

208 (2nd case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-5634-CWP-2018 in/and
CWP-447-2011

Date of decision: 08.03.2022

Subhash Chand

...Petitioner

V/S

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

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

Ms. Kirti Singh, DAG, Haryana.

ARUN MONGA, J. (ORAL)

CM-5634-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 Senior 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

Petitioner herein, inter alia, seeks issuance of a writ in the nature of mandamus directing the respondents to grant him promotion as Assistant by giving the benefit of reservation of 3% in handicapped category from the due date along with all consequential benefits.

2. Learned Senior counsel for the petitioner submits that petitioner

was appointed as Clerk. He belongs to handicapped category. He submits that

case of the petitioner 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 petitioner herein. Therefore, the action of the respondents not to implement the decision qua all the similarly situated persons is illegal. He submitted representation but to no avail.

3. Learned Senior counsel 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.

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

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

6. 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.

7. 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 petitioner 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.

- 8. Let the needful be done within a period of 45 days from today.
- 9. In case favorable order is passed, the same shall be implemented within a period of 45 days thereafter.
- 10. Disposed of accordingly.
- 11. Pending application if any, also stands disposed of.

08.03.2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No