

2026.PHHC.040708



204.

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

CWP-14497-2001 (O&M)

Date of decision: 16.03.2026

Ram Asra Singh and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Yashpal Thakur, Advocate, for petitioner No.2.

None for the LR's of petitioner No.3.

None for petitioner No.1 (stated to be expired).

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. The instant petition has been filed by the petitioners invoking the jurisdiction of this Court for:-

(i) issuance of a writ in the nature of *Certiorari* for quashing/modifying the order dated 01.09.1999 (Annexure P-1) to the extent that vide said order dated 01.09.1999 passed in compliance of the judgment of this Hon'ble Court in LPA No.381 of 1984 and judgment dated 23.12.1998 passed in CWP No.16639 of 1998, the petitioners have been given promotions as Deputy Registrar, Co-operative Societies, as

Current Duty Charge and not on regular basis, with further relief for grant of arrears of their salaries consequent to their promotions as Assistant Registrar, Co-operative Societies from the year 1993 and Deputy Registrar, Co-operative Societies, from the year 1998/1999 onward, which has been denied to them; and to quash the impugned orders Annexures P-5 to P-7 passed by respondent No.1;

(ii) issuance of a writ in the nature of *Mandamus* directing the respondents to promote the petitioners as Deputy Registrar w.e.f. 06.05.1998 by giving them *ante dated* promotion on regular basis instead of Current Duty Charge and grant them arrears of salary as Assistant Registrar, Co-operative Societies and Deputy Registrar, Co-operative Societies on regular basis, with all consequential benefits alongwith interest @ 18% p.a. on the arrears.

2. Learned State counsel, on instructions from Mr. Kuldip Kumar, Joint Registrar, Co-operative Societies, Patiala, has submitted that during the pendency of the present petition, petitioners No.1 and 3 have unfortunately died, however, the LRs of petitioner No.3 only have been brought on record, vide order dated 12.10.2012.

3. Mr. Yashpal Thakur, Advocate, has put in appearance on behalf of petitioner No.2-Sham Singh and has filed *Vakalatnama* in Court today, which is taken on record.

4. Briefly, the facts of the case as pleaded in the petition are that the Petitioner Nos.1 to 3 joined services of the respondents department as Sub-Inspectors on 01.12.1961, 02.12.1961 and 05.12.1961, respectively and were promoted as Inspectors, Cooperative Societies in the year 1970 and they joined their duties, as such, on 18.05.1970, 07.12.1970 and 18.05.1970, respectively. In the years 1971 and 1974, certain direct recruits as 'Inspectors - Cooperative Societies' were given seniority over and above to the petitioners and aggrieved against the said action of the respondents-department, 28 promotee Inspectors, filed CWP No.7334 of 1976 in this Court, which was dismissed, vide order dated 02.03.1984, however, they preferred LPA No.381 of 1984, against the said Judgement dated 02.03.1984, which was allowed by a Division Bench of this Court, vide Judgement dated 03.11.1997. The operative part of the Judgement dated 03.11.1997 reads thus:-

xxx xxx xxx xxx

“For the reasons mentioned above the appeal is allowed, the judgement of the Ld. Single Judge is set aside. The respondents are directed to re-fix the seniority of the appellant vis-a-vis non official respondents keeping in view the fact that they have been appointed as regular Inspectors prior to the non official respondents. They are directed to complete the exercise of redetermination of seniority within 4 months of the submission of certified copy of this order. The appellant shall get the consequential benefits as a result of re-fixation of their seniority vis-à-vis the non official respondents.”

xxx xxx xxx xxx

5. The petitioners, who were not party in the above said writ petition i.e. CWP No.7334 of 1976 as well as the LPA No.381 of 1984, separately filed CWP No.16639 of 1998, which was allowed, vide order dated 23.12.1998, in the same terms as in abovesaid Judgement dated 03.11.1997 passed in LPA No.381 of 1984. The operative part of the order dated 23.12.1998, passed in CWP No.16639 of 1998, reads as under:-

xxx xxx xxx xxx

“Parties counsel are agreed that this writ petition may be disposed of with a direction that the petitioners seniority would be determined in the rank of Inspector, Cooperative Societies keeping in view the law laid down in LPA No.381 of 1984, decided on 3.11.1997 (Inderjit Singh and others Versus State of Punjab and others). We order accordingly. Needless to mention that on the reframing of the seniority, all consequential benefits would flow from it. Let it be done within a period of three months.

