



**CM-19400-CWP-2024 and
CM-19401-CWP-2024 in/and
CWP-25507-2021**

1

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

(107+266)

**CM-19400-CWP-2024 and
CM-19401-CWP-2024 in/and
CWP-25507-2021
Date of Decision : December 09, 2024**

Jaswinder Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.K. Goklaney, Advocate, with
Mr. Ashish Goklaney, Advocate, for the petitioner.

Mr. Charan Preet Singh, Assistant Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-19400-CWP-2024

As prayed for, the application is allowed.

CM-19401-CWP-2024

As prayed for, the application is allowed.

Replication to the written statement filed on behalf of
respondents No. 1 to 3, is taken on record.

CWP-25507-2021

1. In the present writ petition, the grievance being raised by the
petitioner is that the petitioner has been ignored for promotion to the post of

Senior Assistant in the reserved category of physically handicapped and



**CM-19400-CWP-2024 and
CM-19401-CWP-2024 in/and
CWP-25507-2021** 2

respondent No.4, who is junior to the petitioner, has been promoted only on the ground that initial appointment of the petitioner was in general category on compassionate ground whereas, the private respondent No.4 was appointed in the reserved category of physically handicapped hence, only the employees who are working in the physically handicapped category, are entitled for promotion in the said category.

2. Upon notice of motion, the respondents have filed the reply reiterating the same stand that though respondent No. 4 is junior to the petitioner but as he was appointed in the psychically handicapped category, he is entitled for promotion and the petitioner can only be promoted in the general category though, the disability being suffered by the petitioner, is not being disputed by the respondents.

3. I have heard learned counsel for the parties and have gone through the record with their able assistance.

4. The petitioner got the compassionate appointment after the death of his father. The petitioner is also a disabled personnel. Further promotion from the post of Clerk is to that of Senior Assistant. As per the seniority, which has been approved, the petitioner was at Sr. No.58 whereas the private respondent was at Sr. No.84. The appointment date of the petitioner is 05.08.2013 whereas, private respondent was appointed on 20.08.2014.

5. While considering the claim of the persons eligible under the category of physically handicapped for promotion to the post of Senior Assistant, respondent No.4 was considered because he was selected in the



**CM-19400-CWP-2024 and
CM-19401-CWP-2024 in/and
CWP-25507-2021** **3**

feeder cadre under the reserved category of physically handicapped.

6. The question which arise in the present petition is whether, only an employee, who has been selected in the reserved category of physically handicapped is only entitled for further promotion in the said category or any disabled person who fulfilled the criteria for being treated as disabled, irrespective of the category in which he/she has been appointed, is also eligible based upon the seniority.

7. Nothing has been shown to this Court that for promotion under the reserved category of physically handicapped, wherein, 4 % posts have been reserved, the benefit can only be granted to the employees who have been recruited in the said category of physically handicapped. Once, the petitioner is senior and is also a disabled and fulfilled the criteria of being treated as disabled person, the petitioner's claim cannot have been ignored by the respondents only on the ground that the petitioner was appointed on compassionate ground whereas, respondent No.4 though appointed after the petitioner in the same cadre was appointed in the reserved category of physically handicapped. Once the petitioner fulfilled the criteria for promotion having the required disability, the petitioner was entitled to be considered for promotion to the post of Senior Assistant along with respondent No.4 in the reserved category of physically handicapped.

8. Despite notice, nobody has appeared on behalf of respondent No.4 to defend his promotion.

9. Keeping in view the above, promotion granted to respondent No.4 in preference to the petitioner, is set aside. The respondents are



**CM-19400-CWP-2024 and
CM-19401-CWP-2024 in/and
CWP-25507-2021** 4

directed to reconsider the claim of all eligible persons on the date when the promotion was made, who fulfill the criteria of being disabled irrespective of the category in which he/she is working, based upon the seniority of the employee concerned in the feeder cadre. In case, the senior most person, who is eligible, was appointed in any of the category in the feeder cadre, he/she be granted promotion in case he/she fulfill the requirement of being physically disabled. Let the consideration be completed within a period of eight weeks of the receipt of copy of this order.

10. The present writ petition is allowed in above terms.

December 09, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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