



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

227

1. CWP-3795-2021
Date of decision: 24.03.2026

D.K. SaldiPetitioner

Versus

State of Punjab and othersRespondents

2. CWP-7960-2021
Date of decision: 24.03.2026

Ravinder Singh SandhuPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Munish Jolly, Advocate for the petitioners.

Mr. Charanpreet Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. This judgment shall dispose of above-referred two writ petitions as similar questions of facts and law are involved in them. For the sake of convenience, the facts are being taken from CWP-3795-2021 titled as 'D.K. Saldi v. State of Punjab and others'.

2. The instant petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking a writ of mandamus for directing the respondents to grant the pay scale of the post of District Development and Panchayat Officer to the petitioner from 05.10.2015, when he was given the additional charge, with all consequential benefits and further grant promotion to the post of

District Development and Panchayat Officer (hereinafter referred to as 'DDPO') with effect from 05.10.2015 and further to the post of Deputy Director, Panchayats after completion of five years of service as DDPO, with all consequential benefits.

3. Briefly stated, the facts of the case are that the petitioner was appointed as Block Development and Panchayat Officer on 25.08.1995 (Annexure P-1). Vide order dated 11.06.2015, he was assigned the additional charge of the post of Secretary, Zila Parishad, Gurdaspur (Annexure P-3) (equivalent to the post of DDPO) and he assumed the charge of the said post on 05.10.2015 (Annexure P-4). It is the case of the petitioner that he was eligible for promotion to the post of DDPO in terms of the 'Punjab Rural Development and Panchayats (Group 'A') Non-Technical Services Rules, 2002' (Annexure P-2). However, the respondents did not hold the meeting of Departmental Promotion Committee (hereinafter referred to as 'DPC') to consider his case for promotion. Aggrieved thereby, he submitted representations dated 05.11.2015 and 16.06.2017 (Annexures P-8 to P-10), requesting holding of DPC meeting for promotion from the post of Block Development and Panchayat Officer to the post of District Development and Panchayat Officer and stated that since he was already performing the duties of the higher post, therefore, he was entitled to the pay scale of the said post. Subsequently, vide order dated 02.12.2019 (Annexure P-7), the petitioner was promoted to the post of DDPO pursuant to the DPC meeting held on 13.03.2019. Thereafter, vide representation dated 30.07.2020, the petitioner sought grant of salary of the post of DDPO from the date of his joining as DDPO and

further requested for the retrospective promotion to the posts of DDPO and Deputy Director, on the ground that the delay in grant of promotion was attributable to the respondent-department, in not holding the DPC in a timely manner. Thereafter, the petitioner retired from service on 30.04.2021.

4. One of the grievance of the petitioner is that despite being eligible for promotion to the post of DDPO at an earlier point of time, meeting of the DPC was not held for consideration of his case.

5. Respondents No.1 to 4 have filed their written statement by way of an affidavit of Balwinder Kaur, Under Secretary, Government of Punjab, Department of Rural Development and Panchayats, wherein it has been stated as under:-

“1. That petitioner joined as Block Development and Panchayat Officer in the year 1995. It is submitted that name of petitioner was included in the agenda prepared for Departmental Promotion Committee for the promotion of the District Development and Panchayat Officer in the year 2015, the said agenda was sent to Personnel Department for approval. Vide letter dated 29.04.2015, Personnel Department raised some queries pertaining to seniority and issuance of certificate which clearly mentions that there is no pendency of court case/ vigilance enquiry/disciplinary action against the employees in agenda.

2. That as per the circular letter no. 3/27/97-3PPI/2087 dated 27.02.1998 of the Department of Personnel and Administrative Reforms, at the time of promotion of the cases of the Government employees, details of employee to whom charge-sheet have been issued and disciplinary proceedings are pending, should be specifically brought to the notice of the Departmental Promotion Committee and sealed cover procedure be followed. Hence, name of the employee for promotion can only be considered, when chargesheet/disciplinary action is not pending against his/her name.

3. That in the year 2010 chargesheet was issued to the petitioner, which was decided in the year 2015. That at the time, when agenda for the promotion of District

Development and Panchayat Officer was prepared, Chargesheet was pending against the petitioner and his name was to be kept in a sealed cover in the year 2015. However, vide order dated 11.06.2015, petitioner was given additional charge of Secretary, Zila Parishad, Gurdaspur on account administrative exigency. In these orders, it was categorically mentioned that no additional remuneration will be paid.

