

208 (1st case)

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

**CM-5626-CWP-2018 in/and
CWP-17757-2010**

Date of decision: 08.03.2022

GULZAR SINGH AND ORS

...Petitioners

V/S

STATE OF HARYANA AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sunil Hooda, Advocate,
for the applicant/petitioners.

Ms. Kirti Singh, DAG, Haryana.

ARUN MONGA, J. (ORAL)

CM-5626-CWP-2018

This is an application seeking disposal of the main writ petition which was adjourned sine die to await the decision of the Supreme Court in Civil Appeal No.7295 of 2012; State of Haryana Vs. Viklang Sangh. Learned counsel for the applicant submits that since the controversy has already been settled by the Hon'ble Supreme Court vide its judgment dated 08.10.2013 passed in civil Appeal No.9096 of 2013, the main case be taken up on Board today itself and may be disposed of accordingly.

For the reasons stated in the application, the main case is taken up on Board for hearing today itself.

Main case

Petitioners herein, inter alia, seek issuance of a writ in the nature of mandamus directing the respondents to grant them promotion as Clerk/Assistant by giving the benefit of reservation of 3% in handicapped category from the due dates along with all consequential benefits.

2. Learned counsel for the petitioners submits that petitioners No.1 to 3 were appointed as Taxation Peons and petitioners No.4 and 5 were appointed as Clerk, respectively. All the petitioners belong to handicapped category. He submits that case of the petitioners is squarely covered by the decision rendered in CWP No.12741 of 2009 decided on 18.03.2010 (Annexure P-1), but yet the judgment therein has not been implemented qua the petitioners herein. Therefore, the action of the respondents not to implement the decision qua all the similarly situated persons is illegal. They submitted representations but to no avail.

Learned senior points out that against the order/judgment dated 18.03.2010 (Annexure P-1), the State of Haryana filed an SLP and the present case was adjourned sine die. He submits that the controversy has now been settled by Apex Court vide judgment dated 08.10.2013 rendered in Civil Appeal No.9096 of 2013. In the light thereof, State reconsidered the matter. A decision was thus taken that 3% posts be reserved for promotion to Group A, B, C, D w.e.f. the date of Persons With Disability Act came into force. Reliance is also placed on Union of India Notification dated 17/19.4.2017 appended as Annexure P-6 as well as Notification dated 11.08.2017 (Annexure P-7) issued by the Chief Secretary of state.

3. On advance service, learned State counsel appears and submits that competent authority shall take decision either way, on the pending representations of the petitioners, in due course.

4. Learned counsel for the petitioners also agrees that let a final decision be taken, by the competent authority on the pending representations by keeping in view Notifications dated 17/19.04.2017 and 11.08.2017 contained at Annexures P-6 and P-7.

5. Given the nature of order being passed, there is no necessity to seek return by any of the respondents as no further proceedings and/or pleadings are required.
6. Without commenting on the merits of the case, the writ petition is disposed of with a direction to the competent authority to look into the grievance of the petitioners and by treating the present writ petition as supplementary representation and take a decision, in accordance with law, in the light of administrative instructions issued by the State of Haryana contained at Annexures P-6 and P-7 respectively.
7. Let the needful be done within a period of 45 days from today.
8. In case favorable order is passed, the same shall be implemented within a period of 45 days thereafter.
9. Disposed of accordingly.
10. Pending application if any, also stands disposed of.

08.03.2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No