

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

212

**CWP-15190-2017
DECIDED ON: 02.12.2025**

SATY PARKASH AND ANR.

.....PETITIONER

Versus

STATE OF HARYANA AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sajjan Singh, Advocate and
Mr. Sandeep Kumar, Advocate
for the petitioners.

Mr. R.D. Sharma, DAG Haryana

Mr. Garvit Mittal, Advocate
for respondents No.4,5,8,9,10,12 and 13

SANDEEP MOUDGIL, J

Relief Sought

1. The present civil writ petition under Article 226/227 of the Constitution of India has been filed for the issuance of a writ in the nature of certiorari/mandamus to quash the promotion order Annexure P-7 dated 17.01.2017 and Annexure P-8 dated 30.05.2017 qua respondent No. 3 to 18 only and further directing the respondents to grant promotion to the petitioners to the post of Head Mechanic from the dates the persons whose rights accrued later than the petitioners have been granted promotion.

Brief facts

2. The petitioners are employees of the Haryana Transport Department, Haryana Roadways, and the present writ petition concerns

promotion to the post of Head Mechanic under the Haryana Transport Department (Group-C) Haryana Roadways Service Rules, 1995.

3. Under the said Rules, the post of Head Mechanic is to be filled by promotion, direct recruitment, or by transfer/deputation. For promotion, the prescribed eligibility includes Middle pass with Hindi and requisite experience of three years as Mechanic, Borer, Calibrating Mechanic or Turner, or five years as Fitter. By amendment dated 23.12.2011, the post of Fitter was merged with the post of Mechanic, and promotion to the post of Head Mechanic was to be made from the merged cadre.

4. Petitioner No. 1 was promoted to the post of Fitter on 28.05.1997 and petitioner No. 2 on 04.10.1999. According to the petitioners, they became eligible for promotion to the post of Head Mechanic earlier than several private respondents, whether eligibility is considered under the unamended or amended Rules. The petitioners were subsequently promoted to the post of Mechanic in December 2008 and January 2010 respectively. The posts of Fitter and Mechanic carried the same pay scale and were later merged.

5. The respondent department issued promotion orders dated 17.01.2017 and 30.05.2017, whereby respondent Nos. 3 to 18 were promoted to the post of Head Mechanic. The petitioners contend that the said promotees became eligible for promotion at a later stage than the petitioners. A representation dated 30.03.2017 submitted by the petitioners was not acceded to.

6. Aggrieved by the promotion of the private respondents, the petitioners have approached this Court seeking quashing of the impugned promotion orders qua respondent Nos. 3 to 18 and for consequential consideration of their claim for promotion

Contentions**On behalf of the petitioner**

7. Learned counsel for the petitioners contends that the impugned promotion orders dated 17.01.2017 and 30.05.2017 have been issued in clear violation of the Haryana Transport Department (Group-C) Haryana Roadways Service Rules, 1995 and the principles governing consideration for promotion.

8. It is submitted that petitioner No. 1 was promoted to the post of Fitter on 28.05.1997 and petitioner No. 2 on 04.10.1999. Under the unamended Rules, petitioner No. 1 became eligible for promotion to the post of Head Mechanic on 27.05.2002 and petitioner No. 2 on 03.10.2004. Even under the amended Rules dated 23.12.2011, petitioner No. 1 became eligible on 27.05.2000 and petitioner No. 2 on 03.10.2002. Thus, both the petitioners had acquired eligibility much prior to the private respondents.

9. Learned counsel further contends that the petitioners were subsequently promoted to the post of Mechanic on 24.12.2008 and 25.01.2010, respectively, and the posts of Fitter and Mechanic carried the same pay scale and were ultimately merged by amendment dated 23.12.2011. Therefore, the service rendered by the petitioners as Fitters could not legally be ignored while determining their eligibility and seniority for promotion to the post of Head Mechanic.

10. It is argued that despite the petitioners being senior and eligible, the respondent department issued the promotion lists dated 17.01.2017 and 30.05.2017, promoting respondent Nos. 3 to 18, whose right to be considered for promotion accrued much later than that of the petitioners. Information obtained under the Right to Information Act, placed on record as Annexure P-9, substantiates this position.

