

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

Date of decision: May 20, 2022

1. CWP-25084-2014 (O&M)

Randhir Singh

....Petitioner

versus

State of Haryana and others

....Respondents

2. CWP-25678-2014 (O&M)

Sukhdev Singh

....Petitioner

versus

State of Haryana and others

....Respondents

3. CWP-25685-2014 (O&M)

Narender Singh

....Petitioner

versus

State of Haryana and others

....Respondents

4. CWP-14427-2015 (O&M)

Hukam Chand

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vivek Khatri, Advocate,
Mr. Vikas Sharma, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

Vide this common order, above-mentioned 4 writ petitions are being disposed of, since the facts/issues involved therein are similar. For brevity, recitals are from CWP-25084-2014.

2. *Inter alia*, issuance of a writ in the nature of Certiorari for quashing impugned reversion order dated 04.12.2014 (Annexure P-16) has been sought,

whereby petitioner(s) was reverted to his original post of Mali with immediate effect.

3. Facts first. Petitioner was appointed on the post of Mali in the respondent-Department on 08.05.1992 through employment exchange. However, work of tractor driver was being taken from the petitioner w.e.f. 07.11.1994. Respondent No.3 later issued a letter dated 25.07.1995 for appointment of the petitioner on the post of Jeep driver. On 09.05.2000 (Annexure P-6), respondent No.2-Director General, Horticulture Department, Haryana issued letter in respect of promotion of Class IV employees to the vacant posts of drivers, laying down certain guidelines and instructions. Subsequently, a letter dated 24.05.2000 (Annexure P-7) was again issued by respondent No.2 laying down parameters for promotion of Class IV employees to the post of driver. Petitioner was duly eligible, qualified as well as having requisite experience to be appointed on the post of driver. Reliance is placed on the aforesaid letter dated 09.05.2000. Petitioner was promoted on 23.11.2000 (Annexure P-12) to the post of driver mentioning that the promotion on the post of driver is on *ad hoc* basis for a period of 6 months or till the fresh appointment is made by the Commission. No fresh appointment on the post of driver was later made. However, on 14.06.2007 (Annexure P-14), respondent No.2 issued reversion notice to the petitioner as well as other similar employees stating that at the time of promotion, certain guidelines and instructions were violated. Petitioner replied to the said reversion notice vide letter dated 28.06.2007 (Annexure P-15). Notwithstanding, respondent No.2 passed the impugned order dated 04.12.2014 (Annexure P-16) reverting the petitioner along with other employees to the original post of Mali. Hence the writ proceedings herein.

4. I have heard learned counsel for the parties and perused the record.

5. Concededly, Department was fully aware and conscious while according promotion to the petitioners way back on 23.11.2000, by putting a rider in the promotion letter itself that they were being promoted only for a period of six months or in the alternative till the appointment of eligible candidates by the Haryana Staff Selection Commission. Thereafter, it appears that neither any eligible candidates were provided by the Commission nor on expiry of six months any step was taken by the Department to either revert the petitioners, so that they could take appropriate legal remedy *qua* the same, in case they were eligible, as is claimed by learned counsel for the petitioner(s). Even otherwise, they could have challenged reversion claiming that they have acquired vested rights on the said posts in the absence of any eligible candidates.

6. Be that as it may, the position continued for the entire length of their service, inasmuch as, for 20 years petitioners served as drivers with unblemished record. Therefore, to say that they were not competent to serve as drivers is completely out of place. Particularly, in view of letter dated 11.12.2000 (Annexure R1/5/T) written by the Director, Horticulture, Haryana to the Haryana Staff Selection Commission, admitting the difficulties being faced by it in the absence of the competent drivers, which reads as below:-

“xxxxxxxxxxx Due to the ban imposed by the Govt. on fresh recruitment for the past long time, many posts of drivers are lying vacant continuously since long time due to which the work of department is getting very difficult and the departmental work was being effective. Keeping in view the difficulty, the department by constituting a committee of four officers in which an officer was connected with the Engineering branch of Agriculture Department, taken a test of Class-IV employees who fulfilled the eligibility/ experience for the post of Driver as per departmental service rules and on the basis of the report of the committee, vide order Endst. No.7484-90, dated 13.6.2000 (copy enclosed) issued promotion orders of Class-IV employees on the basis of seniority/ merit on adhoc basis for only six months or till the receiving of

eligible candidates for the post of Drivers from Staff Selection Commission, whichever is earlier.xxxxxxx

7. In the aforesaid premise, both the Commission as well as Department were fully aware and alive to the fact that the services of the petitioners were on *ad hoc* basis until the receiving of the eligible candidates or six months, whichever is earlier. The words “earlier” have thus been very consciously used both in the promotion order as well as in the letter as aforesaid. The argument canvassed by the learned State counsel that owing to the interim stay granted by this Court on the reversion of the petitioners, the Department was precluded from taking any step, is completely out of place, inasmuch as, there was no stay on providing the eligible candidates either on Commission or on the Department to send the requisition for the same. Having not taken any steps despite being fully conscious and in the process, due to fortuitous circumstances, the petitioners continued for their entire length of service and retired. It is too belated now for taking any corrective measures for no fault of petitioners.

8. In the premise, impugned order dated 04.12.2014 (Annexure P-14) is not sustainable and is quashed, accordingly.

9. Allowed.

10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 20, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No