Copy of this order attested by Special Secretary of this Court be given to Mr. Bhullar for onward transmission to the concerned quarters.”

xxx xxx xxx xxx

5(a). In compliance to the abovesaid directions of this Court, the petitioners were promoted as Deputy Registrar, Co-operative Societies (Current Duty Charge), retrospectively with deemed dates, vide orders dated 07.11.2000 (Annexures P-5 to P-7) however, they were not given arrears of salary of the post of Deputy Registrar, Co-operative Societies,

and regular promotions w.e.f. 06.05.1998 with consequential benefits.

Hence, this petition.

6. In the written statement filed on behalf of respondents No.1 and 2, it has been stated as under:-

“Para-6. That in reply to this para it is submitted that vide order dated 1.9.1999 the petitioners were also given current duty charge of the post Deputy Registrar w.e.f. 6.5.1998 to their date of retirement i.e. 31.10.2000, 31.10.98 and 30.6.1999 as their juniors were also holding current duty charge of these posts. Punjab Government has gone to Supreme Court of India for clarification in Ajit Singh Janjua case and imposed ban on promotions vide instructions dated 28.11.1997 and Govt. had asked to give current duty charge of the higher posts of higher scale in their own pay scales till the clarification from Apex Court is received and it was made clear that this will not give them any right of promotion. This was a stop gap arrangement. Thereafter, Government on the basis of clarification given by the Apex Court on reservation, issued instructions the seniority lists of various cadres of officers were issued. The seniority of Assistant Registrar Cooperatives Societies was finalised vide order dated 12.1.01 and case for Promotion of Assistant Registrar, Cooperative Societies to the post of Deputy Registrar, Cooperative Societies was considered by Departmental Promotion Committee in its meeting held on 20.3.01. Till then all the petitioners had retired from government service. Junior of the petitioners have been promoted as Deputy Registrar, Cooperative Societies vide order dated 2.5.2001 and upto their retirement of the petitioners they held current duty charge of the post of Deputy Registrar, Cooperative Societies in the pay

Para-7 That the contents of this para admitted to the extent that the ***petitioners have been promoted as Assistant Registrar Cooperative Societies w.e.f. 20.7.93 to till their date of retirement alongwith other 8 Inspectors on notional basis,*** but arrear of their salary have not been allowed in the light of the instructions dated 8.12.98 issued by the Department of Personnel on the basis of judgement of Hon'ble Supreme Court of India in Palaru Ram Krishnahia and others versus Union of India and others AIR 1990 SC (167). Their pay have already been refixed and have been allowed other benefits on the basis of refixation.

Para -9 That the contents of this para are wrong and hence denied. As already stated in the foregoing paragraphs the petitioners are not entitled for arrear of salary for the period when they have not worked as ARCS/DRCS. They were not given regular promotion as Deputy Registrar, Cooperative Societies, therefore, they are not entitled for arrears of pension and gratuity and interest thereon.

