



**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**O.A. No.60/1403/2017  
M.A. No.60/1571/2018**

**Date of decision: 13.2.2020**

**(Reserved on: 17.1.2019)**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).  
HON'BLE MR. MOHD. JAMSHED, MEMBER (A).**

...

1. Jaswinder Singh S/o Sh. Ajit Singh, age 52 years, Deputy Superintendent of Police, Police Lines, Sector-26, Chandigarh, PIN-160026.
2. Udaypal Singh S/o Sh. Dhani Ram, age 51 years, Deputy Superintendent of Police, H.Q. PCR and Senior S.O. to D.G.P., Chandigarh-160009.

**...APPLICANTS**

**VERSUS**

1. Union Territory of Chandigarh through its Administrator, U.T. Chandigarh-160009.
2. The Advisor to the Administrator U.T., U.T. Secretariat, Sector-9, Chandigarh, Pin-160009.
3. The Home Secretary U.T., U.T. Secretariat, Sector-9, Chandigarh-160009.
4. The D.G.P. U.T. Police Head Quarters, Sector-9, Chandigarh-160009.
5. Ram Gopal, Deputy Superintendent of Police, Central, P.S. Sector-17, U.T. Chandigarh-160017.
6. Union of India through Secretary, Ministry of Home Affairs, New Delhi-110001.
7. The Secretary, DOP&T, North Block, New Delhi-110001.
8. The Secretary, UPSC, Shahjahan Road, New Delhi-110001.

**...RESPONDENTS**

**PRESENT:** Sh. D.S. Rawat, counsel for the applicants.  
Sh. Sanjeev Sharma, Sr. Advocate, along with Sh. Rajesh Punj counsel for respondents No.1-4.  
Sh. R.K. Sharma, counsel for respondent no.5.



## **ORDER**

...  
**SANJEEV KAUSHIK, MEMBER (J):-**

1. The applicants have approached this Tribunal by way of present O.A. under Section 19 of the Administrative Tribunals Act, 1985 for issuance of a direction to the respondents to declare them as senior to respondent no.5 in the cadre of Deputy Superintendent of Police with all consequential benefits. Before noticing arguments raised by learned counsel for the parties, we may briefly recapitulate the facts, which led to the filing of the present O.A.
2. Both the applicants joined Chandigarh Police as Assistant Sub Inspector (for short "ASI") on 03.4.1989 whereas respondent no.5 joined as such on 16.3.1991. Being senior to respondent no.5, they were promoted as Sub Inspector on 09.12.1993 whereas respondent no.5 was promoted as such on 11.6.1996. Respondents circulated seniority list of Sub Inspectors on 18.2.1999, wherein applicants were assigned seniority at serial no.130 and 131 respectively and respondent no.5 was placed at serial no.204.
3. To promote sports in Chandigarh, official respondents took a policy decision vide standing order No.10/96 dated 14.8.1996 (Annexure A-3) to grant out of turn promotion to the tune of 5% for distinction in sports. Subsequent to that another standing order no.8/2002 dated 02.1.2002 was issued where a specific clause was inserted that on accelerated promotion, under sports quota category, there shall be no accelerated seniority. It is



alleged that respondent no.5, who was throughout junior to the applicants, by taking advantage of standing order no.10/96, was given out of turn promotion as Inspector initially on adhoc basis in the year 2002 and later on regularized vide order dated 28.1.2003 w.e.f. 24.1.2002. Vide order dated 04.01.2016, respondent no.5 was brought in List 'G' and was promoted as Deputy Superintendent of Police (for short DSP). The applicants were promoted as DSP vide order dated 28.7.2016. Considering the fact that respondent no.5 has been declared senior to the applicants in the matter of promotion and seniority, they submitted joint representation on 2.3.2017 with a request to declare them senior to respondent no.5 in the cadre of DSP but to no avail. Hence this O.A.

