

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

207

**CWP-12588 of 2012 (O&M)
Date of decision: 19.01.2023**

Krishan Chand

..Petitioner

Versus

The State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Inayat Khullar, Advocate, for the petitioner.

Mr. Maninder Singh, DAG, Punjab

ANIL KSHETARPAL, J(Oral)

1. The prayer is to issue an appropriate writ to quash the order dated 03.05.2012 by which the petitioner's pay has been fixed as a Class-IV employee. The petitioner after attaining the age of superannuation retired on 31.07.2009 after he was appointed as a helper in the Department of Agriculture, Punjab. While filing Civil Suit No.13/06.01.1987 which was decreed on 05.06.1987, he was held entitled to be promoted as the Agriculture Sub Inspector. However, in the first appeal, the judgment was modified and the directions were issued to the State of Punjab to consider the petitioner's claim for promotion to the Class-III post. The operative part of the order passed by the First Appellate Court on 08.12.1987 is extracted as under:-

“The State of Punjab is directed to consider the name of the plaintiff respondent Krishan Chand for promotion to class III posts existing in the department of falling vacant in the near future including the post of Bio-gas Mechanic in terms of the instructions of the government Ex.P1 16 on the record of the case.

With this modification in the judgment and decree, there is no merit in this appeal and the same stands dismissed. The parties are left to bear their own costs throughout. Decree sheet be prepared. File be consigned to the record room.”

2. The department found that in accordance with the relevant service rules, the petitioner is not entitled to promotion as an Agriculture Sub Inspector. However, since he was permitted to work as Agriculture Sub Inspector, as a result, he was sought to be reverted. He filed Civil Writ Petition No.6853 of 1991, in which interim protection was granted. However, the same was dismissed on 25.05.2011.

4. The learned counsel representing the petitioner does not dispute that the petitioner has been paid the pay scales of Agriculture Sub Inspector during the period he has worked as such.

5. The learned counsel representing the petitioner has failed to draw the attention of the court to the service rules which entitle the helper to be considered for promotion as the Agriculture Sub Inspector. However, he submits that as per the judgment passed by the First Appellate Court, the petitioner is entitled to promotion as the Agriculture Sub Inspector. As is evident from the reading of the judgment passed by the First Appellate Court, the judgment and decree passed by the trial court was modified and the State of Punjab was only directed to consider the case of the petitioner for promotion, which on such consideration has been rejected by the State.

6. Keeping in view the aforesaid facts, no ground to issue the writ as prayed for, is made out.

7. Dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

January 19, 2023
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(ANIL KSHETARPAL)
JUDGE

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