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

CWP No. 12129 of 1997 (O&M)

Date of Decision: 20.04.2022

Gurmit Singh Kapoor and others

...Petitioners

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Arun Monga

Present : Mr. Ashish Gupta, Advocate, for the petitioners.

Mr. Sharan Sethi, Additional Advocate General, Haryana,
for respondent nos. 1 and 2.

None for respondent no.3 .

Arun Monga, J. (Oral)

Petition was filed in the year 1997 *inter alia* seeking issuance of a writ in the nature of Certiorari quashing the order dated 11.04.1997 (Annexure P-2), whereby respondent no. 3 was promoted as Deputy Director, Judo, ignoring the claim of the petitioners.

2. Petitioners before this Court, from sr. no. 2 to 13 were serving as sports Coach in their respective fields of sports, while petitioner no.1 was serving as District Sports & Youth Welfare Officer in the Department of Sports and at the relevant time were aggrieved against their not being considered for promotion to the post of Deputy Director as against the selection of respondent no.3, who prior to the promotion vide order dated 11.04.1997 (Annexure P-2) was serving as Judo coach. Petition was filed almost a quarter of century ago and has been lying admitted ever since. During the interregnum, it appears that not only the petitioners

but even respondent no.3 has retired from service, as is borne out from the original dates of appointment, which are as under:

<i>Sr. No.</i>	<i>Name of the petitioner</i>	<i>Date of appointment</i>	<i>Seniority no. in gradation list as on 7.1.92</i>
1.	<i>Gurmit Singh Kapoor</i>	<i>22.9.1980</i>	<i>28</i>
2.	<i>Narsingh Pal Chauhan</i>	<i>11.08.1981</i>	<i>33</i>
3.	<i>Mukesh Rikhi</i>	<i>23.06.1981</i>	<i>34</i>
4.	<i>Smt. Kamla Saini</i>	<i>04.07.1981</i>	<i>40</i>
5.	<i>Ram Phal Sangwan</i>	<i>03.07.1981</i>	<i>47</i>
6.	<i>Smt. Soma Sokhi</i>	<i>06.07.1981</i>	<i>48</i>
7.	<i>Hawa Singh</i>	<i>10.08.1981</i>	<i>50</i>
8.	<i>Ashwani Sharma</i>	<i>23.06.1981</i>	<i>54</i>
9.	<i>Kulvinder Singh</i>	<i>20.07.1981</i>	<i>61</i>
10.	<i>Manohar Lal Saharan</i>	<i>18.03.1983</i>	<i>65</i>
11.	<i>Mani Ram Maun</i>	<i>21.03.1983</i>	<i>66</i>
12.	<i>Sukhdev Singh</i>	<i>31.03.1983</i>	<i>69</i>
13.	<i>Respondent No. 3- Sumer Singh</i>	<i>16.05.1983</i>	<i>70</i>

3. Learned counsel for the petitioners strenuously argues that claim of the petitioners seeking promotion still remains alive as the same would confer certain post-retiral monetary benefits including enhancement of pension, etc. While on technical front learned counsel for the petitioners may be right, but only if the petitioners deserve to be promoted on merits. A perusal of Rule 9 of the Haryana Sports and Youth Welfare Department (Group-B) State Service Rules, 1996 would reveal that promotion to the post in question is neither a matter of right nor based purely on seniority since it is claimed by the petitioners that they were more senior to respondent no.3. For ready reference Rule 9 *ibid* is reproduced herein below:-

“9. (1)- **Recruitment to the service shall be made** : (a) – in the case of Deputy Director Sports by promotion from amongst the District Sports and Youth Welfare Officers:

Note :- The post of Deputy Director Sports involve the assumption of duties and responsibilities of greater importance than those of District Sports and Youth and Welfare Officer.

9(2) - All promotions, unless otherwise provided, shall be made on seniority-cum-merit basis and seniority alone shall not confer any right to such promotions.” (emphasis supplied)

4. A perusal of the above leaves no manner of doubt that not only it has been made amply clear that promotion is based on seniority-cum-merit basis but there is complete disclaimer by the employer that the seniority alone shall not confer any right to such promotions.

5. That apart, the argument of learned counsel for the petitioners that feeder post for the promotional post in question is 4 years' experience as District Sports and Youth Welfare Officer and whereas recital of memo of parties of the petition reflects that petitioner nos. 2 to 13 on their own accord have stated that they were serving as Coaches and not as District Sports and Youth Welfare Officers, which is the feeder post and to that extent their claim is negated on that short ground alone.

6. Only claim of petitioner no.1 is alive, if at all, being eligible to be considered for promotional post. As already noted hereinabove, the promotion being based on seniority-cum-merit, the same cannot be gone into at this stage since both petitioner no.1 and respondent no.3 have already been superannuated. The selection to promotional post took place more than 25 years ago and is purely a matter of academic interest at this stage in view of Rule 9 *ibid*.

7. No grounds to interfere. Dismissed.

20.04.2022

VS

**(Arun Monga)
Judge**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No