4. Upon notice, official respondents as well as private respondents have filed separate written statements.

5. Official respondents have not disputed factual accuracy with regard to entry of applicants into service as ASI and promotion as Sub Inspector, Inspector and then DSP. They have also not denied that respondent no.5 has been given benefit of out of turn promotion within 5% quota arising out of standing order no.10/96 dated 14.8.1996 and consequentially, his seniority was fixed accordingly and he has rightly been promoted prior in time than the applicants as he stood senior to them in the seniority list of Inspectors. It has also been stated therein that this petition deserves to be dismissed on the ground of limitation, delay and laches as the applicants never filed any objection with regard to



tentative seniority list of Inspectors and did not challenge action of official respondents giving respondent no.5 out of turn promotion and consequential seniority. Thus, it is prayed that the O.A. be dismissed on the ground of limitation, delay and laches. Reliance in this regard has been placed on judgment in the case of **Maloona Lawrence Cicil D'Souza vs. UOI & Ors.**, AIR 1975 (SC) 1269. It has further been submitted that this O.A. deserves to be dismissed as the applicants have failed to submit any representation/objection before finalization of seniority list of Inspector, thus, action of the respondents cannot be challenged at this stage. Reliance in this regard has been placed on the judgment in the case of **State of M.P. & Another vs. Sh. Rameshwar Prasad (dead) by LRs & Others**, AIR 1976 (SC) 214 and **S.B. DOGRA Vs. State of H.P.**, 1992 (4) SCC 445 and judgment by the Jurisdictional High Court in the case of **Bichhya Ram @ Prem Chand vs. State of Punjab**, 1993 (3) SCT 417.

6. It has also been averred that matter relating to seniority and promotion of Inspector is also pending consideration before the jurisdictional High Court in CWP No.20706 of 2011 (**Chandigarh Administration and others vs. Kehar Singh & Others**) and also in CWP No.2802 of 2013 and 24976 of 2012 and based upon that pending dispute, they have promoted persons who are eligible in terms of seniority and other criteria to the post of DSP.

7. Respondent no.5 has also filed a separate written statement wherein he has prayed that O.A. be dismissed being devoid of merit and has submitted that he was given out of turn promotion



as Inspector within 5% sports quota as per PPR 13.1 w.e.f. 24.1.2002 vide order dated 28.1.2003. His promotion as Inspector was regularized w.e.f. 24.1.2002. The draft seniority list of Inspector was issued on 02.7.2004. He was placed at serial no.30 in seniority list finalized on 10.6.2005. It has been submitted that there was litigation before this Court where draft seniority list dated 2.7.2004 was challenged in O.A. No.161/CH/2005, which was upheld upto the Hon'ble Supreme Court. It has been submitted that respondent no.5 was promoted prior in time than the applicants and on the basis of seniority list dated 17.1.2003, he was considered and promoted as DSP, prior to the applicants. One Inspector Davinder Sharma No.40/CHG, also made representation on 10.5.2007 to Inspector General of Police, Chandigarh on similar grounds of Catch-up principles over and above respondent no.5 (herein) according to judgment in the case of **Ajit Singh Januja and others vs. State of Punjab and Ors.** 1996 (2) RSJ 211. Said representation was decided by the competent authority based upon the opinion given by Senior Standing Counsel for U.T. Chandigarh and draft seniority list dated 2.3.2009 was scrapped and seniority list dated 10.6.2005 of Inspectors was upheld vide order dated 13.4.2010. It is further submitted that as a matter of fact, Inspector Yashpal and others had also approached this Tribunal by filing O.A. No.161/2005, challenging order dated 21.10.2003 granting List 'F' and regular promotion to the post of Inspector to respondent no.5 w.e.f. 24.1.2002 and his out of turn promotion under sports quota as per



PPR 13.1. Official respondents issued tentative seniority list of Inspectors of Police (Executive Cadre) vide order dated 20.11.2012, wherein respondent no.5 was placed at serial no.1 and applicants were placed at serial no.22 and 23 respectively, which was finalized vide order dated 17.1.2013 and on the basis of that seniority list, respondent no.5 was promoted as DSP on 04.1.2016 w.e.f. 22.02.2011 and the applicants were promoted as DSP on 29.7.2016. Thus, it is pleaded that the petition be dismissed being devoid of any merit.

