

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

CWP-10484-2000 (O&M)

Date of decision: May 24, 2022

Ashok Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate for the petitioner.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari seeking to quash order of promotion of respondent No.3, namely Shri Deva Ram, on the post of Deputy Superintendent and to promote the petitioner prior to the date of promotion of Deva Ram.

2. Petition was admitted for hearing on 24.01.2002.

3. When taken up for final adjudication, on a Court query, it transpires that the petitioner who is currently 71 years old and during pendency of the writ petition even the private-respondent No.3 whose promotion was challenged has since long retired. And that apart, the impugned promotion was accorded sometime in the year 1993 and the writ petition was filed after six years. Even otherwise, seniority-list was finalized sometime in 1993 based whereof, private-respondent No.3 was promoted and

there was no challenge to the seniority-list until the filing of the writ petition after a gap of 7 years.

4. In any case, from perusal of record/pleadings, it appears that even on merits, claim of the petitioner is not admissible. Reference may in particular be had to the stand taken in Para-1 of Preliminary Objection of the reply filed by respondents No.1 & 2.

5. Respondent No.3 made a representation for restoration of his seniority in 1991 and his case was examined in the light of earlier precedent in the case of one Sh. Siri Ram and the State Government order dated 10/11.09.91. The competent authority came to the conclusion that on the basis of precedent of Sh. Siri Ram's case, benefit of seniority may be restored to Sh. Deva Ram but before awarding him the benefit, the affected persons may be served notice. Accordingly the Directorate vide letter dated 15.11.91 served the notice to all the affected employees including petitioner and after hearing them, the department vide order dated 10.06.93/08.07.93 refixed the seniority of respondent No.3. A copy of order dated 10.06.93/ 08.07.93 is attached as Annexure R/1. The copies of this order were sent to all the affected persons including the petitioner. However, the petitioner despite being given an opportunity consciously chose not to challenge the proposed refixation. Having once chosen to remain silent, the petitioner cannot be allowed to challenge the above order at this belated stage after a lapse of more than 7 years.

6. Learned State counsel has canvassed arguments on similar lines as the defense taken in the written statement.

7. I am in agreement with the stand taken by the respondents.
Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.
8. In view of the aforesaid, no grounds are made out to interfere.
9. Dismissed.

(ARUN MONGA)
JUDGE

May 24, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No