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

CWP-11086-2017

Date of Decision: 11.03.2022

Mangat Ram and another

..... Petitioners

Versus

Principal Secretary, Government of Punjab, Department of School
Education and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Surmukh Singh, Advocate,
for the petitioners.

Mr. Navdeep Chhabra, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed praying for issuance of directions to respondent No.1 to decide the representation dated 12.01.2017 of the petitioners in a time bound manner.

Learned counsel for the petitioners argues that for filling up the vacant posts of Principal, a meeting of Departmental Promotion Committee (hereinafter referred to as 'the DPC') was convened on 03.01.2017, and in the said meeting, the petitioners were found eligible for promotion, but keeping in view the fact that the Code of Conduct was imposed in the State of Punjab on 04.01.2017, the said proposals of the DPC could not be implemented by the time the petitioners attained the age of superannuation, i.e. on 31.01.2017 and thereafter, on 27.02.2017 the promotion orders were issued, after taking appropriate approval from the Election Commission, which act has caused prejudice to the petitioners as the petitioners, who

were found fit by the Department itself on 03.01.2017, were not promoted

prior to the date when they attained the age of superannuation. Learned counsel submits that prayer of the petitioners is that they should be granted promotion and the consequent pensionary benefits of the post of Principal.

Upon notice of motion, the respondents have filed reply, wherein it has been mentioned that though a meeting of the DPC took place on 03.01.2017 but the same was not finalized on the said date and the Code of Conduct was imposed in the State of Punjab on 04.01.2017, and the said Code of Conduct remained in operation till the date when the petitioners attained the age of superannuation. In the reply it has been further submitted that the DPC proceedings were only finalized in February, 2017 and after taking appropriate approval from the Election Commission, the promotion orders were issued, and therefore, prayer of the petitioners that they were found suitable prior to the date of their retirement, is not correct.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, it is not a disputed fact that the petitioners were eligible for promotion against the posts which were lying vacant in the year 2017, in view of which the DPC meeting was held on 03.01.2017. Further, it is also not a disputed fact that the case of the petitioners was taken up for consideration in the said the meeting, but the said DPC proceedings never attained finality prior to the date when the petitioners attained the age of superannuation, i.e. on 31.01.2017. Though it is unfortunate that the petitioners missed the bus of getting promotions to the posts of Principal due to the imposition of Code of Conduct in the State of Punjab on 04.01.2017, but in the facts and circumstances of this case, it cannot be said that it is only due to act of the respondents that the

petitioners did not get the promotion. No fault can be found in the act of the respondents, which would indicate that the petitioners missed promotions to the posts of Principal due to them. Once the DPC recommendations did not attain finality so as to give right to the petitioners to claim promotions before they had attained the age of superannuation, no claim can be made by them with respect to the promotions which have been effected by the respondents subsequent to their retirement.

Keeping in view the above, as no infirmity has been pointed out in the act performed by the respondents in promoting the personnels to the posts of Principal, vide order dated 27.02.2017 (Annexure P-5), and nothing has come on record to show that it is only because of the act of the respondents that the petitioners could not be promoted to the posts of Principal prior to the date of their retirement, no relief can be extended to the petitioners under these circumstances.

No ground is made out to accept the prayer made by the petitioner in the present petition.

Dismissed.

11.03.2022*Apurva***(HARSIMRAN SINGH SETHI)
JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No