8. We have heard learned counsel for the parties.

9. Sh. D.S. Rawat, learned counsel for the applicants vehemently argued that action of the respondents in considering the applicants, junior to respondent no.5, is illegal, arbitrary and liable to be set aside with direction to official respondents to declare them senior as they entered into service as ASI earlier to respondent no.5 and promoted as Sub Inspector prior in time than the private respondent. It has further been argued that under the standing order no.10/96 dated 14.8.1996 and 8/2002 dated 2.1.2002, respondent no.5 can be given out of turn promotion or accelerated promotion, but not the accelerated seniority and by doing so official respondents have violated their own standing orders. Thus, it is pleaded that applicants be given seniority from the date when they were promoted as Sub Inspectors, though later than respondent no.5 but by applying catch-up rule, they have to be given seniority and consequential promotion as DSP and fix their seniority over and above private respondent no.5. To



buttress his claim, he placed reliance on **Ajit Singh Janjua and Ors.** (supra), **R.L. Bhagat, IPS vs. State of Punjab and Ors.**, 2010 (3) SLR 737. Concluding his arguments, learned counsel for the applicants argued that if any appointment is made dehors the statutory rules, the appointees are not entitled to seniority based on total length of service. Reliance in this regard has been placed in the case of **Bhupender Nath Hazarika and another vs. State of Assam and Ors.** 2013 (2) SCT 306 (SC).

10. Per contra while opening arguments on behalf of Chandigarh Administration, Sh. Sanjeev Sharma, Sr. Advocate, vehemently opposed the prayer in O.A. and argued that this petition deserves to be dismissed on the ground of limitation, delay and laches as the applicants, in the garb of present claim, want to challenge seniority list of 20.11.2012 of Inspectors by filing the present O.A. in 2017, thus the present petition be dismissed.

11. On merit, he argued that the applicants have no case as private respondent no.5 has been given out of turn promotion under sports quota in terms of PPR 13.1 and in terms of standing order no.10/96 dated 14.8.1996 as Inspector and consequently his seniority was fixed. While fixing seniority and issuing draft seniority list, no objection was filed by the applicants and ultimately seniority list was finalized, so they are estopped from filing the O.A.

12. Sh. R.K. Sharma, learned counsel for private respondent no.5, while joining arguments raised by Senior Advocate, vehemently argued that out of turn promotion of respondent no.5



as Inspector under sports quota has already been considered by the jurisdictional High Court in CWP No.14883 of 2004 decided on 30.1.2014 and it has been held that his promotion is in consonance with standing order no.10/96 dated 14.8.1996 as his promotion was challenged before the Court at the hands of one Kapil Dev Sharma and Inspector Yashpal & others and no fault was found in giving him out of turn promotion under sports quota. He further argued that in terms of standing order no.10/1996, there is no clause restricting that respondent no.5, who has been given promotion as Inspector, cannot be given seniority. Based upon standing order no.10/1996, respondent no.5 was given seniority over and above the applicants as he stood promoted prior in time than the applicants and consequently promoted as DSP on the basis of that seniority list. He also argued that the applicants never challenged action of the respondents in giving him seniority as Sub-Inspector and Inspector and at this stage, even without challenging this, applicants cannot be allowed to raise plea of seniority over and above respondent no.5 as DSP as neither his seniority nor promotion on lower posts than DSP has ever been challenged by the applicants. Moreover, the issue qua out of turn promotion of respondent no.5 under sports quota stands settled and cannot be reopened. He further argued that standing order no.8/2002 dated 02.1.2002 will not be applicable in the case of respondent no.5 as he had already been promoted and subsequent amendment will not be applicable to his case else it would amount to retrospective operation and taking away accrued right of





respondent no.5. Lastly, he argued that the plea raised by the applicants that in terms of decision in the case of **Ajit Singh Janjua and Ors.** (supra), their seniority be refixed over and above respondent no.5 cannot be accepted because his out of turn promotion in that relevant connection is not accelerated promotion and does not fall under Article 16 (4) and 16 (4A) of the Constitution of India and the applicants have misread the judgments and concept has been quoted out of context.

13. We have given our careful consideration to the arguments advanced by learned counsels for the parties, perused the record and examined the decisions cited by both sides.

