

Sr. No. 605

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

CWP-1568-2000

Date of decision: 12.07.2022

Ramesh Chand

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ravi Kumar Girdhwal, Advocate,
For the petitioner.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing respondents No.1 and 2 to fix the seniority of the petitioner in the cadre of Deputy Superintendent as per the order dated 01.09.1998 (Annexure P-4) vide which the petitioner was appointed as Head Clerk/Deputy Superintendent w.e.f. 15.02.1980. Further prayer has been made for issuance of a writ in the nature of certiorari for quashing the order dated 2304.1999 (Annexure P-9) vide which the arrears of salary arising out of his promotion order has been denied.

2. To the extent the claim of the petitioner of granting him arrears on his promotion from Clerk to Head Clerk, the same has been rightly rejected since promotion was granted to him as a special measure by relaxing the Rules as no sanctioned post of Head Clerk existed in the private college where he was originally employed and subsequently the said college was taken over by

the Government. That apart the sanctioned post of Head Clerk is only admissible where the College has more than 400 students which was not the case. However, subsequently, the petitioner was denied promotion as Deputy Superintendent and aggrieved therefrom he represented the Department including approaching this Court in the earlier round of litigation vide CWP-14181-1997 wherein directions were issued to consider his case and pass fresh orders after according him an opportunity of personal hearing. Subsequently, vide order dated 29.06.2000 (Annexure R-1), he was accorded promotion with effect from the date his junior was promoted as was his grievance at the first instance. Though he was granted promotion but in the promotion order, it has been stated that he is not entitled to any arrears of salary on account of his promotion since he did not work on the promotional post. To the extent, he was denied promotion, he has already been meted out with injustice since for no fault of his, he had been denied what was rightly due to him as against his junior who had been extended the same benefit. It is not the case of the Department that had the petitioner been promoted, he would not have served on the promotional post and, therefore, the non-rendering of service of the petitioner on the promotional post despite his having been available for the same is entirely attributable to the Department. To deny him promotion in itself was a jeopardy and to deny the pecuniary benefits arising there from later on would amount to double jeopardy.

3. Accordingly, the writ petition is allowed to the limited extent that to the extent that promotion order states that

the petitioner would not be entitled to the arrears of salary on the promotional post and the same is quashed to that extent.

4. Respondents are directed to grant the arrears of salary to the petitioner arising out of his promotion order with effect from the date he has been accorded promotion along with interest @ 4% per annum from the date of his promotion till the date of its actual realization.

5. Needful exercise be carried out within a period of three months from today.

July 12, 2022
vandana

(ARUN MONGA)
JUDGE

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