



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

212

CWP-1341-2017

Date of Decision: **30.04.2026**

Malhara Singh

..Petitioner

VERSUS

Punjab Mandi Board And Ors.

..Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Inderpal Singh, Advocate
for the petitioner.

Mr. Deepak Gupta, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of *certiorari* quashing the order dated 31.08.2016 (Annexure P-10) and the order dated 20.12.2016 (Annexure P-11), and for the issuance of a writ in the nature of *mandamus* directing the respondents to release annual increments with effect from the date of initial appointment, to grant seniority from the said date, and consequently to consider the petitioner for promotion to the next higher post.



2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was initially appointed as a Maintenance Mechanic in the Mechanical Handling Unit on 18.09.1991. The respondent-Board, in its meeting held on 03.12.2002, passed Resolution No. 7 to disband the Mechanical Handling Unit and to adjust its staff in the Market Committees on equivalent posts. He has referred to order dated 21.08.2008 (Annexure P-3), vide which the petitioner was adjusted to the post of Clerk in the Market Committee, Doraha. Thereafter, on 21.05.2015, the concerned Market Committee passed a resolution (Annexure P-4) exempting the petitioner from passing the type test. The petitioner continued to serve respondent No. 3-Market Committee and subsequently retired upon superannuation. However, he was not granted annual increments and, therefore, served a legal notice dated 16.03.2016 (Annexure P-6).

2.1. Thereafter, the petitioner approached this Court by filing CWP-14437-2016 (Annexure P-9), which was disposed of with a direction to respondents No. 2 and 3 to decide the legal notice. In purported compliance thereof, the impugned order (Annexure P-10) was passed, holding that the petitioner could not be exempted from passing the Punjabi type test in view of the Government instructions.

2.2. He further relies upon the judgment rendered by this Court in the case of his co-employee, ***CWP-1915-2012 titled Kuldeep Singh vs. Punjab Mandi Board and others***, decided on ***20.11.2014***, and submits that



Kuldeep Singh (the petitioner therein) was appointed along with the present petitioner on the same date in the year 1991 (Annexure P-1) and was also an employee of the erstwhile Mechanical Handling Unit, which was disbanded in 2002. It is contended that the case of the present petitioner is squarely covered by the said judgment, wherein the petition was disposed of with a direction to respondent No. 2–Board to reconsider the petitioner’s case for adjustment to the post of Clerk as per the qualifications applicable in the year 2002. Thereafter, Kuldeep Singh was appointed as Clerk in terms of the said judgment dated 20.11.2014.

2.3. It is thus argued that the respondents, having extracted work from the petitioner as a Clerk for almost 12 years, cannot deny him the benefit of annual increments on the ground that he had not passed the type test. Furthermore, the petitioner was not considered for promotion, whereas his co-employee Kuldeep Singh was promoted.

3. Per contra, learned counsel for the respondent-Board submits that the petitioner was adjusted against a post reserved for direct recruitment, which is required to be filled through that mode. At the time of his adjustment, a condition was imposed requiring him to pass the Punjabi type test. As such, the petitioner is bound by the condition stipulated in the order dated 21.08.2008 (Annexure P-3).



4. Having heard learned counsel for the parties and upon perusal of the record, it transpires that the petitioner was initially appointed as a Maintenance Mechanic on 18.09.1991. Thereafter, the respondent-Board disbanded the Unit on 03.12.2002 and took a policy decision to adjust the staff of the erstwhile Mechanical Handling Units in the Market Committees on equivalent posts. The petitioner was accordingly adjusted to the post of Clerk, subject to the condition of passing a Punjabi type test.

5. The aforesaid condition appears to be arbitrary, as the present case does not pertain to a fresh appointment or a promotional post for which an employee may be required to clear a type test. On similar grounds, the petitioner's co-employee, Kuldeep Singh, had approached this Court by filing CWP-1915-2012, wherein the following was observed:-

"....The contention of the learned counsel for the petitioner appears to be justified as the decision was taken in the year 2002 to adjust the staff of the Mechanical Handling Units on equivalent posts, as per the-then existing rules. Any rules, made subsequent to the said rules ought not to have been taken into consideration while adjusting the employees of the disbanded units.

Accordingly, this petition is disposed of with a direction to respondent No.2-Board to reconsider the case of the petitioner for his adjustment on the post of Clerk in the Market Committee in terms of the qualification for the said post, as the same existed in the year 2002 when the Mechanical Handling Units were disbanded."

5.1 The judgment rendered by the Co-ordinate Bench in ***Kuldeep Singh (supra)*** was duly implemented, and the petitioner therein was



confirmed on the post of Clerk with all consequential benefits, including promotions.

6. Further, learned counsel for the respondent-Board has not been able to cite any order indicating the scheduling of a type test. On a specific query raised by this Court, learned counsel for the respondent could not point to any material to suggest that the respondent-Board had regularly conducted such tests and that the petitioner failed to participate therein. Moreover, the unit in which the petitioner was initially appointed stood disbanded, and for administrative convenience, the employees of the erstwhile unit were adjusted to equivalent posts. As such, instructions applicable to direct recruits to the post of Clerk cannot be imposed upon the petitioner.

7. In view of the peculiar facts and circumstances of the case, the present petition is allowed. The impugned orders dated 31.08.2016 (Annexure P-10) and 20.12.2016 (Annexure P-11) are hereby set aside. The respondent-Board is directed to release the arrears of annual increments to the petitioner with effect from the date of his initial appointment as Clerk.

8. Insofar as the petitioner's claim regarding seniority and promotion is concerned, he had approached this Court well within time prior to his retirement in the year 2020. Accordingly, the respondent-Board is further directed to grant consequential benefits of seniority and promotion from the date his juniors were promoted with all consequential benefits and



in his pension be revised accordingly. The needful shall be done within a period of three months from the date of receipt of a certified copy of this order.

9. Needless to say the petitioner is entitled to 6% interest per annum on (i) arrears of increments and (ii) arrears of revision of pay/pension on account of promotion, from the date of filing of present writ petition till the date of its actual realization.

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

(HARPREET SINGH BRAR)
JUDGE

30.04.2026
Parul Verma

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