14. To start with, it is the preliminary objection raised by the respondents for dismissal of lis on the plea of delay and laches or acquiescence. It is not in dispute that the applicants entered into service with the respondent-department as ASI prior in time than respondent no.5, promoted as Sub-inspector also earlier than him. Respondent no-5 was given out of turn promotion as Inspector under sports quota and consequential seniority. He was shown senior to the applicants in the tentative seniority list to which the applicants have not filed objections and allowed the position in the seniority list to be settled as it was done by allowing the official respondents to notify the final list. On the basis of that very seniority list, respondent no.5 was brought on List 'G' and consequently promoted as DSP prior in time than the applicants, as such they are estopped from challenging the seniority of Inspector and consequential promotion at this belated stage once



they sealed their fate by acquiescence as the action of official respondents in putting them junior to respondent no.5 remained unchallenged, as such they are barred from filing this O.A. The cause of action arose in favour of the applicants firstly when they were called to file objections against the tentative seniority list of Inspectors and secondly, when on the basis of said seniority, respondent no.5 was promoted as DSP.

15. This Hon'ble Supreme Court had occasion to consider the question of cause of action in reference to grievances pertaining to service matters in **C. Jacob Vs. Director of Geology and Mining and Another,** (2008) 10 SCC 115 the case where an employee was terminated and after decades, he filed a representation, which was decided. After decision of the representation, he filed an O.A. in the Tribunal, which was entertained and order was passed. In the above context, in paragraph No.9, following has been held:-

"9. The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly, they assume that a mere direction to consider and dispose of the representation does not involve any "decision" on rights and obligations of parties. Little do they realise the consequences of such a direction to "consider". If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to "consider". If the representation is considered and rejected, the ex-employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored."



16. Again in the case of **Union of India and Others Vs. M.K. Sarkar**, (2010) 2 SCC 59 on entertaining if belated representation, the Court laid down law, which is extracted below:-

“15. When a belated representation in regard to a “stale” or “dead” issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the “dead” issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court’s direction. Neither a court’s direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.”

17. Again, in **State of Uttaranchal and Another Vs. Shiv Charan Singh Bhandari and Others**, (2013) 12 SCC 179 had occasion to consider question of delay in challenging the promotion. The Court further held that representations relating to a stale claim or dead grievance do not give rise to a fresh cause of action and it was held as under : -

“19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix.

18. **In State of T.N. v. Seshachalam**, (2007) 10 SCC 137, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus:

“16. ... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”



19. The Apex Court while referring to an earlier judgment in **P.S. Sadasivaswamy Vs. State of Tamil Nadu, (1975) 1 SCC 152**

noticed that a person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. In Paragraph No. 26 and 28, following was laid down:-

"26. Presently, sitting in a time machine, we may refer to a two-Judge Bench decision in P.S. Sadasivaswamy v. State of T.N., (1975) 1 SCC 152, wherein it has been laid down that: (SCC p. 154, para 2) "2. ... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the courts to exercise their powers under Article 226 nor is it that there can never be a case where the courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters.

28. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. But, a stale claim of getting promotional benefits definitely should not have been entertained by the Tribunal and accepted by the High Court."

20. In **Union of India v. Tarsem Singh**, (2008) 8 SCC 648, the Supreme Court held that a belated service related claim is to be rejected on the ground of delay and laches except in the case of a continuing wrong. The Supreme Court further carved out an exception to the above exception by holding that if the grievance is in respect of any order or administrative decision which related to



or affected several others also and if the opening of the issue would affect the settled rights of the third party, then the claim would not be entertained. The relevant portion of the said judgment is reproduced hereunder:

"7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition."

(Emphasis supplied) Stale Claims

21. It has been held in a number of cases by the Supreme Court as also this Court that stale claims of failure to make out grounds for condonation of delay in seeking remedy in law should not be entertained by the Courts.

22. **In K.V. Rajalakshmiah Setty v. State of Mysore**, AIR 1967 SC 993, the Supreme Court held the delay of 13 years in filing the writ petition on the ground that the petitioner had been writing letters from time to time was not sufficient to condone the



delay. In this case, there is not even an application for condonation of delay.