11. Learned counsel further submits that the petitioners submitted a detailed representation on 30.03.2017, but the same was not considered or decided by the respondents. The action of the respondents in promoting juniors while ignoring the rightful claim of the petitioners is stated to be arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

On behalf of respondent/Bank

12. Learned counsel for the State/respondents contends that the present writ petition filed by the petitioners is not maintainable and is liable to be dismissed on merit. It is submitted that the petitioners are not entitled to invoke the extraordinary writ jurisdiction of this Court as no legal right of the petitioners has been infringed. The promotion orders dated 28.01.2017 (Annexure P-7) and 30.05.2017 (Annexure P-8), whereby private respondent Nos. 3 to 18 were promoted to the post of Head Mechanic, have been issued strictly in accordance with the Haryana Transport Department (Group-C) Haryana Roadways Service Rules, 1995, as amended vide notification dated 23.12.2011 (Annexure P-2).

13. Learned counsel submits that, prior to the amendment of the Rules in 2011, the post of Fitter was a feeder/promotional cadre to the post of Mechanic. Promotion to Mechanic was to be considered only after exhausting eligible candidates in the source cadre. Therefore, service rendered by the petitioners as Fitter cannot be equated with Mechanic for the purpose of claiming seniority for promotion to Head Mechanic prior to the amendment.

14. It is contended that the amendments made vide notification dated 23.12.2011 merged the post of Fitter with the Mechanic cadre and made both posts equivalent only with prospective effect from that date. Therefore, any

claim of the petitioners to treat Fitter at par with Mechanic prior to 23.12.2011 is legally unsustainable.

15. Learned counsel further contends that promotion to the post of Head Mechanic is governed by the principle of seniority-cum-merit under the Rules. The impugned promotion orders were issued strictly following these provisions. The petitioners' claim that they should have been promoted before private respondents is factually incorrect, as seniors to the petitioners were still available in the consideration zone and were entitled to be promoted first.

16. It is submitted that the petitioners' right to promotion did not accrue automatically upon completion of the minimum required service in the feeder cadre. Promotion is not a matter of right, but is subject to availability of vacancies, seniority, merit, and adherence to the provisions of the Rules.

Analysis

17. This Court has carefully considered the pleadings on record, the submissions advanced by learned counsel for the parties, and the statutory framework governing the field. The controversy in the present writ petition revolves around promotion to the post of Head Mechanic under the Haryana Transport Department (Group-C) Haryana Roadways Service Rules, 1995, and the effect of the amendment dated 23.12.2011 on the claims of the petitioners.

18. At the outset, it is well settled that promotion is not a matter of right but an employee only has a right to be considered in accordance with the applicable statutory rules. The petitioners' claim for promotion, therefore, has to be tested strictly on the touchstone of the Rules governing the cadre structure and promotional hierarchy.

19. Under the unamended Rules of 1995, the post of Fitter was a feeder/promotional post to the post of Mechanic, and the post of Mechanic, in turn, was one of the feeder cadres for promotion to the post of Head Mechanic. Thus, the cadre structure clearly placed Mechanic at a higher level than Fitter. Consequently, service rendered as Fitter could not be equated with service rendered as Mechanic for the purpose of determining seniority or eligibility for promotion to the post of Head Mechanic. The petitioners' assertion that their service as Fitters ought to have been counted on par with Mechanics, even prior to 23.12.2011, is therefore contrary to the statutory scheme prevailing at that time.

20. The amendment dated 23.12.2011, whereby the post of Fitter was merged with the post of Mechanic, does not advance the case of the petitioners. The said amendment is prospective in nature and cannot be given retrospective effect so as to alter the seniority position or promotional rights accrued prior thereto so as to favor the petitioner. The law is well settled that amendments to service rules affecting substantive rights are presumed to operate prospectively unless expressly stated otherwise and no such intention of retrospective application is discernible from the amendment in question.

21. Further, promotion to the post of Head Mechanic is governed by the principle of seniority-cum-merit. The material placed on record by the respondents shows that at the time when the impugned promotion orders dated 17.01.2017 and 30.05.2017 were issued, several seniors to the petitioners in the eligible feeder cadres were still awaiting consideration. In such circumstances, the petitioners could not have been considered ahead of their seniors merely on the basis of earlier completion of the minimum qualifying service. Completion of eligibility conditions only makes an employee eligible

for consideration, it does not create an enforceable right to promotion.

