

2025.PHHC:157315



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

CWP-24936-2025

DECIDED ON:06.11.2025

SWEETY BHARDWAJ

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sajjan Singh Malik, Advocate
for the petitioner

Ms. Ruchi Sekri, Addl. AG.Haryana

SANDEEP MOUDGIL, J

1. Prayer

The petitioner has filed this writ petition under Articles 226 and 227 of the Constitution of India seeking to quash the impugned order dated 30.07.2025 (Annexure P-18), whereby she was promoted to the post of Deputy Superintendent, alleging that the promotion is illegal and contrary to her preference for the post of Private Secretary. She also seeks a direction restraining the respondents from taking adverse action for non-joining and for restoration of the benefits withdrawn pursuant to the said order.

2. Brief Facts

The petitioner was appointed as a Senior Scale Stenographer in the Labour Department, Haryana, vide appointment letter dated 27.01.2010. The promotional avenues from the post of Senior Scale Stenographer are to the posts of Labour Inspector, Head Assistant (Deputy Superintendent), and, by virtue of the amendment of 22.07.2014, also to the post of Private Secretary.

The grievance of the petitioner is that despite her repeated representations expressing preference for the post of Private Secretary, the respondents have promoted her to the post of Deputy Superintendent, thereby allegedly violating her right to be considered for promotion as per her preference. The petitioner has relied upon certain previous proceedings (CWP No. 3152 of 2022 and CWP No. 33059 of 2024) to contend that her claim for promotion as Private Secretary is pending adjudication and that the issuance of the impugned order amounts to arbitrariness and denial of fair opportunity.

3. **Contentions**

On behalf of Petitioner

Learned counsel for the petitioner contends, in detail, that the impugned order dated 30.07.2025 (Annexure P-18) is illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of the Constitution of India. It is submitted that the petitioner has been illegally promoted to the post of Deputy Superintendent (Head Assistant) without her consent and contrary to her expressed preference for promotion to the post of Private Secretary, which she had duly communicated to the authorities through multiple representations and emails.

It is further argued that when the service rules provide multiple promotional avenues, the authorities are duty-bound to seek the employee's option or preference before issuing promotion orders. Failure to do so, it is contended, amounts to arbitrariness and violation of the principles of natural justice, since promotion to one post may foreclose the employee's right to promotion in another channel. Learned counsel submits that the petitioner's case is a classic example of administrative unfairness, as the respondents have

ignored her repeated written requests and DPC recommendations in her favour for the post of Private Secretary, and have instead compelled her towards an unwanted promotional post, thereby defeating her legitimate right and career expectations.

Counsel further submits that the impugned order has been passed without affording any opportunity of hearing to the petitioner, despite the fact that the order entails adverse civil and financial consequences, as non-joining could result in disciplinary or penal action under the impugned order itself.

It is also submitted that the petitioner had a legitimate expectation of promotion to the post of Private Secretary, based on her seniority, eligibility, and repeated recommendations by the Departmental Promotion Committee (DPC) held on 08.06.2022 and 23.02.2023, and further approved by the competent authority on 04.07.2024. Despite such recommendations, her claim has been ignored without justification. The denial of promotion to the post of her preference, despite consistent recommendations and pending consideration, violates the doctrine of legitimate expectation and the principles of fairness and transparency in public employment

Heard counsel for the petitioner.

4. Analysis

The Court has heard learned counsel for the petitioner at length and perused the pleadings and material on record. The principal grievance of the petitioner is that she has been promoted to the post of Deputy Superintendent (Head Assistant) vide order dated 30.07.2025, despite her preference and representations for consideration to the post of Private Secretary. The

petitioner contends that such promotion is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

It is not disputed that the petitioner was working as Senior Scale Stenographer in the Labour Department and that the promotional avenues available from that post are to the posts of Labour Inspector, Deputy Superintendent (Head Assistant) and Private Secretary as per the relevant service rules. It is also an admitted position that the petitioner was duly promoted to the post of Deputy Superintendent vide the impugned order, which she has chosen not to accept on the ground that she preferred the post of Private Secretary.