<i>Para-14 (i) to (iv)</i>	xxx	xxx	xxx
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(v) *That the regular promotion was not given to the petitioners in light of the ban imposed by Govt. on promotions vide instructions dated 28.11.97. Arrear of pay as ARCS for the period from 20.07.93 to May 1998 have been paid but they have not paid arrears for the period 5/98 to their date of retirement, when they worked as “Current Duty Charge” on the post of DRCS and their juniors have also not been granted this benefit.*

(vi) to (ix) **xxx** **xxx** **xxx** ”
 xxx **xxx** **xxx** **xxx**

7. The stand taken by the respondents-department to the effect that ‘the petitioners have not worked as ARCS/DRCS and, therefore, are not entitled for arrears of salary, since they were not given regular promotion as Deputy Registrar, Cooperative Societies’. The said stand has not been controverted by the petitioners, since in para No.8 of the replication dated 06.04.2003, petitioner No.1 (Ram Asra Singh) has admitted that current duty charge of the post of Deputy Registrar, Cooperative Societies, in their own pay scale was given to the petitioners. However, neither in the petition nor in the replication, it has been pleaded that the petitioners have actually worked on the said post. Moreover, the petitioners have duly been paid the arrears of pay for their promotion as Assistant Registrar, Co-operative Societies for the period from 20.07.1993 to May 1998, in view of the order dated 12.09.2001, passed in COCP No.395 of 1999, which is also an admitted fact in para No.7 of the replication dated 06.04.2003 and, therefore, the stand taken by the

respondents-department on the above said facts being not controverted or denied by the petitioners, turns it to an admitted position.

8. I have heard learned counsel for the parties and perused the relevant documents.

9. The sole controversy in this case is whether the petitioners are entitled to the arrears of salary for the period during which admittedly they had not worked on higher post but they have been given notional promotion from the deemed dates with retrospective effect on the count of recasting of seniority in view of the mandate of court orders resulting preparation of a revised seniority list.

10. Admittedly, the petitioners have been given notional promotion to the post of Deputy Registrar, Co-operative Societies (Current Duty Charge) from the deemed dates, with retrospective effect, on the count of recasting of seniority in view of the directions issued by this Court in the Judgement dated 03.11.1997 passed in LPA No.381 of 1984 and the order dated 23.12.1998 passed in CWP No.16639 of 1998, whereas they had not actually worked on the higher post of Deputy Registrar, Co-operative Societies (Current Duty Charge) prior to the date of impugned order i.e. 01.09.1999 (Annexure P-1), vide which notional promotion of said post from the deemed dates was given to the petitioners. The relevant part of the impugned order dated 01.09.1999, is as under:-

XXX

XXX

XXX

XXX

9. Therefore, in view of the instructions/decision referred to above, the **notional promotions** of the following Inspectors are ordered to the post of Assistant/Deputy Registrar, Coop Societies from the dates mentioned against their names but no arrears of pay shall be given:

Sr. No.	Name of the Inspector, Coop. Societies.	Date of notional Promotion.
1 &2	xxx	xxx
3.	Shankar Dass (Petitioner No.3 in the petition)	20-07-93 to 5.5.98 as Asstt. Registrar, Coop. Societies and as Deputy Registrar, C.S. [C.D.C.] upto 30-6-99 (when this employee is being superannuated.
4.	Sham Singh (Petitioner No.2 in the petition)	20-07-93 to 5.5.98 as Asstt. Registrar, Coop. Societies and from 6.5.98 to 31.10.98 as Deputy Registrar, Coop. Societies [C.D.C.] the date when he was superannuated.
		as Deputy Registrar, Coop. Societies [C.D.C.] the date when he was superannuated.
5.	Ram Asra Singh (Petitioner No.1 in the petition)	20-07-93 to 5.5.98 as Asstt. Registrar, Coop. Societies and from 6.5.98 onwards as Deputy Registrar, Coop. Societies [C.D.C.]
6 to 9	xxx	xxx
xxx	xxx	xxx
xxx	xxx	xxx

