



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

204

**CWP-18030-2020 (O&M)
Date of decision: 12.09.2025**

Ravish Kumar

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajeev Godara, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of *certiorari* to partially quash the order dated 15.01.2019 (Annexure P-10) to the extent that the petitioner has been promoted only on a notional basis as Grade-2 Executive Officer from the date of promotion of his juniors, i.e., 24.12.2011, at the pay scale of Rs.10,300-34,800 + Rs. 4,600 grade pay. The petitioner further prays for quashing the letter dated 05.07.2019 (Annexure P-12), wherein he was informed that no arrears of salary are payable in case of notional promotion. Lastly, the petitioner seeks a writ of mandamus directing the respondents to promote him as Grade-2 Executive Officer from Grade-3 w.e.f. 24.12.2011 instead of 17.03.2015 with all consequential benefits



and to release arrears of salary for 38 months from 24.12.2011 to 17.03.2015 at the applicable pay-scale with interest.

2. The brief facts of the case are that the petitioner was working as a Superintendent with the Municipal Council before 2006 and was promoted as Executive Officer Grade-3 on 31.10.2006. On 24.12.2011, several Executive Officers in different Nagar Councils of Punjab were promoted to Grade-2 Executive Officer. However, the petitioner along with five others was not considered at that time due to an alleged incomplete service record and their cases were kept reserved for later consideration. The petitioner contends that his record was complete and was available with the competent authority. The petitioner continued to raise the issue and was eventually promoted to the post of Grade-2 Executive Officer on 17.03.2015. Subsequently the petitioner filed various representations seeking retrospective promotion from the date when his juniors were promoted on 24.12.2011, however, the respondents only granted him notional promotion from 24.12.2011, however, the petitioner was denied arrears of salary for the period 24.12.2011 to 17.03.2015 on the ground that no arrears are payable in case of notional promotion. Hence this writ petition.

3. Learned counsel for the petitioner submits that the short controversy involved in the present case is that although the petitioner has been promoted w.e.f. 24.12.2011 from the date when his juniors were promoted to the Grade-2 post, he was only provided notional benefits and the consequential financial benefits have not been paid to



him. He argued that such denial of arrears and consequential benefits amounts to gross injustice since the petitioner was performing the duties deserving Grade-2 pay and seniority from the relevant date. He further submits that the petitioner was denied timely promotion without any valid or justifiable reason, despite his service record being complete and available with the Municipal Council, causing him financial and service related benefits. Learned counsel for the petitioner contends that promotion on notional basis, without payment of arrears, defeats the object of promotion and violates the fundamental principles of natural justice and service jurisprudence. In support of the arguments, learned counsel for the petitioner has relied upon the judgment of this Court in ***Darshna Devi vs State of Punjab and others, 2024(5) SLR 731*** and submits that when an employee is unjustly denied promotion due to fault of the employer, he must be granted arrears of salary and other benefits from the date of notional promotion. Hence, the petitioner is entitled to be promoted with effect from 24.12.2011 with all consequential benefits including arrears of salary.

4. *Per contra*, learned State counsel submits that initially, the petitioner was not promoted only on account of incomplete service record, which justified the deferment of his promotion at that time. Only after proper verification and consideration, the petitioner was found eligible for promotion on 15.01.2019, but strictly on a notional basis from the date when his juniors were promoted. He further submits that as per established service rules and government orders, arrears are not



payable in cases of notional promotion and the respondents have only acted in accordance with the due process in granting promotion. Any delay in the petitioner's promotion was not due to deliberate discrimination but arose from procedural requirements. Furthermore, learned State counsel submits that the petitioner, being the custodian of his own records, cannot attribute any delay in promotion to the respondents. Learned State counsel has placed reliance upon the Division Bench judgment of this Court in ***State of Punjab and another vs Jagdish Singh and others, 2025 NCPHHC 58675***, and submits that monetary benefits in cases of retrospective promotion are payable only from the date of filing the writ petition and not from the date of retrospective promotion.

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

6. From the facts on record and after careful consideration of the pleadings and submissions, it is apparent that the petitioner was unfairly denied promotion alongside his juniors, who were promoted on 24.12.2011. The primary reason given by the respondents *qua* incomplete service record of the petitioner, is untenable as it is evident from the material on record that the petitioner's service record was complete and available with the competent authority at the relevant time. Moreover, no request for additional information or record was made by the respondents to the petitioner at that time. The Hon'ble Supreme Court in ***Union of India vs. K.V. Jankiraman, 1991 (4) SCC***



109, has categorically held that the normal rule of "no work no pay" does not apply to cases where an employee is unjustly kept away from discharge of duties or benefits of a post for no fault of his own. It was observed that where the employee is eventually found fit for promotion but was denied the same due to pendency of proceedings or administrative lapses, he ought to be granted salary and other benefits from the date he would have normally been promoted. In the present case, the petitioner's exclusion from the promotion list dated 24.12.2011 was not due to any fault on his part, but due to procedural lapses of the respondents. He was ultimately found eligible, and therefore, in terms of the judgment in ***K.V. Jankiraman's case (supra)***, he is entitled to full consequential benefits including arrears of salary from the date his juniors were promoted.

7. Further, it is a settled law that similarly situated employees must be treated equally. The petitioner, being senior and eligible, was entitled to be promoted from the same date as his juniors. The respondents' act of granting promotion only on a notional basis and denying arrears amounts to discrimination and is against the principles of natural justice.

8. The reliance of the respondents on the Division Bench judgment in ***Jagdish Singh's case (supra)*** is noted, where it was held that monetary benefits shall be granted from the date of filing the writ petition, not from the date of retrospective promotion. However, in the present case, the petitioner had been regularly pursuing his right and



filing representations since 2014, well before the filing of the writ petition, therefore, the lapse cannot be attributed to the petitioner. It is the duty of the State and its instrumentalities to ensure that promotions and pay are granted to an employee fairly and in accordance with the principles of natural justice and service law. Moreover, granting notional regularization without corresponding financial benefits is an arbitrary, illogical and meaningless exercise that provides no real relief to an employee. The State, as a model employer, cannot take advantage of its own protracted delay in granting rightful dues to an employee.

9. Accordingly, the writ petition is allowed. The impugned order dated 15.01.2019 (Annexure P-10) is quashed to the extent it denies the petitioner promotion with retrospective effect and payment of arrears of salary. The respondents are directed to treat the petitioner as promoted to the post of Grade-2 Executive Officer with effect from 24.12.2011, the same date on which his juniors were promoted.

10. The respondents shall calculate and disburse arrears of salary and all other consequential benefits due to the petitioner from 24.12.2011 till 17.03.2015 within a period of three months from the date of receipt of certified copy of this order, failing which interest @ 6% per annum shall be payable to the petitioner.

(HARPREET SINGH BRAR)
JUDGE

12.09.2025

yakub

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