At the outset, it is well settled that an employee has no vested right to claim promotion to a particular post or cadre, unless such right is specifically conferred by statutory rules. The right available to an eligible employee is only a right to be considered for promotion in accordance with the applicable rules. Once such consideration has been extended and a promotion has been granted, the employee cannot refuse the same and simultaneously claim promotion to another post of her choice.

In *Shankarsan Dash v. Union of India, (1991) 3 SCC 47*, the Supreme Court categorically held that “*even after selection, a candidate does not acquire an indefeasible right to appointment unless the relevant rules so provide.*” Applying this principle to promotional cases, the right of an employee is confined to consideration, not to insist upon appointment or promotion to a specific post. It is trite law in service jurisprudence that promotion is an incidence of service and not a matter of right and that an employee cannot dictate the employer regarding the post or time of promotion.

This principle has been reiterated by the apex court lately in “***P. Sakthi v. Government of Tamil Nadu 2025 All SCR 1228***” observing that the employee has no right to be promoted but has a right to be considered, when selections for promotions are carried out, unless disqualified; which right has been impinged, unjustly, in the above case.

The contention that the petitioner’s preference for the post of Private Secretary ought to have been accepted also cannot be sustained. It is a matter of administrative discretion for the competent authority to determine suitability, cadre management, and staffing requirements. Promotion is a managerial function and the courts cannot interfere with administrative discretion unless the action is arbitrary or contrary to rules.. Unless mala fides or violation of statutory rules are demonstrated, the scope of judicial review under Articles 226 and 227 is limited. In ***State of Mysore v. Syed Mahmood, (1968) 3 SCR 363***, the Supreme Court observed “*Promotion could not be claimed as a matter of right by virtue of seniority alone*”.

In the present case, since the petitioner has already been promoted to the post of Deputy Superintendent, she cannot claim consideration or financial benefit for another promotional post of Private Secretary in the same pay scale or grade. The petitioner’s plea of violation of legitimate expectation is equally untenable. Legitimate expectation must arise from a consistent and unambiguous representation or practice on the part of the administration.

The petitioner has not demonstrated any statutory assurance or enforceable promise guaranteeing her promotion to the post of Private Secretary, as regards the doctrine of legitimate expectation, it is equally well-settled that such expectation must be based on a clear, consistent, and

legitimate promise or representation from the authority concerned. In “***Punjab Communications Ltd. v. Union of India, (1999) 4 SCC 727***”, the apex court stated that the principle of legitimate expectation permits the court to find out the change in the policy, which is the reason for defeating the legitimate expectation, is irrational or in other words which no reasonable person have made. Later, in the recent case of “***Jitendra Kumar and Others v State of Haryana and Others 2008(2) SCC 161***”, the Supreme court observed:

“Application of doctrine of legitimate expectation or promissory estoppel must also be considered from the aforementioned view-point. A legitimate expectation is not the same thing as an anticipation. It is distinct and different from a desire and hope. It is based on a right. It is grounded in the rule of law as requiring regularity, predictability and certainty with the Government's dealings with the public. We have no doubt that the doctrine of legitimate expectation operates both in procedural and substantive matters.”

In simple words, it is based on a right and is grounded in the rule of law requiring regularity, predictability and certainty in government dealings with the public and the doctrine of legitimate expectation cannot be used as a tool to seek relief contrary to express statutory provisions.

Hence, the doctrine cannot be invoked to compel the authority to disregard administrative exigencies or statutory discretion. Further, the record does not reveal any violation of natural justice. The promotion order dated 30.07.2025 is a favourable order conferring advancement in service and cannot be construed as adverse action. Non-acceptance of promotion or refusal to join would be a matter of the petitioner's own volition.

Therefore, in view of the above discussion, this Court finds that the petitioner, having already been promoted to the post of Deputy Superintendent, cannot claim a vested or enforceable right for promotion to the post of Private Secretary merely based on preference.

5. Conclusion

Accordingly, the Court is of the considered opinion that the impugned order dated 30.07.2025 does not suffer from any legal infirmity, arbitrariness or constitutional violation. The writ petition is thus devoid of merit and is hereby dismissed.

15.10.2025
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(SANDEEP MOUDGIL)
JUDGE

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