

(2013) 08 P&H CK 0180
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 17725 of 2006

Vijay Kumar and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 02-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0180

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Gurdip Singh, Advocate for Respondent Nos. 6 to 9, for the Respondent

Final Decision : Dismissed

Judgement

K. Kannan, J.—The writ petition is for quashing a circular issued on 14.9.2006 by the Labour Commissioner, Punjab in terms of which

respondent Nos. 6 to 9 who were said to be juniors to the petitioners have been promoted to the post of Clerk on the basis of criteria which was

not existing in the rules of 1994. The challenge was that the promotion effected on such a basis was erroneous. In respect of the very same subject

matter, there has been a dispute that culminated in the decision of the Supreme Court in Civil Appeal No. 2897 of 2006 titled State of Punjab and

others Vs. Jagdish Kaur Civil Appeal No. 2897 of 2006 where the Supreme Court was upholding the requirement of qualifying test in Punjabi

type writing at the speed of 30 words per minute as valid. It held that the qualification was manifestly a criterion for promotion and such a

requirement was perfectly tenable for consideration for promotion. Admittedly the petitioners did not have the benefit of such a qualification at the

relevant time. They appear to have passed the test subsequently and have gained promotion. The counsel for the respondent states that the first petitioner has expired and some of the petitioners have gained promotion subsequently on acquiring their qualifications. The promotion cannot operate to place them above, if all the private respondents obtained promotion at the time when the impugned order was passed on a criterion which had been upheld by the Supreme Court. No relief's are possible for the petitioner and therefore, the writ petition is dismissed, recording however post facto promotion obtained by some of the petitioners.