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

**CWP No.14998 OF 2000 (O&M)
DATE OF DECISION : 03.08.2022**

Ram Kishan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Mani Ram Verma, Advocate
for the petitioner.

Mr. R. D. Sharma, D.A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter-alia*, seeks issuance of a writ in the nature of certiorari for quashing order dated 28.08.2000 (Annexure P-14) whereby the respondent No.2 has rejected the claim of the petitioner for promotion to the post of Clerk.

2. Learned counsel for the petitioner argues that though juniors of the petitioner were promoted but yet he was ignored for promotion.

3. In the return filed as well as in the impugned order (Annexure P-14), the defence taken qua neglecting the right of the petitioner to be considered for promotion on parity with his junior Ranbir Singh is that the latter belongs to Mechanical Establishment and was inadvertently promoted as Clerk by the department and the

same cannot be made a precedent. As per service rules of Public Health Works Department, Public Health Branch Circle Cadre (Ministrial) Group 'C' Service Rules, 1989, there is no provision to consider the employees of Mechanical Establishment Group 'D' to the post of Clerk as their line of promotion is separate as mentioned in service rules of Mechanical Group 'C' employees.

4. However, learned counsel for the petitioner places reliance on a division bench judgment of this Court, in petition filed by the aforesaid Ranbir Singh for directing the respondents not to revert him from the post of Clerk, being CWP No.7550 of 1999, decided on 06.10.1999. The applicable rules vis-à-vis for promotion to the post of Clerk from Class-IV posts were interpreted therein and it was held that Ranbir Singh was entitled for promotion irrespective of the fact that he worked in mechanical cadre and there is no distinction made between the employees belonging to the mechanical cadre or ministerial cadre. The relevant para of the afore-captioned judgment is reproduced herein below:-

“From the reading of the 1988 Rules, it will be clear that 20% of the posts under rule 9(1)(c) (ii) filled by promotion from group D employees. Even while providing for the qualifications for promotion as Clerk, five years experience as group D employee is laid down. It is nowhere mentioned that such a group D employee has to be either from a ministerial or mechanical cadre. It is not disputed that the petitioner does belong to a group

D cadre though it is being suggested that he belongs to mechanical cadre. Even as per 1998 Group C & D Rules, copy Annexure P-1, the eligibility for promotion against various posts for Group D employees, there is no distinction made between the employees belonging to the mechanical cadre or ministerial cadre.”

5. Perusal of the aforesaid observations shows that the defence of the State that Ranbir Singh was inadvertently accorded the benefit of promotion is a complete moonshine.

6. As an upshot of the discussions above, the petition is allowed. The respondents are directed to consider the case of the petitioner for promotion and if he is found to fulfil the parameters, he be promoted w.e.f. the date the aforesaid Ranbir Singh was promoted and in that eventuality he will be entitled to all consequential benefits. Let the needful be done within a period of 3 months from the date of receipt of a certified copy of this order.

7. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

August 03, 2022
ashish

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No