4. That it is submitted that vide letter dated 26.09.2017 agenda for Departmental Promotion Committee for the post of District Development and Panchayats Officer was sought from the concerned branch and Departmental Promotion Committee meeting was fixed on 18.07.2018. However, meeting of Departmental Promotion Committee was postponed due to pendency of vigilance clearance certificates by the Vigilance Department and other objections raised by the Personnel Department, which was finally held on 13.03.2019. At the time of meeting of Departmental Promotion Committee, another chargesheet was pending against the petitioner, which was issued on 14.09.2018 and filed on 05.11.2019. Therefore, in the meeting of Departmental Promotion Committee, petitioners name was kept in sealed cover.

5. That it is further submitted that after the disposal of chargesheet (dated 14.09.2018), vide order dated 10.12.2019 petitioner was promoted to the post of District Development and Panchayat Officer w.e.f. 10.12.2019 i.e. date on which meeting of Departmental Promotion Committee was actually held. That the above stated facts make it clear that the delay was only on account of procedural fulfilment and no delay has been caused deliberately. Vide order dated 10.12.2019, after disposal of chargesheet, sealed cover was opened and he was promoted to the post of District Development and Panchayat Officer w.e.f. 10.12.2019 i.e. the date after which Departmental Promotion Committee meeting (13.03.2019) was actually held. That it is clear from above stated facts that delay took place on account of fulfillment of procedure and no delay has been made by the Department deliberately.

6. That it is further submitted that in the year 2015, when process to conduct Departmental Promotion Committee was initiated, Chargesheet was pending against the petitioner. Hence, if the Departmental Promotion Committee would have taken place at that time, his name was to be kept in sealed cover, as per the rules and thus he only became eligible in the year 2019.

7. That Qua to the prayer for grant of pay scale to the post of District Development and Panchayat Officer, w.e.f.

5/10/2015, when he was given additional charge, it is submitted that petitioner had never refused to take charge of higher post during his entire service without any additional pay for additional charge and he has enjoyed all power/privileges associated with such post i.e. District Development and Panchayat Officer. It has been categorically mentioned in the order dated 5/10/2015, that no additional remuneration shall be paid to him, to which Petitioner had accepted without any objection.

8. That it is submitted that the petitioner is wrongfully claiming pay scale of a higher post, as the additional charge of such posts are given only in public interest. It further submitted that the case of petitioner to grant financial benefits of higher post was also discussed in the Department Litigation Committee Meeting on dated 10.10.2023 and it has been decided that though, the petitioner had never refused to take additional charge of the higher post and enjoyed all privilege and power of the higher post. Therefore, the claim of petitioner was rejected by the Department Committee on Litigation.

9. It is further submitted that petitioner was promoted to the post of District Development and Panchayat Officer on 10.12.2019 and no Junior officer to the petitioner has been promoted as Departmental Promotion Committee Meeting was not held during year 2015 to 2018.

10. That it is submitted that no right arises of petitioner to claim a higher scale post for which he was given charge/ additional charge keeping in view public interest and smooth working of government machinery. Therefore, the petitioner has no cause of action to file the present writ petition.”

6. In nutshell, the stand of the respondents in the written statement is that the petitioner was issued two chargesheets, one in the year 2010, which was finally concluded in the year 2015 and the second chargesheet was issued on 14.09.2018 and the same was filed on 05.11.2019 and immediately thereafter he was promoted to the post of DDPO, vide order dated 02.12.2019.

7. Admittedly, the mere occurrence of vacancy or the attainment of eligibility for promotion to a higher post does not confer any vested right to promotion. As per the stand taken by the

respondents in the written statement, two chargesheets were pending against the petitioner, and only upon their conclusion, the case of the petitioner was considered, whereafter he was duly promoted. Since the petitioner has already been granted promotion upon the completion of disciplinary proceedings, and it is not the case of the petitioner that any person junior to him was promoted prior thereto, therefore, the claim of the petitioner for grant of ante-dated promotion, is wholly untenable and not made out.

8. So far as the claim of the petitioner that he is entitled for pay and allowances of the higher post of DDPO with effect from 05.10.2015 when he started performing the duties of the higher post of Secretary, Zila Parishad, Gurdaspur (equivalent to DDPO) and performed his duties upto his regular promotion which was made on 02.12.2019 is concerned, the same deserves to be allowed. It is a well settled proposition of law that an employee, who has been assigned the duties of a higher post, is entitled for the pay scale of the higher post. This Court in ***Sukhpreet Singh and others v. Punjab State Power Corporation Limited and others : 2024 NCPHHC 9924***, while considering the similar issue, has held as under:-

“xx xx xx xx xx

8. The petitioners, who were working as Assistant Accounts Officers, have been posted against the posts of Accounts Officers after they had rendered service of more than 05 years as Assistant Accounts Officers. Once the petitioners have performed the duties of the posts of Accounts Officers, they cannot be denied the pay scale of the said post. The condition that the petitioners shall be placed in their own pay scale of Assistant Accounts Officer without any financial benefit is totally arbitrary and not sustainable.

