

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14356-2019 (O&M)

Ramesh Kumar & Ors. ... Petitioners
VS.

State of Haryana & Ors. ... Respondents

1.	Judgment reserved on	08.10.2025
2.	Judgment pronounced on	02.12.2025
3.	Judgment uploaded on	03.12.2025
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. SS Shekhawat, Advocate for the petitioners

Mr. Ravi Dutt Sharma, DAG Haryana

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari for quashing the order dated 14.12.2017 (Annexure P16) whereby the claim of the petitioners has been rejected. A direction has been sought to the respondents to prepare *inter se* seniority of Junior Scale Stenographer, Assistant Librarian, Steno typist, Clerk-cum-Store Keeper, Accounts Clerk-cum-Junior Auditor (in clerk grade) as per Service Rules of 1997 and promote the petitioners to the post of Assistant w.e.f. the date when their junior, namely, Rekha (since deceased) was promoted to the post of Assistant vide order dated 23.09.1998 (Annexure P6) along with all consequential benefits with interest @ 18% p.a.

(2). Learned counsel for the petitioner submits that the entire process of promotion undertaken by the respondents is vitiated by arbitrariness and non-compliance with the statutory provisions governing service matters since the promotion of Ms. Rekha (since deceased) to the post of Assistant on

23.09.1998, without first drawing up an inter-se seniority list as mandated by Rule 5(2) of the Punjab Civil Services (Promotion of Stenographers and Steno-Typists) Rules, 1961 (in short, the 1961 Rules) is patently illegal and contrary to the settled service jurisprudence as the rule, being made applicable to the State of Haryana, requires strict adherence to seniority and eligibility criteria among Steno-Typists, Junior Scale Stenographers, and Clerks for their promotion to the cadre of Assistant.

(3). Counsel further asserts that the illegality of said promotion stands admitted and established through the subsequent advice rendered by the Chief Secretary, Haryana, vide letter dated 09.06.1999, whereby it was categorically observed that Satish Chander was senior to Ms. Rekha and that his claim for promotion had been wrongfully overlooked and in compliance with this advice, said Satish Chander was promoted with retrospective effect from the date of Rekha's promotion, thereby acknowledging the breach in the original order.

(4). It is urged that despite repeated representations by the petitioner and the clear advice from the highest administrative offices, the respondents, instead of correcting the earlier wrong, have continued to shield the patently illegal promotion, even justifying it in subsequent departmental communications and rejecting the petitioner's lawful claim on 14.12.2017 (Annexure P16). It is further argued that the refusal to remedy this manifest injustice, as well as the non-response to the petitioner's legal notice dated 24.10.2018 (Annexure P17), reveals the nonchalant, non-speaking, and mechanical approach adopted by the respondents.

(5). On the other hand, learned counsel for the respondents submits that the process of promotion to the post of Assistant in the department has

been strictly governed by the Haryana Women and Child Development Department (Group-C) Service Rules, 1997 (in short, the 1997 Rules), and not under the previously cited 1961 Rules and as per Appendix B to Rule 7, Serial No.8 of the 1997 Rules, the essential qualification and experience for promotion to Assistant-cum-Accountant-Cashier-Junior Auditor requires either two years' experience as a Junior Scale Stenographer/Assistant Librarian or five years' experience as a Steno-Typist, Clerk-cum-Store Keeper-cum-Accounts Clerk-cum-Junior Auditor in the clerk grade.

(6). It is further submitted that Smt. Rekha was appointed to the higher post of Junior Scale Stenographer through the Subordinate Service Selection Board, Haryana on 14.06.1994 and as per the Departmental Service Rules, she became eligible for promotion to the post of Auditor (Assistant grade) on 13.06.1996, much prior to the petitioners. Consequently, the claim of petitioners No.1 and 2 for retrospective promotion was rightly rejected by the respondents vide memo dated 14.12.2017 (Annexure P-16), while petitioners No.3 to 8 never raised any claim.

(7). Heard learned counsel for the parties.

(8). Vide impugned order dated 14.12.2017 (Annexure P16), the respondent-Department set out its position that Smt. Rekha, having joined as a Junior Scale Stenographer on 15.06.1994, completed two years of the requisite experience for promotion to Assistant by 14.06.1996, in accordance with the Departmental Service Rules, 1997. In contrast, the petitioners, who joined as Steno-typists, could only complete the required five years' experience for promotion to Assistant in the year 1998. Based on this calculation, the

respondent-Department argues that Rekha became eligible for promotion prior to the petitioners.

