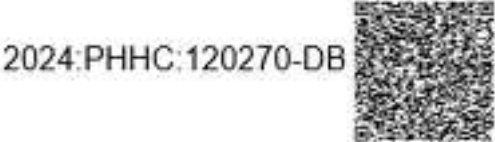


CM-5286-LPA-2024 in/and
LPA-2220-2024



111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-5286-LPA-2024 in/and
LPA-2220-2024
Date of Decision: September 12, 2024

RAVINDER KAUR AND ANRAppellants

Versus

STATE OF PUNJAB AND ORS Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Amit Mehta, Advocate for the appellants.

Mr. R.S. Pandher, Sr. DAG, Punjab.

LISA GILL, J.

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1. Heard.
2. For reasons mentioned in the application as well as arguments addressed, delay of 01 day in filing the appeal is condoned.
3. Application is, accordingly, disposed of.

LPA-2220-2024

1. Prayer in this appeal is for setting aside order dated 30.07.2024 passed by learned Single Judge whereby CWP-16060-2024 filed by appellant (writ petitioner) was disposed of.

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2. Appellants (writ petitioners) filed CWP-16060-2024 whereby promotion afforded to respondent No. 3 on 23.12.2011 was sought to be set aside on the ground that respondent No. 3 had been promoted out of turn. An apprehension was raised that respondent No. 3 was going to be promoted further out of turn by using discretionary powers by Director General of Police, Punjab under Rule 13.21 of Punjab Police Rules, 1934. While finding no ground for setting aside promotion granted to an Officer a decade ago and taking note of the stand of respondent - State, writ petition was disposed of as under:-

“3. Learned State counsel submits that respondent No.3 is not going to be promoted out of turn or by exercising discretionary power. She would be promoted according to applicable rules and regulations. The promotion granted to an officer, a decade back, cannot be re-called at this belated stage.

4. The prime grievance as well as apprehension of petitioners is that respondent No.3 may be promoted out of turn and it would directly affect their career. The respondent-State has made a statement that respondent No.3 is not going to be promoted out of turn or by using discretionary power, thus, grievance as well as apprehension of petitioners stand redressed.

5. This Court finds that at this belated stage, it would not be just and fair to set aside promotion of respondent No.3 especially when she had already discharged duties of Inspector for more than 12 years. Thus, it is not appropriate to set aside order dated 23.12.2011 (Annexure P-1) whereby respondent No.3 was granted promotion.

6. The petition stands disposed of in above terms.”

3. Aggrieved therefrom present appeal has been filed.

4. Learned counsel for appellants vehemently argues that order dated 23.12.2011 is itself illegal as DGP does not have any power to promote the

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Officers in terms of Rule 13.21 of Punjab Police Rules, 1934. It is submitted that LPA-1491-2023 in this respect is pending before this Court, therefore, this appeal should be allowed. It is further submitted that order dated 23.12.2011 was never circulated and appellants never came to know about promotion of said respondent in 2011. Furthermore, no reasons have been assigned for affording out of turn promotion to respondent No. 3. Furthermore, respondent No. 3 without undergoing the requisite training could not have been promoted, therefore, learned Single Bench has clearly erred in not setting aside order dated 23.12.2011.

5. Heard learned counsel for appellants and have gone through file with his able assistance but we do not find any ground to cause interference in this matter.

6. It is a matter of record that promotion of respondent No. 3 was carried out vide order dated 23.12.2011. For such long years, appellants never raised any objection thereto. Writ petition was filed in July, 2024 challenging said order. Argument raised that order was never circulated and appellants never came to know about the same, is clearly opposed to all logic. Even if it is accepted that the list was not circulated, it cannot be accepted that appellants would not even have come to know about respondent No. 3 working on the promoted post of Inspector all these long years. Appellants, it is informed, were promoted to the post of Inspector in the year 2018. Therefore, we cannot accept the plea that from 2011 to 2018 they did not even come to know that respondent No. 3 had been promoted to the post of Inspector. Various grounds have been raised for setting aside order dated 30.07.2024, however, in the given facts and circumstances, we do not deem it appropriate to adjudicate upon the same as

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such. Furthermore, pendency of LPA-1491-2023, at this stage, cannot be a ground for entertaining the present appeal. Moreover, learned Single Bench has taken note of specific statement made by learned counsel for State to the effect that no out of turn promotion or by use of any discretionary power would be afforded to respondent No. 3. It is a settled position of law that in service matters the question of seniority should not be re-opened in such situations after lapse of a reasonable period. Gainful reference in this regard can be made to decision of Hon'ble the Supreme Court in **K.R. Mudgal versus R.P. Singh 1986 (4)SCC 531, B.S. Bajwa versus State of Punjab 1998 (2) SCC 523 and Bichitrananda Behera vs State of Orissa and others 2023 AIR Supreme Court 5064.**

7. Learned counsel for appellants is unable to point out any infirmity or irregularity in impugned order dated 30.07.2024 which calls for interference.

8. No other argument has been raised.

9. In the given facts and circumstances as above, impugned order dated 30.07.2024 is upheld. Appeal is, accordingly, dismissed being devoid of any merit.

**(LISA GILL)
JUDGE**

**(SUKHVINDER KAUR)
JUDGE**

September 12, 2024
Rts

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