



**CWP-11588-2000 (O&M) 1**

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

**(208)**

**CWP-11588-2000 (O&M)  
Date of Decision : August 21, 2024**

**Ram Lal and another**

**.. Petitioners**

**Versus**

**State of Punjab and others**

**.. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. B.S. Patwalia, Sr. Advocate, with  
Mr. Gaurav Jagota, Advocate, for the petitioners.

Mr. T.P.S. Chawla, Sr. Deputy Advocate General, Punjab.

**HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present writ petition, the grievance being raised by the petitioners is that though the petitioners were senior on the post of Forester but for effecting the promotion to the post of Deputy Rangers in the Department of Forest, they have been ignored and the employees, who were junior to the petitioners i.e. the private respondents, have been promoted to the post of Deputy Rangers, which act on the part of the respondents is arbitrary and illegal.

2. Learned counsel for the petitioners submits that once, it is a conceded position that the petitioners are senior to the private respondents, who have been promoted to the post of Deputy Rangers, the petitioners had a preferential right of promotion and without considering their claim, the

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juniors could not have been promoted hence, the promotion of the private respondents to the post of Deputy Rangers may kindly be set aside and the claim of the petitioners be considered for promotion.

3. Upon notice of motion, the respondents have filed the reply wherein, they have submitted that the claim of the petitioners for promotion to the post of Deputy Rangers was considered but keeping in view the criteria which is envisaged for promotion to the post of Deputy Rangers, the petitioners were not found fit and that is why, they were not promoted and the juniors who fulfilled the criteria for promotion to the post of Deputy Ranger, were promoted hence, no grievance can be raised by the petitioners.

4. Learned counsel for the petitioners argues that the petitioners were denied promotion on the ground that they were not suitable for promotion by placing reliance upon the Annual Confidential Reports of the petitioners for the year 1995-1996 to 1999-20000 whereas, the said Annual Confidential Reports were never communicated to the petitioners hence, the same could not have been taken into account for holding the petitioners ineligible for promotion to the post in question hence, the respondents are liable to be directed to grant the petitioners the benefit of promotion to the post of Deputy Rangers from the date employees junior to them have been promoted with all consequential benefits.

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

6. From the facts noticed hereinbefore, it is clear that the claim of the petitioners was considered by the respondents while effecting the promotion to the post of Deputy Rangers. It is only that, on the basis of the

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criteria envisaged for promotion to the post of Deputy Ranger, the petitioners were not found suitable for promotion keeping in view their Annual Confidential Reports hence, it cannot be said that the employees juniors to the petitioners i.e. private respondents have been promoted without considering the claim of the petitioners.

7. With regard to argument of the learned counsel for the petitioners that the petitioners have wrongly been declared ineligible for promotion to the post in question, it may be noticed that the criteria envisages the consideration of the Annual Confidential Reports of an employee to adjudge his/her suitability for promotion to the post of Deputy Ranger. The Annual Confidential Reports of the petitioners, which have been made part of the reply, clearly show that the petitioners have rightly been declared ineligible for promotion to the post of Deputy Rangers.

8. The last argument which has been raised by the learned counsel for the petitioners is that the un-communicated ACRs cannot be relied upon so as to deny the benefit of promotion and the reliance is being placed upon the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.7631 of 2002 titled as Dev Dutt vs. Union of India and others, decided on 12.05.2008.***

9. It may be noticed that the respondents in their reply had brought to the notice of the petitioners the Annual Confidential Reports starting from the year 1995-1996 to 1999-2000. Reply on behalf of the respondent-State was filed on 22.02.2001. Nothing has come on record that after receiving the said reply, the petitioners ever choose to file representation against the Annual Confidential Reports so as to upgrade the

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same. In the absence of any such representation filed, the benefit cannot be given.

10. Further, as per the judgment of the Hon'ble Supreme Court of India in ***Dev Dutt's case (supra)***, only liberty given to the employees was to make representation to the higher authorities against the Annual Confidential Report so as to seek upgradation and in case, the employee succeeds, the claim of the said employee needs re-consideration and in case, the Annual Confidential Reports remains the same, no benefit is to be extended. The relevant paragraph of the said judgment is as under:-

*“ 48. We, therefore, direct that the 'good' entry be communicated to the appellant within a period of two months from the date of receipt of the copy of this judgment. On being communicated, the appellant may make the representation, if he so chooses, against the said entry within two months thereafter and the said representation will be decided within two months thereafter. If his entry is upgraded the appellant shall be considered for promotion retrospectively by the Departmental Promotion Committee (DPC) within three months thereafter and if the appellant gets selected for promotion retrospectively, he should be given higher pension with arrears of pay and interest @ 8% per annum till the date of payment.”*

11. In the absence of any grievance raised by the petitioners against the Annual Confidential Reports even after noticing the said fact mentioned in the reply, show that the petitioners were not interested in upgradation of their Annual Confidential Record hence, no benefit can be granted to the petitioners at this stage.

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12. At this stage, learned counsel for the petitioners submits that the criteria which has been adopted by the respondent-State so as to deny the petitioners the benefit of promotion was only required for the grant of ACP hence, said criteria could not have been made applicable for effecting promotions to the post of Deputy Rangers.

13. It may be noticed that the ACP is only granted to an employee who is eligible for promotion but could not get the same due to the non-availability of the promotional avenue. In case, an employee is not eligible for promotion, even the ACP has to be declined. Therefore, once even for the grant of benefit of ACP, the particular criteria has been adopted, which criteria is akin to the grant of promotion, the petitioners cannot be permitted to say that the criteria adopted by the respondent-State for effecting the promotion was incorrect or arbitrary.

14. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

15. Dismissed.

16. Any civil miscellaneous application pending if any, also stands disposed of.

**August 21, 2024**  
*harsha*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

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