



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

Sr. No.250

CWP-917-2023

Date of Decision: 21.01.2025

Babu Lal

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Vivek Singla, Advocate, for the petitioner.

Mr. Parveen Mehta, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing that part of the order dated 14.12.2021/03.01.2022, Annexure P-16, whereby the petitioner has been given notional promotion as Lecturer in Mechanical Engineering with effect from 23.02.2021; further, a writ of *mandamus* has been prayed directing the respondents to promote him as such with effect from 02.12.2016, viz., the date from which his junior/Harjeet Chawla has been so promoted.

2. Facts of the case in brief are, the petitioner was enrolled for Bachelor of Technology (B.Tech.) course in the Indira Gandhi National Open University (IGNOU), New Delhi, in the session 2008-09, and was awarded the degree in first division in 2012. On that basis, he became entitled to be promoted as Lecturer in Mechanical Engineering in terms of Rule 9(3) of the Haryana Technical Education Department (Group B) Service Rules, 2001, which requires that fifteen per cent posts of Lecturers



are to be filled by promotion from amongst Workshop Instructors/Laboratory Technicians of the relevant discipline.

2.1. Initially the petitioner's degree from IGNOU was not considered valid by the Department, and he was forced to approach this Court by filing a petition, CWP No.4561 of 2017, claiming that the degree was valid in terms of law laid down by the Supreme Court in Writ Petition (C) No.382 of 2018 titled *Mukul Kumar Sharma and others v. All India Council for Technical Education and others*, vide judgment dated 30.07.2018, and the subsequent clarification dated 11.03.2019. During pendency of the petition, the petitioner was promoted as Lecturer in Mechanical Engineering notionally with effect from 23.02.2021 and actually from the date of joining, vide impugned order dated 14.12.2021/03.01.2022. Since the petitioner's junior Harjeet Chawla had been promoted as Lecturer in Mechanical Engineering vide office order, dated 02.12.2016, Annexure P-10, the petitioner made a representation seeking promotion from the same date. The claim was, however, rejected vide order dated 13.04.2022/18.04.2022 on unfounded grounds.

3. In this background, learned counsel for the petitioner contends that rejection of the petitioner's claim for promotion from the date his junior stands promoted, is not sustainable in view of the settled law to the contrary. The impugned order, therefore, needs to be corrected/set aside to that extent. Learned State counsel, on the contrary, has relied upon the written statement filed on behalf of respondents no.1 to 3. However, they have not denied that the petitioner's junior stands promoted as Lecturer with effect from 02.12.2016.

4. Heard.

5. The undisputed position on record is that the petitioner is senior to Harjeet Chawla as Workshop Instructor; this is also apparent from the



seniority/gradation list of Workshop Instructors of Government Polytechnics cadre as on 01.11.2016, Annexure P-23, wherein the petitioner has been placed at serial no.57, and Harjeet Chawla at 63. It also remains undisputed that the latter stands promoted as Lecturer with effect from 02.12.2016. It is settled law that a senior employee is entitled to promotion from the date his junior has been promoted. Therefore, there is no reason to deny promotion as Lecturer to the petitioner from the date his immediate junior has been so promoted.

6. Accordingly, the petition is allowed and the impugned order, dated 13.04.2022/18.04.2022, as also that part of promotion order, dated 14.12.2021/03.01.2022, whereby petitioner has been given notional promotion with effect from 23.02.2021, are set aside. He is held entitled to promotion notionally with effect from 02.12.2016 and actually from the date of joining. The respondents are directed to pass office order to that effect and release the due benefits along with arrears within two weeks of receiving a certified copy of the order.

(TRIBHUVAN DAHIYA)
JUDGE

21.01.2025
Maninder

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