23. In **Jagdish Narain Maltiar v. The State of Bihar, AIR 1973 SC 1343**, the Hon'ble Supreme Court held the delay of three years in filing the writ petition to challenge the order of removal to be fatal. The relevant portion of the judgment is reproduced hereunder:

"8. Thus it was in August, 1963 that the appellant discovered that his services were really determined for gross misconduct. For nearly 3 years thereafter he kept on submitting one memorandum after another to the Government and it was not until late in 1966 that he filed a writ petition in High Court to challenge the order of removal. The memorials presented by him to the Government were in the nature of mercy petitions and he should have realised that in pursuing a remedy which was not duly appointed under the law he was putting in peril a right of high value and significance. By his conduct he disabled the High Court from exercising its extraordinary powers in his favour. We are therefore of the opinion that the High Court was justified in refusing to entertain the petition."

(Emphasis supplied)

24. In **CBSE v. B.R. Uppal**, 129 (2006) DLT 660 (DB), the Division Bench of Delhi High Court held that the writ petition to challenge the seniority list after six years to be a stale claim. The Court further held that merely making representations is not a good ground for condoning the delay unless it is a statutory representation.

25. In **Savitri Sahni v. Lt. Governor, NCT of Delhi, 130** (2006) DLT 287 (DB), the Division Bench of High Court of Delhi again held the delay of eight years in filing the writ petition to claim the parity in emoluments to be a stale claim. The Court rejected the ground that the appellant had been making



representations. The relevant portion of the said judgment is reproduced hereunder:

"11. Equally untenable is the contention urged by Mr.Datar that since the appellant had been making representations, the delay of nearly 8 years between the date when the appellant first had the cause of action to file the petition and the date when the petition was filed stood explained. Just because successive representations are made for years on end does not necessarily mean that the aggrieved person is acting diligently. The aggrieved person cannot keep hoping against hope and delay approaching the court indefinitely. A writ court is not bound to entertain a stale claim for adjudication. Due diligence on the part of the petitioner is a condition precedent for the exercise of the extra ordinary writ jurisdiction of the court. If the appellant indeed was wronged on account of refusal of salary for nearly 9 years during which she served the school, there was no reason why she should have waited for another 7 years thereafter before coming to the Court to seek redress. The learned Single Judge could have, in that view, passed no order other than the one passed by him in the present case. This appeal accordingly fails and is hereby dismissed but in the circumstances without any orders as to costs."

(Emphasis supplied)

In the wake of above authoritative law by the Hon'ble Apex Court and other Courts, we are of the considered view that the submissions made by the respondents are worth acceptance and accordingly the OA deserves to be dismissed being barred by the law of limitation.

26. Even on merits, the applicants have no case at all. There is no dispute that applicants joined Chandigarh Police as ASI prior in time than respondent no.5 and they were promoted as Sub Inspectors also earlier than private respondent no.5. But in accordance with standing order no.10/96 dated 14.8.1996, issued by Chandigarh Administration, providing out of turn promotion in terms of PPR 13.1, respondent no.5 was promoted as Inspector





vide order dated 28.1.2003 w.e.f. 24.1.2002. Standing order no.10/96 becomes crucial in the present case for determining the seniority, thus, it is being reproduced as below:-

**SUBJECT: OUT-OF-TURN PROMOTION FOR DISTINCTION IN SPORTS.**

**1. OBJECT:**

The object of this standing order is to lay down the procedure to give promotion @ 5% as per PPR 13.1 from amongst the members of the Police Force, who achieve outstanding distinction in sports field at all India or International level, if they are otherwise eligible for promotion but for seniority.

**2. Composition of the Sports Promotion Committee following is constituted as under:-**

- |   |          |
|---|----------|
| 1. Sr. Superintendent of Police                 | Chairman |
| 2. Superintendent of Police/Sec.                | Member   |
| 3. Dy Supdt. Of Police (Senior-most)            | -do-     |
| 4. Dy. S.P. (Lines) & Sports Officer            | -do-     |
| 5. Dy. Supdt. Of Police (to represent to SC/ST) | -do-     |

**3. Criteria laid down for promotion**

In super session of all the previous orders the below mentioned criteria is laid down for promotion on Sports basis:

- i. From Constable to Head Constable: One single achievement (Gold Medal) at National Level (All India Police Games/Meet or National Meet).
  - ii. From Head Constable to Asstt. Sub-Inspector: Two achievements (Gold Medal) at National Level (as above) after the earlier performance for which he has already been rewarded.
  - iii. From ASI to Sub-Inspector: At least three achievements (Gold Medals) at National Level (as above) after the earlier performance for which he has already been rewarded.
  - iv. From Sub-Inspector to Inspector: Any major achievement at International level or more than 3 achievements (Gold Medals) at National Level (as above) after the earlier performance for which he has already been rewarded.
4. However, the Committee still has discretion to reward any outstanding achievement in any particular field such as making a record, reaching close to a record, consistently very high record in similar circumstances wherein due weight age will be given outweighing the above criteria. The committee will assess properly the performance of the candidates even as per the above criteria and make its own decision on the basis of performance.
5. Every years, in the month of August (Third Week) a circular will be issued by the officer (PHQ) to all GOs to forward





applications of outstanding sportsmen along with photocopies of their achievements in the Sports field (on the prescribed proforma) through their respective units within 15 days and office will scrutinize these applications and submit the same to the Sports Promotion Committee for consideration and making recommendation to the undersigned as per criteria laid above."

A perusal of the aforementioned standing order makes it clear that for distinction in sports Competent Authority can give out of turn promotion to members of the police force. There is no whisper that on promotion, an employee cannot get seniority from the date when he joined the promotional post. It is true that vide a subsequent standing order no.8/2002 dated 02.1.2002 qua out of turn promotion, respondents have specifically inserted that promotion under sports quota would not mean inter-se seniority also and inter-se seniority of promotee in the cadre would not be disturbed as a result of promotion under sports quota. In other words catch up principle was introduced. It was rightly argued by learned counsel for respondents that standing order no.8/2002 cannot be made applicable retrospectively to the disadvantage of those who have been given benefit under the standing order dated 14.8.1996.

27. This aspect of the matter has already been looked into by the jurisdictional High Court in CWP No.14883 of 2004 titled **Kapil Dev Sharma** (supra) decided on 30.1.2014, wherein it has been held that out of turn promotion of respondent no.5, under sports quota, will be governed under the standing order no.10/96 and it has also been recorded that Court did not find any illegality in his promotion as Inspector under the category of outstanding sports



person. Thus, plea raised by the applicants that private respondent would not gain seniority from the date when he was promoted on out of turn basis under sports quota cannot be accepted, more so when events relating to promotion and seniority on lower post stood settled. Thus, the applicants cannot re-agitate the issue being barred by the principle of res-judicata.

28. There is another reason for rejecting contention raised by the applicants for giving them seniority as Inspector over respondent no.5 because Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 which are applicable to employees of Chandigarh Administration, make it clear under Rule 8 that "*The seniority inter se of persons appointed to posts in each cadre of a Service shall be determined by the length of continuous service on such post in that cadre of the service*". Therefore, plea of the applicants cannot be accepted, in the background of the indicated rule formation.

29. The other contention raised by the applicants that action of the respondents in giving accelerated seniority to respondent no.5 from the date of accelerated promotion, on out of turn basis, as Inspector is contrary to judgment of the Apex Court in the case of **Ajit Singh Januja and others** (supra) is also not acceptable because judgment is not relevant to the facts of this case. In this case, Hon'ble Supreme Court has considered reservation to the reserved category promoted under Article 16 (4) and 16 (4A) of the Constitution of India, where reservation-accelerated promotion-seniority imbroglio. Appointments or promotions under



the Sports Quota are governed by Article 16 (1) of the Constitution and no question of any dispute or reconciliation between Article 16 (1) on the one hand and Article 16(4) and/or 16 (4A) on the other hand arises in the context of such appointments or promotions. The promotion of respondent no.5 under sports quota is regulated as per PPR 13.1 and OM no.10/1996 dated 14.8.1996 where a conscious decision has been taken for outstanding sports persons to give them benefit of out of turn promotion. Accordingly, their seniority is to be fixed in the promotional cadre of DSP from the date they joined the post. Thus this plea of the applicants qua accelerated seniority can also not be accepted, by a Court of law.

30. Accordingly, in the wake of aforesaid discussion, the O.A. is dismissed on delay as well as on merit. M.A. No.60/1571/2018 also stands disposed of. No costs.

**(MOHD. JAMSHED)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

Date: 13.02.2020.  
Place: Chandigarh.

'KR'