petitioner which is the basic criteria for this Court to exercise its jurisdiction. The facts and circumstances also go on to show that it is a misconceived litigation for the purpose of getting extension of service after having secured promotion and knowing that he is liable to be paid a higher pay scale but would be retired earlier. The ground of discrimination need not detain this Court any further as Article 14 of the Constitution of India is not a concept of negative equality wherein a wrong order having been passed can be the basis of which the petitioner can succeed.

Accordingly, in view of the above, no case is made out for passing any direction in favour of the petitioner and the present writ petition is, accordingly, dismissed.

FEBRUARY 10, 2021

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**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No