

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

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**CWP-10149-2016 (O&M)
Date of Decision: 03.08.2023**

Amarjit and others

.... **Petitioners**

Versus

State of Punjab and others

.... **Respondents**

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. P.S. Khurana, Advocate for the petitioners.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to promote the petitioners in the Master cadre from the date their juniors have been promoted.

2. Admittedly, the petitioners are higher in merit in the select list of ETT teachers exam conducted in 2001. However, on the basis of date of joining, a seniority list was prepared in 2006 and the persons who were lower in merit, were promoted while the petitioners were left out.

3. In pursuance of the directions issued by this Court in CWP-26219-2015, a revised seniority list was published in 2016 and the petitioners had approached this Court, on the basis of their seniority, claiming promotion over and above the persons who had been earlier promoted, based on the earlier seniority list of 2006.

4. Learned State counsel has objected to their claiming promotion after a long delay. It is also stated that no application was moved by the petitioners for claiming promotion in 2016.

5. I have heard learned counsel for the parties at length and have considered the submissions.

6. The cause of action arose with the petitioners earlier when persons lower in merit were promoted but as their seniority list was not prepared on the basis of the *inter se* merit, which was revised in 2016, it cannot be said that the petitioners' claim is belated. They immediately filed their claim in 2016 after the revised seniority list was prepared based on the *inter se* merit of selections. The respondents do not deny the fact of petitioners being higher in merit and therefore, senior in the seniority list over and above those who have been promoted. While the promotions already granted do not require to be interfered with, the petitioners are entitled to full promotion from the date their juniors were promoted, though, they will be able to get only notional benefits.

7. Keeping in view the aforesaid findings, the present petition is allowed. The respondents are directed to consider the case of the petitioners for promotion from the date, their erstwhile juniors named in the petition, namely, Balwinder Kumar, Harjit Kumar, Jatinder Kumar and Baljit Kumar were promoted from ETT teachers to Master cadre in the year 2006. The petitioners would be entitled for notional benefits from the said date and also consequential consideration for higher promotion accordingly. The pay fixation shall be done of course from the same date, but notionally, with actual benefits to be given prospectively from the date of the present order. The compliance be made within a period of three months from today.

8. The pending miscellaneous application, if any, shall stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

03.08.2023

D.Bansal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No