10.(a) A bare perusal of the impugned order dated 01.09.1999 reflects that the revised seniority of the petitioners has been re-fixed in view of the directions issued by this Court in the Judgement dated 03.11.1997 passed in LPA No.381 of 1984 and the order dated 23.12.1998 passed in CWP No.16639 of 1998; after considering the length of service and

obtaining objections from the employees concerned, which took time of almost 02 years, since during the interregnum some other employees have preferred other writ petitions also which were disposed of, in view of the directions issued in LPA No.381 of 1984. So in actuality, what comes out is that vide impugned order dated 01.09.1999, only seniority of the petitioners was re-fixed and consequently on 01.09.1999 itself they were given *ante dated* promotion from the deemed date(s) retrospectively and prior to the said date, the petitioners No.2 and 3 had already superannuated, which fact is already recorded in the promotion order itself, and only the petitioner no.1 had actually worked as Deputy Registrar, Cooperative Societies with Current Duty Charge from 01.09.1999 till his retirement.

11. It is a settled proposition of law by the Hon'ble Supreme Court in '***State of Haryana versus O.P. Gupta***' 1996 (2) SCT 294 that "*when promotion is notional with retrospective effect due to recasting of seniority, the arrears of salary cannot be granted from the date of deemed promotion since in that eventuality the principle of 'no work no pay' will apply*" and in the said case, Hon'ble Apex Court has further observed that '*the question of payment of arrears does not arise since, admittedly the respondents had not worked during that period.*'

12. The Hon'ble Supreme Court in "***Paluru Ram Krishnaniah vs. Union of India***", (1989) 2 SCR 92 considered the direction issued by the High Court and upheld that there has to be "no pay for no work", i.e., a person will not be entitled to any pay and allowance during the period for

which he did not perform the duties of higher post, although after due consideration, he was given a proper place in the gradation list having been deemed to be promoted to the higher post with effect from the date his junior was promoted. He will be entitled only to step up the scale of pay retrospectively from the deemed date but is not entitled to the payment of arrears of the salary. The same ratio was reiterated by the Hon'ble Apex Court in "***Virender Kumar, General Manager, Northern Railways, New Delhi vs. Avinash Chandra Chadha and others***" (1990) 3 SCC 472.

13. Having regard to the above factual position and settled proposition of law, the question arises: whether the petitioners are entitled to the arrears of salary? It is seen that their entitlement to work arises only when they are promoted in accordance with the Rules. Preparation of the revised seniority list under Rule 9 of Haryana Service Engineer Class II, Public Works Department (Irrigation Branch) Rules 1970 is a condition precedent for consideration and then to pass an order of promotion followed by the posting. Until that exercise is done, the petitioners cannot be posted on the promotional posts. Therefore, the contention and claim of the petitioners that though they have been promoted retrospectively as Deputy Registrar, Cooperative Societies, with *ante dated* promotion from the deemed dates and are entitled for arrears of salary of a higher post even without working on the higher post, has no legal foundation.

14. In view of the above factual position and settled proposition of law laid down in the abovesaid judgments, the present petition is partly

allowed *qua* claim of petitioner No.1 (Ram Asra Singh) only, since after the date of his promotion, he has actually worked as Deputy Registrar, Cooperative Societies, Current Duty Charge, and, therefore, he is held entitled to the arrears of salary for the post of Deputy Registrar, Cooperative Societies, from 01.09.1999 till the date of his retirement and accordingly claim(s) of the Petitioner Nos.2 and 3 is rejected, having no legal foundation and merit as well, since they were granted only notional promotion on account of recasting of their seniority and they have not actually worked on the higher post, as alleged, and retired prior to 01.09.1999, which is the date of their *ante dated* promotion.

15. Since, Petitioner No.1 (Ram Asra Singh) is stated to have died during pendency of this petition, his LRs are held entitled for release of accrued arrears of the pay and allowances, as ordered above, and the necessary benefits shall be released to them, within a period of 03 months, from the date of receipt of certified copy of this order.

16. Pending application, if any, shall also stand disposed of.

17. Copy of this order be sent to the LRs of Petitioner No.1 (Ram Asra Singh) by the respondents.

(NAMIT KUMAR)
JUDGE

16.03.2026

sanjeev/mk koundal

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No