9. The Hon’ble Supreme Court in its judgment passed in

Smt. P. Grover's case (supra) has held that the officer promoted to higher post on acting basis is entitled to salary of such higher post. The relevant para of the said judgment reads as under :-

“3. We mentioned that she was promoted as an acting District Education officer with effect from July 19, 1976. The order of promotion contained a super-added condition that she would draw her own pay scale which apparently meant that she would continue to draw her salary on her pay scale prior to promotion. The initial order extending her services recited that she was an acting District Education Officer, but contained a super-added condition that her pay would not be more than the maximum of the Principal's grade. Smt. Grover claims that having been promoted as District Education officer, she was entitled to the pay of a District Education officer and there was no justification for denying the same to her. A writ petition filed by her was dismissed by the High Court of Punjab and Haryana and she is before us by way of special leave under Article 136 of the Constitution. The counter-affidavit filed on behalf of the Government of Haryana offers no rational explanation for denying the pay of District Education Officer to Smt. P. Grover after she was promoted to act as District Education officer. All that was said in the counter-affidavit was that there were no Class-I post available and therefore, she was not entitled to be paid the salary of District Education officer. We are unable to understand the reason given in the counter- affidavit. She was promoted to the post of District Education officer, a Class-I post, on an acting basis. Our attention was not invited to any rule which provides that promotion on an acting basis would not entitle the officer promoted to the pay of the post. In the absence of any rule justifying such refusal to pay to an officer promoted to a higher post the salary of such higher post (the validity of such a rule would be doubtful if it existed), we must hold that Smt. Grover is entitled to be paid the salary of a District Education officer from the date she was promoted to the post, that is, July 19, 1976, until she retired from service on August 31, 1980. The appeal is accordingly allowed with costs.”

10. To the same effect is the judgment of the Hon'ble Supreme Court in ***Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma : 1998 AIR (SC) 2909***. In the said case the employee was promoted as Junior

Engineer-I in stop-gap arrangement and he had given the undertaking that on the basis of stop-gap arrangement, he would not claim promotion as of right nor would he claim any benefit pertaining to that post. The said argument was rejected by Hon'ble Supreme Court and it was held that the Government being model employer cannot be permitted to make such an argument.

*11. Similarly in the case of **Selva Raj Vs. Lt. Governor of Island, Port Blair : 1999(2) S.C.T. 286** the employee looked after the duties of higher post and he worked though temporarily and in an officiating capacity, however, it was held that he was entitled to draw salary attached to the higher post during the time he actually worked on that post. To the same effect are the judgments passed in **State of Punjab and another Vs. Dharam Pal : 2017 AIR SC 4438**; **Gurmej Singh Vs. State of Punjab : 1995 (3) S.C.T. 279**; **Balbir Singh Dalal and others Vs. State of Haryana and another : 2002(4) S.C.T. 422** and **Pritam Singh Dhaliwal Vs. State of Punjab and another : 2004(6) SLR 758**.*

12. In view of the above factual position and the law laid down in the above said judgments, the present petition is allowed and the respondents are directed to release the pay and allowances of the post of Accounts Officers w.e.f. the date the petitioners have assumed the charge of Accounts Officers, with all consequential benefits within a period of three months from the date of receipt of certified copy of this order."

9. The abovesaid judgment has been upheld by the Hon'ble Division Bench of this Court in **L.P.A. No.1061 of 2024 titled as 'Punjab State Power Corporation Limited, Patiala v. Sukhpreet Singh and others' decided on 30.04.2024 : 2024 NCPHHC 59356**, by recording the following findings :-

“xx xx xx xx xx

2. The learned Single Judge while allowing the writ petition had granted the benefit of pay and allowances of the higher post of Accounts Officer from the date the writ petitioners assumed the charge as such with all consequential benefits which were payable within a period of three months. The reliance by the learned Single Judge as such was upon the various judgements of the Apex Court as well as this Court which hold the field. The said judgements read as under:-

“State of Punjab and another Vs. Dharam Pal :

2017(4)S.C.T. 460; Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma : 1998(3) S.C.T. 90; Selva Raj Vs. Lt. Governor of Island, Port Blair : 1999 (2) S.C.T. 286; Smt. P. Grover Vs. State of Haryana : 1983(4) SCC 291; Pritam Singh Dhaliwal Vs. State of Punjab and another : 2004(4) S.C.T. 403; Balbir Singh Dalai and others Vs. State of Haryana and another : 2002(4) S.C.T. 422 and Gurmej Singh Vs. State of Punjab : 1995(3) S.C.T.279.”