Guidance may be drawn from the Apex Court in “**Ravikumar Dhansukhlal Maheta v. High Court of Gujarat 2024 INSC 436**”, wherein it was held that:

“80. The principle of seniority as a parameter of selection for promotion was found to be derived from the belief that competence is related to experience and that it limits the scope of discretion and favouritism. There is always an additional assumption that long-serving employees have demonstrated loyalty to the employing organization and so are entitled to reciprocal treatment.

81. However, in India, no government servant can claim promotion as their right because the Constitution does not prescribe criteria for filling seats in promotional posts. The Legislature or the executive may decide the method for filling vacancies to promotional posts based on the nature of employment and the functions that the candidate will be expected to discharge. The courts cannot sit in review to decide whether the policy adopted for promotion is suited to select the ‘best candidates’, unless on the limited ground where it violates the principle of equal opportunity under Article 16 of the Constitution.

b. Principle of ‘Merit-cum-Seniority’ and ‘Seniority-cum-Merit’ in Service Jurisprudence.

*82. This Court in its decision in **State of Kerala & Anr. v. N.M. Thomas & Ors. reported in (1976) 2 SCC 310** held that policies pertaining to promotions can be said to broadly fall within two distinct categories being: (i) promotions which are based on the principle of ‘Merit-cum-Seniority’ and, (ii) promotions which are based on the principle of ‘Seniority-cum-Merit’. It further held that when it comes to promotions based on principle of ‘Seniority-cum-Merit’, a senior who has the minimum requisite merit shall be entitled to promotion even though there might be others who are more meritorious. The relevant observations read as under: -*

"38. The principle of equality is applicable to employment at all stages and in all respects, namely, initial recruitment promotion, retirement, payment of pension and gratuity. With regard to promotion the normal principles are either merit-cum-seniority or seniority-cum-merit, Seniority-cum-merit means that given the minimum necessary merit requisite for efficiency of administration, the senior though the less meritorious shall have priority. This will not violate Articles 14, 16(1)

and 16(2). A rule which provides that given the necessary requisite merit, a member of the backward class shall get priority to ensure adequate representation will not similarly violate Article 14 or Article 16(1) and (2). [...]"

(Emphasis supplied)

*83. This Court in **State of Mysore v. Syed Mahmood reported in (1968) 3 S.C.R. 363**, on the criterion of 'Seniority-cum-Merit' observed that any rule that mandates selection based on the principle of 'Seniority-cum-Merit', such rule mandates that the promotions must be determined through a selection process that evaluates "seniority, subject to the fitness of the candidate, to discharge the duties of the post from among persons eligible for promotion". In consequence, where promotion is based on the 'Seniority-cum-Merit' principle, the candidate cannot claim promotion as a matter of right on the grounds of his seniority alone. Further, if the officer fails to discharge his duties of the higher post, he may be passed over by a junior officer."*

22. The contention of the petitioners that juniors have been promoted in violation of Articles 14 and 16 of the Constitution of India is also not borne out from the record. The respondents have demonstrated that the promotions were effected strictly in accordance with the *inter se* seniority of the feeder cadres and the applicable Rules. Mere dissatisfaction with the outcome of the promotional process cannot be equated with violation of constitutional guarantees.

23. This Court also finds merit in the submission of the respondents that where multiple feeder cadres exist, and one cadre is promotional in nature vis-à-vis another, candidates from the higher promotional cadre are required to be considered first. This principle, as recognized in judicial precedents, reinforces the conclusion that the petitioners' claim was rightly deferred until seniors in the promotional hierarchy were exhausted.

24. In exercise of jurisdiction under Articles 226/227 of the Constitution of India, this Court is of the opinion that it does not sit as an

appellate authority over administrative decisions taken in accordance with statutory rules. Interference is warranted only when the action complained of is arbitrary, illegal, or violative of constitutional or statutory provisions and in the present case, no such infirmity has been established.

Conclusion

25. For the reasons recorded above, this Court holds that the impugned promotion orders dated 17.01.2017 (Annexure P-7) and 30.05.2017 (Annexure P-8) do not suffer from any illegality or arbitrariness. The petitioners have failed to demonstrate violation of any legal or constitutional right.

26. Accordingly, the writ petition is dismissed. Pending applications, if any, stand disposed of.

(SANDEEP MOUDGIL)
JUDGE

02.12.2025
sham

1. Whether speaking/ reasoned :	Yes /No
2. Whether reportable :	Yes /No