

2025:PHHC:073581



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

1255

CWP-2873-2010 (O & M)

Date of decision: 28.05.2025

Dev Raj (deceased) through his LRs

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Paras Kukkar, Advocate for
Mr. Munish Gupta, Advocate,
for the petitioner.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Learned counsel submits that the petitioner has been wrongly denied promotion as Assistant Geologist, vide the impugned order passed on 08.11.2009, and prays for re-consideration of the same in accordance with the rules w.e.f. 20.01.1988 from the date when he became eligible.

2. This Court, vide order dated 18.02.2010, while admitting the petition had directed it to be listed alongwith CWP-15603-1997, which was dismissed on 17.09.2013, to which no challenge was made, the prayer made therein appears to be same as of the present case, relevant paras whereof read thus:

“1. The petitioner seeks for direction against the respondents to consider him for the post of Assistant Geologist in accordance with rules w.e.f. 20.01.1988 from the date when he became qualified/eligible for the post.

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5. The State has filed reply through the Deputy Director Agriculture. Referring to Rule 8 read with Rule 9 of the Punjab Agriculture Services Class-II Rules, the promotion to the extent of 66 2/3% was only from the subordinate services which in the Geological Section included Technical Assistant, who possessed academic and technical qualifications relating to the subject of Geology/Hydrology. A Sectional Officer re-designated as Junior Agriculture Engineer would not be taken as from subordinate services for the purpose of promotion and the Government had clarified the same by means of letter issued on 27.11.1989 (Annexure P5). A Sectional Officer could be considered for promotion only as Assistant Engineer and not as Assistant Geologist. When the petitioner had made a request for consideration of promotion to the post of Assistant Geologist, there were 7 posts. Some Sectional Officers were appointed as Assistant Geologists on ad hoc basis since there were not requisite number of eligible persons from the subordinate services. It was, therefore, decided to fill up posts on ad hoc basis from amongst Sectional Officers having 15 years of experience. The department's effort to fill up posts directly of persons having geological qualification was also turned down by the government and, therefore, the department had to resort to make stop gap arrangement. Even the persons, who had been promoted on ad hoc basis, were retained as Assistant Geologists only till their own turn for promotion as Assistant Engineers came in their own line of promotion. As a matter of fact, one R.C. Mittal and yet another person, who were from the subordinate services and who could in future be eligible for Assistant Geologist posts had challenged even this ad hoc officiation by filing a writ petition in CWP No.15753 of 1989. At the time of filing of written statement, it appears the case was still pending.

6. It can be noticed that the petitioner's contention is not that a Sectional Officer could be promoted at all times to Assistant Geologist by virtue of Rule 8. On the other hand, the reliance is on Rule 9(2) that states that the officers of the Administrative, Statistical and Engineering categories shall be eligible for promotion within the respective categories. The petitioner's service as a Sectional Officer was under an Assistant

Geologist, Bathinda and later as Sectional Officer, JEE in Geological Section under an Assistant Geologist at Hoshiarpur. The contention is that when the petitioner was performing duties in the Geological Section, he was entitled to consideration in the category in which he was performing his duty.

7. The petitioner has no case that any other Sectional Officer was considered for promotion as Assistant Geologist on regular basis. The Government's contention is that he was under the Geological Department only on ad hoc basis since there was not enough number of persons with the requisite qualification for occupying the Assistant Geologist's posts. Rule 9 cannot be used, in my view, to be read as in conflict with Rule 8. If the petitioner would not qualify as belonging to subordinate services to be eligible for promotion as Assistant Geologist, then his officiation in the Geological Section as Sectional Officer or appointment of some persons on ad hoc basis cannot give him a right of consideration for promotion as Assistant Geologist. His own channel of promotion was stated to be only in the engineering line. I do not think the petitioner's case would merit consideration for promotion to the next higher post as Assistant Geologist. No intervention is possible in the writ petition. It deserves to be dismissed and, accordingly, dismissed.”

3. Learned counsel for the petitioner being unable to controvert the above or make good his submissions by referring to any law, the present petition is dismissed in view of the aforesaid judgment.

28.05.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

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