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

CWP-9691-2023

Date of Decision:04.12.2023

DHARAM PAL AND ANOTHER

..... Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Vikram Vir Sharda, Advocate and
Mr. Amit Prashar, Advocate
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. Reply by way of affidavit dated 01.12.2023 of Gaurav Toora, Assistant Inspector General of Police, Personnel-II, Punjab, Chandigarh filed on behalf of respondents No.1 and 2 is taken on record. Registry is directed to tag the same at an appropriate place.

2. The petitioners through instant petition under Article 226 of the Constitution of India are seeking setting aside of order dated 21.03.2023 (Annexure P-11) whereby claim of the petitioners *qua* notional promotion has been declined.

3. The petitioners joined office of DGP, Punjab as Steno Typist in 1989 and they came to be promoted as Senior Assistant on 30.04.2002. They were further promoted to the post of Superintendent of Grade-II, w.e.f 02.12.2020. The petitioner No.1 was at serial No.30 in the seniority list and petitioner No.2 was at serial No.31. The employees at serial

No.27, 28 & 29 retired and petitioners became eligible for further promotion. The petitioner No.1 retired on 31.03.2022 and petitioner No.2 retired on 30.04.2022. Prior to the date of superannuation of the petitioners, 11 post of Superintendent Grade-I, were lying vacant, however, respondent did not proceed with the case of the petitioners, thus, they could not be promoted prior to their date of retirement though they were eligible. The respondent after retirement of petitioners has promoted juniors of the petitioners.

4. Learned State counsel submits that as per service jurisprudence, there is no vested or absolute right of promotion with an employee. The rules envisage eligibility criteria, however, the rules do not create right of promotion in favour of the employees. It is not case of the petitioners that any junior of the petitioners was promoted prior to retirement of the petitioners. There may be many seniors of the petitioners who retired without promotion because DPC did not meet prior to their retirement.

5. On being asked, learned counsel for the petitioner expressed his inability to point out any rule which creates right of promotion in favour of petitioners. There is no rule which creates right of promotion in favour of petitioners, thus, petitioners cannot claim notional promotion on the ground that DPC did not meet prior to the date of their retirement. There is no evidence of *mala fide* on the part of respondents. The departmental promotion is a continuing process and in the said process many people may miss opportunity of promotion because of their superannuation. If an employee retires prior to his promotion and subsequently his juniors are promoted, it does not create right of

notional promotion in favour of the retired employees.

6. In the wake of above discussion and findings, this Court finds that present petition being devoid of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

04.12.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>