3. *Learned counsel for the appellant has tried to convince us that the writ petitioners were estopped as such since their posting orders specifically said that they would be working on their own pay scale without any financial benefits and, therefore, having accepted the said posting orders way-back in 2013, they could not agitate for their grievances.*

4. *We are not convinced with the said argument. It is settled principle that the employer is always in a position of dominance and, therefore, merely because the said incorporation had been made in the order as such would not estop the writ petitioners from seeking their legal rights as such. Having taken the work and the responsibility of a higher post, the model employer should have gracefully acceded to the request and the demand of the higher pay/emoluments for the post which they held charge. It is also not disputed that thereafter they have also earned their promotions to the said post and in such circumstances once having the requisite qualifications also there was no escape for the appellant, but to dole out the necessary financial benefits.*

5. *The Full Bench judgement of this Court in Subhash Chander Vs State of Haryana and others, 2012(1) RSJ 442 also granted the said benefit as such that if the additional charge is given then the higher pay attached to the higher post for additional work involving higher responsibilities deserves to be paid. The above well settled legal proposition is being consistently followed till date. Reference is made to another judgment of the coordinate Bench in Pritam Singh Dhaliwal vs. State of Punjab and another, (2004) 6 SLR 758 (DB). In the said case, higher pay had been claimed for having performed the duties of Deputy Director of Panchayat/Additional Deputy Commissioner (Development) from time to time pursuant to the orders passed by the Government while holding a lower substantive post i.e. District Development and Panchayat Officer. It was held therein that if a person is asked to perform the duties regularly though in officiating capacity or on current duty charge or as a temporary measure, the said person would be entitled to the higher*

pay i.e. the pay which is payable while performing the duties in higher/promotional post. In the said case also, the petitioner therein had continued to work on the higher post in officiating capacity till his superannuation.

6. *Reference can also be made to the judgement by another coordinate Bench passed in **LPA-1491-2016, titled State of Haryana vs. Sita Ram, decided on 27.11.2019**, wherein the issue was of holding current duty charge of the post of BDPO in the pay-scale of Social Education and Panchayat Officer. The incumbent in that case continued working as such on the higher post on current duty charge, but was paid the salary of Social Education and Panchayat Officer, his substantive post. After considering and applying the ratio and dictum of the judgments of the Apex Court in **Arindam Chattopadhyay vs. State of W.B., (2013) 4 SCC 152** and **State of Punjab vs. Dharam Pal, (2017) 9 SCC 395**, the Division Bench declined to exercise jurisdiction against challenge to the writ petition having been allowed, whereby the petitioner therein was held entitled to the salary for the higher post for the period he held current duty charge.*

7. *It is never the case as such that the writ petitioners were ineligible for promotion to the said post and rather it has been averred that they would be considered for regular promotion as per their eligibility and seniority. In such circumstances, we are of the considered opinion that the judgement of the learned Single Judge as such does not suffer from any infirmity which would warrant interference.*

8. *The appeal being meritless, accordingly, stands dismissed."*

10. To the similar effect is the judgment of the Hon'ble Supreme Court in ***The State of Punjab v. B.K. Dhir : 2017(4) SCT 399***.

11. Consequently, the present writ petition is partly allowed. The petitioner is held entitled for the pay and allowances of the post of DDPO from 05.10.2015 to 02.12.2019. The necessary benefits shall be released to the petitioner within a period of three months from the date of receipt of certified copy of this order.

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12. The instant petition has been filed by the petitioner under

Articles 226/227 of the Constitution of India, seeking a writ of mandamus for directing the respondents to grant the pay scale of the post of District Development and Panchayat Officer to the petitioner from 24.09.2013, when he was given the additional charge, with all consequential benefits and further grant promotion to the post of District Development and Panchayat Officer (hereinafter referred to as 'DDPO') with effect from 24.09.2013 and further to the post of Deputy Director, Panchayats after completion of five years of service as DDPO, with all consequential benefits.

13. Briefly stated, the petitioner was appointed as Block Development and Panchayat Officer on 28.08.1995. Thereafter, he was given additional charge of the post of Secretary, Zila Parishad, Bathinda, vide order dated 19.09.2013 (Annexure P-2) and joined as such on 24.09.2013 and he was regularly promoted as DDPO, vide order dated 05.08.2019 and retired as such on 31.07.2020.

14. Keeping in view the above referred facts, the claim of the petitioner for promotion to the post of DDPO with effect from 24.09.2013 is hereby rejected, however, the present petition is partly allowed and the respondents are directed to grant the pay and allowances of the post of DDPO to the petitioner from 24.09.2013 till 05.08.2019. The necessary benefits shall be released to the petitioner within a period of three months from the date of receipt of certified copy of this order.

24.03.2026

Vinay

(NAMIT KUMAR)
JUDGE

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