

**CWP-5564-2000 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****202****CWP-5564-2000 (O&M)****Date of Decision: 04.03.2025****Ishwar Singh Yadav****...Petitioner****Versus****Haryana Vidyut Parsarn Nigam Limited and others****...Respondents**

Present: - Mr. A.P. Bhandari, Advocate and
Ms. Bhargavi, Advocate for the petitioner
Mr. Himanshu Arora, Advocate and
Mr. Vijay Sheoran, Advocate for the respondents

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 06.03.2000 (Annexure P-9) passed by respondent No.2 whereby his juniors were promoted. He is further seeking direction to respondents to promote him as Deputy Superintendent with effect from 06.03.2000.

2. Mr. A.P. Bhandari, Advocate submits that petitioner was appointed as Upper Division Clerk on 01.04.1971. He was confirmed on 05.12.1973. He was promoted to the post of Assistant on 28.06.1976. He came to be appointed as Research Assistant on deputation vide order dated 25.01.1980. In 2000, the respondent promoted his juniors as Deputy Superintendent. The promotion of his juniors to the higher position was violative of Article 14 of the Constitution of India. The action of the respondent was palpably arbitrary and discriminatory in nature.

3. Mr. Himanshu Arora, Advocate submits that petitioner joined Hindi Cell, thus, he was not considered in his parent cadre i.e. clerical cadre.



The private respondents were indubitably juniors to the petitioner in the clerical cadre, however, petitioner was not considered for promotion because post of Research Assistant was governed by different set of rules. He was entitled to further promotion as per Rules applicable to Research Assistant. He has been promoted to the post of Deputy Superintendent vide order dated 26.05.2006.

4. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

5. From the perusal of order dated 26.05.2006 which has been produced during the course of hearing, it is evident that petitioner claimed lien in the clerical cadre. He never left his claim over his own cadre. He was appointed as Research Assistant on deputation. The operative portion of order dated 26.05.2006 is reproduced as below: -

“Office Order No.218/NGE/G-226 Dated 26-05-2006

Shri Ishwar Singh Yadav, Research Assistant working in Hindi Cell, HVPNL Panchkula vide his application dated 3.5.2006 has stated that he does not want to switch over to Hindi Cadre by terminating his lien in the clerical cadre and has requested to release his benefits in the clerical cadre.

After considering the request, the Managing Director, HVPNL, Panchkula has accorded approval for promotion to Shri Ishwar Singh Yadav, Research Assistant to the post of Dy. Supdt. in the scale of Rs.6500/10500 w.e.f. 6.3.2000 i.e. the date on which his junior Shri S.C. Jain was promoted as Dy. Supdt. However, on promotion, notional fixation of pay will be allowed without payment of any arrears. Accordingly, he is hereby promoted to the post of Dy. Supdt.

2. *Consequent upon the above, the following promotion, posting and transfer is hereby ordered in the public interest: -*



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<i>Sr. No.</i>	<i>Name of the Official</i>	<i>Present Posting</i>	<i>Proposed Posting</i>	<i>Remarks</i>
1.	Sh. Ishwar Singh Yadav	Research Asstt. working in Hindi Cell, HVPNL, Panchkula	Dy. Suptd. O/O SE/Admn. (GA), HVPNL, Panchkula	Against the post of Dy. Suptd. as notified vide O/O No.459/Cadre dated 26.5.2006.

6. The respondent by passing aforesaid order has accepted that petitioner never waived his lien over clerical cadre. His claim for the post of Deputy Superintendent has been accepted in his parent cadre i.e. clerical cadre. The respondent has promoted petitioner's juniors to further ranks i.e. Superintendent and Under Secretary. The petitioner being senior is also entitled to senior positions. The respondent has promoted petitioner to the post of Deputy Superintendent on notional basis and from the date his junior was promoted. The respondent is bound to consider him for further promotion at par with his juniors.

7. Accordingly, the respondents are directed to consider claim of the petitioner for further promotion though notionally and without arrears. Let the needful be done within three months from today.

8. Disposed of in above terms.

9. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

04.03.2025
Mohit Kumar

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