

CWP-11711-2020 (O&M) & -1-
connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

238 (01 case)+ CWP-11711-2020 (O&M)
257 (04 cases) Date of Decision :03.10.2024

Suba Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CWP-26042-2021 (O&M)

Satwinder Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CWP-26894-2021 (O&M)

Gurdeep Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CWP-27106-2021 (O&M)

Prabhjot Singh ...Petitioners



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Versus

State of Punjab and others

...Respondents

CWP-2728-2022 (O&M)

Rajesh Gupta

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Arora, Advocate for the petitioner
in CWP-11711-2020.

Mr. Rajiv Anand, Advocate for the petitioners
in CWP-26042, 26984 & 27106 of 2021 & CWP-2728-2022.

Mr. Swapan Shorey, DAG, Punjab.

Mr. V.K. Chaudhary, Advocate for respondent No.3.

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petitions, grievance being raised by the petitioners is that some of their Annual Confidential Reports, which are being taken into consideration so as to adjudge their suitability for promotion has not been conveyed to them and the same have been treated adverse so as to deny them the benefit of promotion to the post of Sub Divisional Officer (Panchayati Raj).

Learned counsel for the petitioners argues that as per the



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judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.7631-2002, titled as Dev Dutt vs. Union of India and others, decided on 12.05.2008**, the uncommunicated Annual Confidential Report cannot be treated against an employee so as to cause prejudice to him/her.

Hence, the Annual Confidential Reports, which have been taken into account in the present case and have been treated as adverse were never conveyed to the petitioners so as to seek comments of the petitioners or to allow them to make representation hence, the same are liable to be excluded from the zone of consideration.

Learned counsel for the petitioners further submits that one of the Annual Confidential Report of the petitioner-Subha Singh has been treated to be unavailable without stating whether the same was not recorded or was misplaced, which act on the part of the respondents is also causing prejudice to the petitioners.

Learned counsel for the respondent-State submits that in case, any representation is filed by the petitioners for upgradation of their Annual Confidential Reports, which have been taken into account, the same will be considered and appropriate order will be passed within a period of 08 weeks from the date of receipt of such representation and in case, any of the Annual Confidential Report of the petitioners is upgraded, the claim of the petitioners will be reconsidered for the grant of benefit of promotion on the basis of the upgraded Annual Confidential Report and in case, it is found that the petitioners clear the bench marks under the rules, they will be granted the benefit of promotion from the date the employee junior to them has been granted benefit of promotion with all consequential benefits.



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Learned counsel for the respondent-State further submits that appropriate order whether, one of the Annual Confidential Report of the petitioner-Suba Singh was unavailable due to misplacement or non-recording of the same, will also be brought to the notice of the petitioners while passing appropriate speaking order in case, any claim for upgradation of the Annual Confidential Report of the petitioners against which the petitioners raises a grievance, is received.

With regard to the other petitions, Mr. Rajiv Anand, Advocate submits that similar is the claim of the petitioners as uncommunicated Annual Confidential Reports have been taken into consideration for denying the benefit of further promotion though, on the subsequent date, on the basis of the same record, the petitioners have already been promoted.

Learned counsel for the petitioners submits that superseding the petitioners by causing prejudice on account of uncommunicated Annual Confidential Reports is liable to be redressed by this Court.

Qua the said argument, learned State counsel submits that the petitioners will have the liberty to file appropriate representation against the uncommunicated Annual Confidential Reports, which have been taken as adverse for denying the benefit of promotion and the representation made by the petitioners against the upgradation of the Annual Confidential Reports will be considered by the respondents and appropriate order will be passed within a period of 08 weeks and in case, said Annual Confidential Reports are upgraded, the consequential benefit of promotion with effect from the date, the employee junior to the petitioners was promoted, will also be extended to the petitioners with all consequential benefits.



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Learned counsel for the petitioners submits that keeping in view the statement made by learned counsel for the respondent-State, present petitions may kindly be disposed of having been not pressed any further with liberty to the petitioners to file appropriate representation with the respondents against the uncommunicated Annual Confidential Report.

Ordered accordingly.

Civil miscellaneous application pending, if any, is also disposed of.

A photocopy of this order be placed on the file of connected cases.

October 03, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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