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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-10553-1994 (O&M)
Date of Decision:03.10.2023

GURCHARAN SINGH

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Charanji Lal, Advocate with
Ms. Mugdha Sehgal, Advocate, and
Mr. Kamal Sehgal, Advocate,
for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. By way of this Writ Petition, the petitioner has prayed for issuance of a Writ of Mandamus for directing the respondents to confirm the petitioner on the post of Wild Life Inspector from the date when he passed the departmental examination i.e. 12.10.1983 and to place the petitioner as per his seniority.

2. The petitioner has preferred this Writ Petition in the year 1994 while he was in service, challenging the action of the respondents in denying him the status of a permanent/confirmed Wild Life Inspector, although he was promoted to the said post from the post of Wild Life Guard vide order dated 15.09.1981. The petitioner passed the departmental examination conducted for the purpose of confirmation on the post of Wild Life Inspector on 12.10.1983 and accordingly he should have been confirmed on the said the post, but the respondents as per their reply denied him confirmation on

the post of Wild Life Inspector solely on the ground that the promotion granted to the petitioner was against the scheme post which was of temporary nature. It is also stated in the reply that they conducted a selection process on 30.03.1987 and filled 8 permanent posts of Wild Life Inspectors, but the petitioner failed to take opportunity for participating in the said selection process. The scheme posts were discontinued in the year 1992. However, the petitioner continued as Wild Life Inspector till his retirement i.e. upto 30.04.2005.

3. This Court finds that the petitioner's claim could not have been ignored by the respondents once the petitioner was promoted in the year 1981 and was also allowed in a departmental exam for promotion which was conducted on 12.10.1983, the posting of the petitioner was required to be made against the available 8 permanent posts. Posting him against the temporary post under a scheme cannot be said to be justified or legal. While the petitioner has been allowed to work against a scheme post, 8 posts which were available with the department, have been filled subsequently in the year 1987 from the private respondents, and they have been placed senior over and above to the petitioner. The claim of the petitioner, thus, is made out as against the private respondents. The action of the official respondents is found to be arbitrary and unjustified, and while an existing employee has been kept against a temporary post, other persons have been selected against the permanent posts subsequently, that too after a period of almost 6 years.

4. It is a duty of the department to see that their existing employees, who have already fulfilled the criteria, are placed against the

permanent posts. On account of non-confirmation, it appears that the petitioner’s seniority has also been compromised.

5. The petitioner during the pendency of this Writ Petition has already attained the age of superannuation in year 2005. Thus, the only relief which can be granted to the petitioner at this stage is to direct the respondents to treat him as confirmed from the date of joining of the persons were appointed as Wild Life Inspectors and further grant the petitioner promotion to the post of Wild Life Warden from the date persons junior to him (those who are appointed in the year 1987 and were promoted as Wild Life Warden). The petitioner would, however, only receive notional benefits, but his pension and retiral benefits shall be accordingly calculated and revised and actual retiral benefits shall be released to him accordingly. The arrears of the actual retiral benefits shall carry interest @ 6% per annum. The entire exercise shall be conducted within 3 months henceforth.

6. The Writ Petition is allowed accordingly.

7. All pending applications in this Writ Petition shall disposed of accordingly.

October 3, 2023

Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

Whether speaking / reasoned	:	Yes	/	No
Whether Reportable	:	Yes	/	No