

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

**CWP No.8588 of 2014 (O&M)
Date of decision : 23.01.2023**

Balwinder Singh

..... Petitioner

versus

State of Punjab & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Pawan Kumar Goklaney, Advocate and
Mr. Ashish Goklaney, Advocate
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

Mr. Saurabh Arora, Advocate
for respondents No.2 & 3.

PANKAJ JAIN, J. (ORAL)

Petitioner by way of present writ petition has laid challenge to the order dated 19.05.2011 (Annexure P-8) passed by the Secretary, Punjab Mandi Board, Chandigarh whereby the resolution passed by Market Committee, Patran dated 21.09.2010 has been ordered to be annulled which has an effect on the service of the petitioner working as Auction Recorder as he was ordered to be promoted by the said resolution.

Petitioner was initially appointed as Tractor Driver and thereafter ordered to be promoted as Clerk and thereafter further promoted to the post of Auction Recorder vide resolution dated 21.09.2010 (Annexure P-6) and the order pursuant thereto was also passed on 14.12.2010 (Annexure P-7). Vide impugned order dated 19.05.2011 the resolution dated

21.09.2010 was ordered to be annulled holding that the petitioner was not eligible having been initially appointed as Tractor Driver which was not a post existing under the Rules. It is not in dispute that the cadre of the petitioner was changed from Tractor Driver to that of Moharar vide order dated 23.07.1985 (Annexure P-2). From the records, it is discernible that there was circular No.276 dated 08.12.1992 in which categories of the employees such as Kandaman, Storekeeper, Care Taker, Restorer, Muharar etc. appointed after 1980 could be promoted with the prior approval of the Punjab Mandi Board. Though this circular was withdrawn vide order dated 08.02.2013 holding that the same was in contravention to the service rules, a conscious decision was however taken that the cases which have already been decided under the said circular No.276 dated 08.12.1992 be not opened at this stage. The petitioner's cadre having been changed to that of Muharar and further promotion as Clerk vide resolution dated 21.09.2010 would fall within the ambit of circular No.276 dated 08.12.1992. His promotion having been ordered prior to withdrawal of circular vide order dated 08.02.2013 would be saved thereunder.

Apart from that Mr. Pawan Kumar Goklaney, Advocate submits that after interim protection was granted to the petitioner vide order dated 22.09.2014 the petitioner has retired on attaining the age of superannuation on 30.06.2017 and his retiral benefits also stand released.

Mr. Saurabh Arora, Advocate for respondents No.2 & 3 is not in a position to dispute the said fact.

It seems that the parties have reconciled to the position after interim orders. The petitioner has retired and has been allowed all the terminal benefits deeming him to have retired as Auction Recorder. Thus, it

would not be in the interest of justice to allow the respondents to re-open the case of the petitioner.

Resultantly, the present writ petition is allowed. Order dated 19.05.2011 (Annexure P-8) passed by the Secretary, Punjab Mandi Board, Chandigarh and the order dated 18.03.2014 (Annexure P-12) passed by Secretary, Department of Agricultural, Punjab, Chandigarh are hereby ordered to be set aside.

Ordered accordingly.

(PANKAJ JAIN)
JUDGE

23.01.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No