(9). It is the contention of the learned counsel for the petitioners that the said promotion to Rekha is in violation of Rule 5(2) of the 1961 Rules, which were made applicable to the State of Haryana. The said Rules regulated the promotion of Stenographers and Steno-typist in the Civil Services of the State to higher posts on clerical side, namely, Assistant and have direct bearing on the merits of the case in hand. Rule 5 of the 1961 Rules deals with promotion of the Junior Scale Stenographer and Steno-typist to the post of Assistant. The same reads as under:-

“Promotion of Junior Scale Stenographer and Steno-typist.

(1) The Junior Scale Stenographers and Steno-typists shall, alongwith Clerks, be eligible for promotion to the post of Assistant, after they have qualified in the test prescribed for the post of Assistants. On their appointment as Assistants they shall, like other Assistants be eligible for promotion to higher posts on the clerical side on the basis of their seniority in the Assistant cadre.

(2) The inter-se-seniority of such Junior Scale Stenographers and Steno-typists vis-a-vis clerks shall be determined by the dates of their continuous appointment against the post of Junior Scale Stenographer or Steno-typist or clerk as the case may be, and if the dates of their appointment be the same, the older shall be senior to the younger.”

(10). The above provision under the Rules provides that the Junior Scale Stenographer, Steno-typist and Clerks shall be eligible for promotion to the post of Assistant subject to qualification in the Departmental test prescribed for the post of Assistant and the inter-se seniority of such Stenographers vis-a-

vis Clerks shall be determined by the dates of their continuous appointment against the post of Stenographer or Clerk, as the case may be. The details of date of joining and date of eligibility for promotion of the petitioners vis-à-vis Rekha are tabulated hereunder:-

Sr. No.	Name	Post	Date of Joining	Eligibility for promotion as Assistant
1.	Rekha	Jr.ScaleStenographer	14.06.1994	13.06.1996
2.	Ramesh Kumar (Pet. No.1)	Stenotypist	16.03.1993	15.03.1998
3.	Kiran Bala (Pet. No.2)	Stenotypist	10.05.1993	09.05.1998
4.	Santosh (Pet.No.3)	Clerk	22.08.1991	21.08.1996
5.	Devender Kumar (Pet.No.4)	Clerk	02.07.1992	01.07.1997
6.	Nand Ram (Pet.No.5)	Clerk	11.11.1991	11.11.1996
7.	Ram Parshad (Pet.No.6)	Clerk	09.07.1992	08.07.1997
8.	Ramesh Kumar (Pet.No.7)	Stenotypist	13.05.1993	12.05.1998
9.	Murari Lal (Pet.No.8)	Clerk	27.06.1992	26.06.1997

(11). That apart, Rule 9 of the 1997 Rules prescribes for method of recruitment to the Service and in case of Assistant Incharge, the promotion shall be made in the manner as prescribed under Clause (g) & (h) of the said Rule. Rule 9 (h) of the 1997 Rules thus read as under:-

“h) in case of Assistant-cum-Accountant-cashier-cum-Junior Auditor (in Assistant grade),
(i) by promotion amongst Junior Scale Stenographer or Assistant Librarian or Stenotypist or Clerk-cum-Store-Keeper-cum-Accounts Clerk-cum-Junior Auditor (in clerk grade)....”

(12). Since promotion to the post of Assistant has been prescribed from amongst different cadres in the service, Rule 11 of the 1997 Rules provides for determination of inter se seniority of members of the Service by the length of continuous service on any post in the Service and where there are different cadres, the seniority shall be determined separately for each cadre. Meaning thereby that in order to carry out the exercise of promotion to the post of

Assistant from amongst different cadres, an inter se seniority list ought to have been prepared foremost. The respondents have failed to show any document to ascertain that the promotion to Rekha or any other official from amongst Clerks/Steno-typist etc. was carried out strictly in adherence to Rule 11 of the 1997 Rules.

(13). Despite the existence of seniority lists for Clerks, Steno-Typists (circulated on 28.02.2012 for status as on 01.01.2010), and Junior Scale Stenographers (circulated on 30.07.1999), the respondents failed to prepare an inter-se seniority list before promoting Ms. Rekha, thereby ignoring the claims of several senior eligible employees.

(14). This irregularity was subsequently highlighted when the matter regarding Satish Chander, senior to Ms. Rekha, was referred to the Chief Secretary, Haryana and vide letter dated 09.06.1999 (Annexure P8), the Chief Secretary acknowledged that Satish Chander was indeed senior to Ms. Rekha, on account of length of service for the purpose of promotion to the post of Assistant and thus prompting his retrospective promotion vide office order dated 08.07.1999 (Annexure P9). The petitioners, however, were only promoted to the posts of Assistant much later on 26.05.2009 and, feeling aggrieved, filed multiple representations seeking justice, which were ultimately rejected by the respondents on 14.12.2017.

