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

LPA-654-2021(O&M)

Date of Decision: 31st July, 2025

E/SI SAMUNDER SINGH, NO. 75/FBD

.....Appellant(s)

V/s.

STATE OF HARYANA AND OTHERS

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present Mr. G.S. Gopera, Advocate for the appellant.

Mr. Saurabh Mohunta, DAG, Haryana.

ASHWANI KUMAR MISHRA, J. (Oral)

1. Learned Single Judge, vide order dated 26.03.2021, passed in CWP-1194-2021, rejected the Writ Petition filed by the appellant in respect of his claim for promotion on the ground that the Writ Petition was barred by constructive *res-judicata*.

2. The facts as have been noticed by the learned Single Judge are not in dispute. The appellant was enrolled as Constable on 23.04.1984 and while undergoing training, he met with an accident and became physically handicapped to the extent of 75%. He claimed extension in service beyond the normal age of retirement i.e. 58 years, which was rejected. This rejection was made on 19.12.2018. The rejection order was challenged by filing a Writ Petition bearing No.CWP-37361-2019. It is thereafter that the subsequent Writ Petition bearing No.CWP-1194-2021 was filed in respect of his claim for promotion. The subsequent Writ Petition which has been dismissed on the ground that the cause raised in CWP-1194-2021 was available to the appellant in the previous Writ Petition and therefore, subsequent Writ Petition filed by him would not be maintainable.

3. Learned counsel for the appellant submits that the representation made by the appellant had highlighted multiple grievances. One of his grievances was with regard to non-consideration of his claim for extension in service. The other grievance was with regard to claim of promotion.

4. Attention of this Court has been invited to the document, Annexure P-2, which is a communication dated 19.12.2018. This order rejected the claim of the appellant for extension in service. However, so far as the claim of the appellant for promotion was concerned, it was forwarded to the Director General of Police, Haryana. It is, therefore, submitted that in respect of claim of promotion, no cause of action had arisen to the appellant at the time of filing of the earlier Writ Petition and the contrary view taken by the learned Single Judge, cannot be sustained.

5. Facts, as have been noticed above are not disputed by the learned counsel for the State, who otherwise opposes the prayer made in the Appeal.

6. We have perused order dated 19.12.2018 which clearly indicates that while claim of the appellant for extension in service beyond 58 years was rejected, yet, the claim of appellant for promotion was forwarded to the competent authority. Once the claim of promotion was forwarded to the higher authority, it cannot be said that any cause of action had arisen for the appellant to approach this Court regarding grievance relating to his promotion.

7. We also find substance in the appellant's submission that the cause relating to promotion was not available in the Writ Petition filed against rejection of prayer for extension in service.

8. In such view of the matter, filing of subsequent Writ Petition in the year 2021, in respect of the grievance relating to promotion, cannot be said to be barred by Order 2 Rule 2 of the Code of Civil Procedure, 1908. The principles of constructive *res judicata* will also not be applicable. In that view of the matter, we cannot approve the reasoning assigned by the learned Single Judge vide the impugned order. The judgment dated 26.03.2021 is therefore set aside.

9. In the facts of the case, since claim of appellant for promotion has so far not been accorded consideration, we deem it appropriate to **allow** this Appeal with direction to the State of Haryana to accord consideration to appellants' claim for promotion in terms of the recommendations dated 19.12.2018 made by the Police Head Quarters, Faridabad. Such consideration would be made within a period of four months from the date of presentation of this order.

10. All pending applications in this case are disposed of accordingly.

**[ASHWANI KUMAR MISHRA]
JUDGE**

**[KULDEEP TIWARI]
JUDGE**

July 31, 2025

Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>