



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-2117-2019 (O&M)
Date of decision: 07.05.2024

Kewal Singh and Others
Versus
State of Punjab and Others
....Petitioners
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Molly A. Lakhanpal, Advocate for the petitioners
Mr. Satnam Preet Singh, DAG Punjab
Ms. Alka Chatrath and Ms. Divyajyot Mann, Advocates
for respondent Nos.6 and 8 to 10
Mr. R.C. Sharma, Advocate for respondent No.7

AMAN CHAUDHARY. J. (ORAL)

1. The present petition has been filed for direction to consider the claim of the petitioner for the promotion from C & V Cadre to the DPE post along with all consequential benefits.
2. Learned counsel submits that the petitioner was claiming promotion to the post from C & V cadre to the post of Director, Physical Education i.e. Master cadre, from the date, the persons lower in merit were promoted. She relies on the judgment passed by this Court in **Manjit Singh and Others vs. State of Punjab and Others** in CWP-451-2008, decided on 05.02.2010, making him eligible for promotion and that this case is squarely covered by the judgment passed by this Court in **Sukhdeep Singh and Others vs. State of Punjab and Others**, CWP-4882-2014, decided on 21.11.2023 alongwith 11 connected matters, followed in **Mandeep Singh and Others vs. State of Punjab and Another**,



CWP-37716-2018, decided on 18.12.2023 and **Daljit Singh and Others vs. State of Punjab and Others** in CWP-809-2021, decided on 19.03.2024. The relevant paras of **Sukhdeep Singh** (supra) read thus:

“28. As regards the other connected Writ Petitions, the claim of the petitioners for being given the benefit of promotion also on account of their being placed notionally in the seniority list and notional pay fixation is the issue which this Court is required to be examined in the present bunch of cases. For the said purpose, it would apposite to quote the Rules governing the promotion under the Rules of 1978. Rule 9 provides as under:-

“Rule 9.

(1) Appointments to the posts in the service shall be made in the manner indicated against each post in Appendix ‘B’ to these rules.

(2) As soon as a vacancy occurs the appointing authority shall having regard to the percentage fixed in these rules for each method of recruitment determine the manner in which the same shall be filled.

(3) All promotions within the Service shall be made by Selection based on merit and taking into consideration seniority alone shall not give any right of promotion to any person:

Provided that the promotion of teachers of the district cadre shall be made to the posts of masters or mistresses, as the case may be, by selection on the basis of merit and seniority to be determined with reference to the length of their service as teacher subject to the condition that if more than one person are promoted from one district cadre their interse seniority as master or mistress shall be fixed on the basis of their seniority as a teacher in that district cadre.”

29. Thus, from the perusal of the aforesaid Rule, it is apparent that promotion to the cadre of the DPE Masters is not automatic. Merely on the basis of seniority, a person is not entitled for promotion. However, once the petitioners have been placed in the seniority, their right for consideration for promotion does arise. Thus, while the claim of the petitioners for being granted promotion from the date persons lesser in merit who were appointed 2006 may not be accepted. The State is, at the same time, required to consider their cases for promotion as they have been placed over and above the persons who have been promoted in 2010 and 2015.

30. The State Government will, therefore, carry out an exercise on the basis of the revised seniority which they will have to publish in the near future in accordance with what has been stated hereinabove.

31. If the petitioners are found otherwise eligible for



promotion, their promotion shall be made retrospectively from the date persons lesser in merit in the original selections have been so promoted. The consequential benefits shall also follow notionally. The service record for the purpose of promotion, of course will have to be considered only from the date the petitioners actually joined service for the purpose of merit.

32. It is also noticed that the Rules of 1978 have been amended and also repealed and new Rules have come into force with effect from 2018, in order to clarify and avoid further litigation, the State Government is directed that as far as the seniority list is concerned, the same shall be prepared in terms of the Rules of 1978 up to the date the said Rules were in force and the exercise of promotion of the petitioners will also be considered in terms of the said Rules alone. Keeping in view that this Writ Petition was pending on the date when the Rules came into force. After the promulgation of the revised Rules, the seniority list can be drawn as per the revised Rules and also further promotions can be done as per those Rules for the vacancies which may arise after the promulgation of the new Rules.

33. The State Government shall conduct the exercise of preparation of the revised seniority list in the aforesaid terms within a period of three months and the exercise of promotion shall also be carried out accordingly thereafter within a period of three months.”

3. Learned State counsel as also learned counsel for respondent No.7 were unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Sukhdeep Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

07.05.2024
M.Kamra

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