



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

CWP-1477-2025

Date of Decision: 10.07.2025

Dr. Ajit Singh Grewal

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Sween Chaudhary, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 14.07.2023 (Annexure P-34) whereby seniority of Senior Scientific Assistant has been considered and fixed.

2. The State Government sanctioned 57 posts for Forensic Science Laboratory, Madhuban (Karnal), Haryana (for short 'FSL') vide order dated 11.01.1996 and 19.03.1996. These posts were created on the directions of this Court. On account of unavoidable reasons, 44 out of aforesaid posts could not be filled up by 31.08.2000. The State Government, vide communication dated 16.03.2000, decided that all posts lying vacant for more than two years on 29.02.2000 shall stand abolished. It was underscored in the said communication that technical posts could be considered for promotion after obtaining concurrence from

Finance Department. The private respondents came to be appointed as Scientific Assistant during 1998-1999. They were eligible for promotion. The Police Authorities addressed different letters to State Government pointing out that technical posts may not be treated as abolished or be re-created or exempted from letter dated 16.03.2000. The respondent despite letter dated 16.03.2000 of State Government promoted private respondents to the post of Senior Scientific Assistant during 2000-2001. The petitioner joined FSL as Senior Scientific Assistant on 23.12.2003. His appointment was direct appointment. The private respondents were promoted prior to his appointment, thus, they became senior to petitioner.

3. The petitioner is claiming that private respondents were promoted against non-existing posts, thus, their promotion was bad in the eye of law. The respondents created 33 posts in February' 2002 and 12 posts in February' 2004. The private respondents could not claim their promotion against 33 posts created in February' 2002. They, at the most, could be considered against 12 posts which were created in February' 2004. If the private respondents are treated as selected against 12 posts created in February' 2004, they would be junior to petitioner.

4. *Per contra*, Mr. Raman Sharma, Addl. A.G., Haryana submits that there were 55 posts which were lying vacant on 29.02.2000. As per letter dated 16.03.2000 of State Government, these posts stood abolished, however, promotion on these posts could be made with the concurrence of Finance Department. There was consistent demand from Police Department to fill up those posts. The Competent Authority promoted private respondents during 2000-2001 on the post of Senior

Scientific Assistant. The respondent again created 33 posts on 21.02.2002 and 12 posts on 05.02.2004. The private respondents had already been promoted prior to appointment of petitioner, thus, he has no right to challenge promotion of private respondents. The State Government by recreating 45 posts regularized promotion of private respondents. No objection was raised by Finance Department. No recovery was ordered from them and there was no order of their reversion.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. From the perusal of record, it is evident that State Government issued letter dated 16.03.2000 whereby it was mandated that there would be ban on fresh recruitment/creation/upgradation of posts. It was underscored that all posts lying vacant for more than two years as on 29.02.2000 shall stand abolished. The ban was not applicable to technical post provided concurrence of the Finance Department was obtained. The said letter made it clear that all posts lying vacant for more than two years as on 29.02.2000 shall stand abolished, however, there was exception *qua* technical post. With the concurrence of Finance Department technical posts could be filled up. The instant case relates to technical post i.e. Senior Scientific Assistant. The posts of Senior Scientific Assistant were lying vacant for more than two years as on 29.02.2000, thus, posts stood abolished, however, it is undisputed that Police Authorities were pursuing the matter with State Government and seeking permission to fill up technical post. The respondent filled up four posts of Senior Scientific Assistant despite communication dated 16.03.2000 of the Finance

Department. The posts were not filled up through direct recruitment whereas posts were filled up through promotion. The private respondents were already working as Scientific Assistant and they were promoted as Senior Scientific Assistant. The State Government on the persistent request of the Police Authorities recreated 33 posts on 21.02.2020 and further 12 posts on 05.02.2004. The petitioner is claiming that private respondents were promoted in 2000 and their posts were created in February' 2004.

7. The petitioner is assailing promotion of respondents which was made in 2000-2001. The petitioner joined service in July' 2003. He has preferred present petition in 2025. He is claiming that cause of action accrued to him as soon as order dated 14.07.2023 was passed by respondent whereby seniority was determined and appointment of private respondents was recognized. The argument of petitioner cannot be countenanced. The private respondents were actually promoted during 2000-2001. At that point of time, the posts of Senior Scientific Assistant were not existing on account of communication dated 16.03.2000 of the State Government. They despite letter dated 16.03.2000 of State Government were promoted and continued to work till 2004. The State Government recreated 33 posts in February' 2002 and 12 posts in 2004. The petitioner is trying to claim that 12 posts against which private respondents were promoted in 2000 were re-created in 2004, thus, their appointment was invalid in 2000. By communication dated 16.03.2000, the State Government has banned fresh recruitment. Firstly, it was not case of fresh recruitment whereas it was case of promotion. Secondly, in

the said letter, technical posts were excluded subject to concurrence of Finance Department. There was consistent communication by Police Authorities to Finance Department seeking permission to fill up technical posts. No objection was raised by Finance Department rather salary of private respondents as Senior Scientific Assistant was released. There was no case of withholding salary. The respondent by recreating 45 posts in 2002 and 2004 and by not objecting promotion of private respondents has given deemed consent. In any case, a period of 24 years has passed away from the date of promotion of private respondents. It would not be just and fair at this stage to disturb their promotion.

8. The present petition being devoid of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

10.07.2025
Prince Chawla

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