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

CWP-3000-2012 (O&M)

Date of Decision: 09.02.2026

Mahavir Sharan

...Petitioner

Versus

State of Punjab and Others

..Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Ms. Isha Goyal, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 06.09.2010, 01.07.2010 and 20.09.2010 whereby his claim for promotion to the post of Superintendent Grade-II was declined ignoring his seniority as Senior Assistant w.e.f. 10.07.1989.

2. This is second round of litigation. In the first round of litigation, matter reached before this Court by way of Civil Revision No.3806 of 2008 which was allowed vide order dated 02.03.2010. The respondent was directed to promote the petitioner w.e.f. 10.07.1989. The order granting promotion w.e.f. 12.11.1998 was set aside. The respondent complied with aforesaid order and made Entry No.118(A) in the seniority list of Senior Assistant.

3. The petitioner through instant petition is claiming further promotion as Superintendent Grade-II. The petitioner got retired in 2002 and

thereafter passed away. Legal heirs of the petitioner (deceased) are pursuing the matter.

4. The respondent in its reply has pointed out that order dated 02.03.2010 passed by this Court in Civil Revision was complied with and petitioner was granted deemed date of promotion as Senior Assistant. On the implementation of 3rd Pay Commission, the pay scale of Assistant was merged in the pay scale of Senior Assistant and the nomenclature was changed from Assistant to Senior Assistant. Many Clerks were promoted as Assistant. The persons with whom the petitioner is claiming parity or seniority belonged to reserved category. They were promoted against reserved point, thus, came to be promoted prior to petitioner. The other one were senior in the seniority list.

5. A Constitution Bench in *Syed Yakoob Vs K.S. Radhakrishnan*, **AIR 1964 SC 477** and a two judge bench of the Hon'ble Supreme Court recently in *Central Council for Research in Ayurvedic Sciences and another Vs Bikartan Das and others 2023 SCC Online SC 996* have reminded us that there are two cardinal principles of law governing issuance of writ of certiorari under Article 226 of the Constitution of India i.e. (i) High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record; (ii) in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial

justice between the parties. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

6. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals. Error of jurisdiction includes order by inferior court or tribunal without jurisdiction or in excess of it or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ

of certiorari. In dealing with this category of cases, however, High Court must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Art. 226 to issue a writ of certiorari can be legitimately exercised.

7. In the case in hand, the petitioner is claiming further promotion as Superintendent Grade-II. The petitioner retired in 2002 and thereafter passed away. The Authorities have recorded factual findings and complied with order dated 02.03.2010 and made appropriate entry in the seniority list of Senior Assistant. There is no material irregularity or infirmity in those orders warranting interference.

8. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petition deserves to be dismissed and accordingly *dismissed*.

9. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

09.02.2026
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No