(15). Further administrative correspondence revealed that, on 09.04.2015, the Chief Secretary reiterated that Ms. Rekha's promotion was against Rule 5(2) of the 1961 Rules and could not be sustained, yet the respondents persisted in justifying her appointment and continued to ignore the petitioners' entitlement.

(16). It is also pertinent to highlight that the Chief Secretary, Haryana vide letter dated 4.5.1973 (Annexure P5) issued a clarification in response to confusion and inconsistency in how various departments were interpreting Rule 5(2) of the 1961 Rules and were only counting seniority from the date an employee was promoted to a higher post such as Junior Scale Stenographer, rather than from their original appointment to the feeder post i.e. Steno-typist or Clerk. This practice resulted in anomalies, where employees who were originally senior could be ranked junior to others just because they had been promoted earlier. The relevant clarification vide letter dated 04.05.1973 (Annexure P5) thus reads as under:-

“2. Therefore, in this regard it is clarified that while framing the above referred Rules it was not at all the intension of the Government that such an anomalous situation may arise. The State Government after considering the matter at length it is clarified that according to the provision contained in above Rule 5 (2), if a person has been appointed direct to the post of Junior Scale Stenographer then his inter-se-seniority with Clerks shall be determined from the date of his appointment on the post of Junior Scale Stenographer but if a person is first appointed to the post of Steno-typist (the post of steno-typist is equal to the post of Clerk in all respect) and has been promoted to the post of Junior Scale Stenographer but subsequently on promotion to the post of Assistant, while fixing his inter-se-seniority with Clerks, his date of appointment on the post of Steno-typist will be relevant and not the date of his promotion on the post of Junior Scale Stenographer.

[emphasis applied]

(17). The Government recognized that these errors would create unfairness and disputes, and clarified that for a person appointed directly as a Stenographer, to determine his inter-se seniority vis-à-vis Clerks, his date of

appointment as Stenographer would be relevant. However, for those appointed as Steno-typist or Junior Scale Stenographer and promoted to Stenographer, their inter-se seniority vis-à-vis Clerks would be determined by their date of appointment as Steno-typist/Junior Scale Stenographer, whichever is earlier.

(18). It is thus crystal clear that a candidate becomes eligible for promotion to Assistant after a prescribed period of two years in case of Junior Scale Stenographers and five years in case of Stenotypists/Clerks. Where promotions are from multiple feeder cadres, it was incumbent upon the respondents to have firstly determined the inter-se-seniority by the continuous length of service from initial appointment, not merely the date of qualification for promotion.

(19). The petitioners, who joined earlier as Stenotypists/Clerks, became eligible for promotion slightly after Rekha, who joined directly as Junior Scale Stenographer. The department, however, appears to have overlooked the mandatory step of preparing a common seniority list combining eligible employees from all feeder streams. Instead, Rekha's promotion was premised only on completion of qualifying service and the absence of such a seniority list.

(20). This procedural safeguard is explicitly mandated under Rule 5(2) of the 1961 Rules and reaffirmed under Rule 11 of the 1997 Rules. The absence of such a seniority list not only disregards statutory prescription but has directly resulted in a junior employee being promoted ahead of nearly 70 seniors, which is not only irregular but also arbitrary. Conspicuously such an irregularity has been acknowledged by the Government itself vide letters dated 09.06.1999 (Anneuxure P8) and 09.04.2015 (Annexure P15) coupled with the clarification

issued by the Chief Secretary, Haryana, which clearly states that seniority for promotion must be determined based on the date of entry into service in the relevant cadre.

(21). Both Rule 5(2) of 1961 Rules, and Rule 11 of the 1997 Rules, obligate the respondent-Department to determine seniority based on the continuous length of service, rather than merely the date of eligibility for promotion. By promoting Rekha without first preparing and applying such a seniority list, it disregarded the rights of petitioners and other senior employees, leading to a promotion process that was neither transparent nor fair.

(22). Accordingly, this writ petition is allowed and the order dated 14.12.2017 (Annexure P16) is hereby set aside being contrary to the clarificatory letter dated 04.05.1973 (Annexure P5) issued by the Chief Secretary, Haryana. The respondents are directed to consider the claim of the petitioners and grant promotion to the post of Assistant as envisaged in rules and circulars issued by the Government, with retrospective effect i.e. from the date their junior was promoted, along with all consequential benefits. It is further directed that the arrears thereof, shall be released along with interest @ nine per cent per annum within a period of three months from the date of receipt of certified copy of this order.

(23). Ordered accordingly.

02.12.2025

V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned? :
2. Whether reportable? :

Yes/No
Yes/No