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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9108-1996 (O&M)

Date of Decision: 25.07.2023

RAJ SURINDER KAILEY

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHER S

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present: Mr. Vikas Singh, Advocate,
and Mr. Arsh Bir Singh, Advocate,
for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

The petitioner by way of this Writ Petition has prayed for quashing of the seniority list Annexure P-14 and for issuance of a writ in the nature of *mandamus* directing respondents No.1 and 2 to grant proper seniority to the petitioner by correctly determining her seniority in the junior scale of Investigators, Superintendent Home and the channel of promotion of various officials in the department of Social Welfare/Child Welfare from which promotion to the post of Child Development Project Officers ("CDPO" for short) are made.

The first prayer made by the petitioner has become otiose after the tentative seniority list prepared in the year 1995 was culminated in the final seniority list which has been published in the year 2001.

The second prayer of the petitioner also stands redundant as the petitioner has been admittedly granted promotion as CDPO from the back date. The claim there for determining seniority in the junior scale of

Investigators and channel of promotion for various officials in social welfare department to the post of CDPO stands redressed.

In an affidavit filed by the respondents, details about the petitioner have been mentioned as under:-

<i>Date of joining the service</i>	<i>(The petitioner joined the duty in the Department of Welfare for SC and BC, Punjab on the appointment of adhoc basis and her services were regularized w.e.f. 31.1.1972.</i>
<i>Nutrition Inspector</i>	<i>13.07.1973 (The petitioner joined the duty in the of Social Welfare, Department Punjab (now Social Security and Women & Investigator Child Development, Punjab)</i>
<i>Investigator</i>	<i>After giving relaxation in the service rules, the petitioner was promoted to the post of Investigator vide Government order No. 1/78/ISW/79/12930 Superintendent Home dated 1.12.1986</i>
<i>Superintendent Home</i>	<i>12.12.1984 1. (There was no provision for promotion under the Service Rule, but was posted in her own pay scale w.e.f. 19.9.1979 and later on allowed the scale w.e.f 19.9.1979 charge i.e. 19.9.1979. 2. The petitioner was promoted as Superintendent Home Vide order No.1/92/ISW/86/4573 dated 06.05.1987. 3. Eligibility for Superintendent Home was considered as Superintendent Home w.e.f. 12.12.1984 vide letter No.1/92/ ISW/88/6657 dated 10.08.1989.</i>
<i>Child Development Project Officer</i>	<i>13.07.1987</i>
<i>Date of Retirement on superannuation</i>	<i>30.11.2003</i>

It is noticed that the petitioner has been granted full relief and has been given all benefits of promotion to the post of CDPO from 13.07.1987. She has also been allowed regular pay scale for the post of Supdt. Home w.e.f. 19.09.1979. No rejoinder to the affidavit has been filed nor any further claim has been raised by the petitioner. In view thereof, no interference of this Court is warranted in this Writ Petition.

Learned counsel for the petitioner further submits that the petitioner has been granted the benefit of regular pay scale of

Superintendent Home w.e.f. 19.09.1979 and placed under the pay scale of ₹700-₹1200 and therefore, the petitioner was entitled to be granted promotion also from an earlier date i.e. 13.09.1982. Learned counsel for the petitioner submits that the actual benefits have also not been released.

I have considered the submissions of learned counsel for the parties.

While the petitioner has already been granted pay-scale for the purpose of Superintendent Home from the date of her initial appointment i.e. 19.09.1979, this Court does not deem it appropriate to direct the respondents to conduct a fresh exercise of promotion for the years of 1982 to 1987 as all of them have retired.

The opinion of this Court is that such an exercise of changing dates of promotion is an exercise in futility as none of them would be able to perform the work what they have been already doing nor there will be any change except to the extent that the petitioner may claim higher pay scale of CDPO from an earlier date.

In the opinion of the Court, it would depend upon several aspects including her record of service. There is no right of promotion available to any individual and in view thereof, the claim for promotion to the post of CDPO from 1982 is rejected at this stage when the petitioner stands already retired way back in 30.11.2003. However, the respondents are directed to release the benefits of grand of pay scale of Superintendent from the date of her initial appointment i.e. 19.09.1979 and also make the revised pay fixation as well as release the retiral benefits accordingly.

The exercise shall be conducted and concluded within a period of 3 months.

This Writ Petition stands disposed of in the aforesaid terms.

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

July 25, 2023
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[SANJEEV PRAKASH SHARMA]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes/No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>