



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CWP-26622-2025 (O&M)
DECIDED ON:12.09.2025

SUBHASH CHANDER

...PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Dr. Suresh Kumar Redhu, Advocate
for the petitioner
Mr. Sushil Bhardwaj, Addl. AG, Haryana

SANDEEP MOUDGIL, J

CM-13507-2025

This is an application filed under Section 151 CPC for placing on record corrected Annexure P-5.

Allowed, as prayed for.

Annexure P-5 is taken on record.

CWP-26622-2025

1. Prayer

The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for the issuance of a writ in the nature of Mandamus directing the respondents to grant deemed promotion to the petitioner to the post of Assistant w.e.f. 01.12.2021, as recommended vide Memo No. DIC/Baha/Admn/1117 dated 01.12.2021, and consequently release arrears of pay and allowances from 01.12.2021 to 30.07.2023, along with all pensionary benefits and interest @ 18% per annum till the date of actual payment.



2. Brief Facts

The petitioner was appointed as a Clerk in the Industrial Department on 18.12.1989 and retired on 31.07.2023. In 2019, when vacancies for the post of Assistant arose, the petitioner declined promotion due to personal and family circumstances, and his juniors were promoted in his place. Subsequently, in December 2021, the petitioner submitted a representation seeking promotion to the post of Assistant. The Joint Director, District Industries Centre, Jhajjar, forwarded the recommendation to the Director of Industries and Commerce, Haryana vide memo no. DIC/Baha/Admn/1117 dated 01.12.2021. However, no promotion order was issued in favour of the petitioner during his service tenure. Thereafter, in February 2024, seven Clerks were promoted to the post of Assistant, after the petitioner had already retired.

Aggrieved thereby, the petitioner has approached this Court. Hence, this petition.

3. Contentions

On behalf of Petitioner

The counsel for the petitioner contends that the petitioner was eligible for promotion to the post of Assistant since his name was recommended by the Joint Director, District Industries Centre, Jhajjar, in December 2021, whilst asserting that his service record was excellent and that there were no adverse entries or disciplinary proceedings against him.

It is submitted that vacancies existed for the post of Assistant during his service tenure and that the petitioner had made repeated representations to the higher authorities, which remained unaddressed.

It is further submitted that the petitioner's juniors were promoted after his retirement, which constitutes a manifest injustice. Consequently, the petitioner seeks direction to the respondents to grant him deemed promotion



from 01.12.2021, along with arrears of pay, allowances, and pensionary benefits with interest.

On behalf of Respondents

The counsel for the respondent contends that the petitioner voluntarily declined promotion in the year 2019, and no promotion order was issued in his favour thereafter during his service. It is further contended that promotions to the post of Assistant were strictly in accordance with seniority and vacancies, and no junior employee was promoted during the petitioner's tenure.

It is further asserted that the promotions of seven Clerks to the post of Assistant occurred in February 2024, which was only after the petitioner's superannuation. It is argued that, as per settled legal principles, an employee cannot claim retrospective or deemed promotion after retirement when no illegality or arbitrariness is established. Therefore, they argue that the petitioner's claim lacks merit and is not maintainable.

4. Analysis

Having heard counsels for both parties and perusing material placed on record, this court is of the considered opinion that the arguments raised by the respondents merit acceptance and this petition warrants dismissal.

At the outset it is pertinent to discuss the facet of service jurisprudence involved dealing with promotion in public employment. Promotion is an essential aspect of service law, yet it is an equally well-settled legal position that promotion cannot be claimed as a matter of right. Seniority or recommendation alone does not create an indefeasible right to promotion, it must be executed during the subsistence of service. Promotion is a matter of administrative discretion and cannot be claimed as a matter of right unless the competent authority issues the promotion order during the subsistence of

service. This principle was enunciated by the Supreme Court in ***Government of West Bengal v. Dr. Amal Satpathi 2024 INSC 906*** wherein the court categorically laid out that:

“It is a well settled principle that promotion becomes effective from the date it is granted, rather than from the date a vacancy arises or the post is created. While the Courts have recognized the right to be considered for promotion as not only a statutory right but also a fundamental right, there is no fundamental right to the promotion itself.”

Applying these principles to the case at hand, it is clear that the petitioner voluntarily declined promotion in the year 2019 and that until his retirement on 31.07.2023, no junior employee was promoted. The promotions that took place in February 2024 occurred post-retirement and therefore cannot form a ground for claiming retrospective or deemed promotion. There is no evidence of arbitrariness, discrimination, or violation of Articles 14 and 16 of the Constitution of India in act of the respondents.

Moreover, even though this Court recognizes the petitioner’s service and diligence, the law does not permit the grant of promotion retrospectively after retirement in the absence of illegality or violation of service rules. The administrative discretion exercised by the respondents in the promotion process falls squarely within the ambit of lawful exercise of power.

5. **Conclusion**

In view of the discussion made hereinabove, this court is of the opinion that the present writ petition is devoid of merit and is hereby dismissed.

12.09.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

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