

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3931-2023 (O&M)

Roshan Lal

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

1.	Judgment reserved on	18.04.2026
2.	Judgment pronounced on	21.05.2026
3.	Judgment uploaded on	22.05.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanchit Punia, Advocate for the petitioner

Mr. Rahul Dev Singh, Addl. AG Haryana

Sandeep Moudgil, J.

Prayer

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, inter alia, for issuing a writ of certiorari quashing of the order dated 28.06.2021 (Annexure P12) vide which the case of the petitioner for promotion was rejected and impugned proceedings of the DPC dated 16.06.2021 (Annexure P13) with a direction to the respondents to consider their case for promotion to the post of District Revenue Officer w.e.f. 16.06.2021 with all consequential benefits.

(2). The petitioner joined Government service as Clerk on 22.02.1985 and thereafter earned successive promotions from time to time. The petitioner was ultimately promoted as Tehsildar vide order dated 07.05.2012 and superannuated from service on 30.06.2021. It is not in dispute that in the year 2018 the petitioner had requested to forgo his promotion to the post of District Revenue Officer on account of personal/family circumstances and the said

request was accepted vide order dated 25.05.2018 (Annexure P3) subject to the condition that he would not be considered for promotion for a period of one year and the officers promoted during the said period would rank senior to him. It is further not disputed that after expiry of the said embargo period, the petitioner again became eligible for consideration for promotion.

(3). The grievance of the petitioner as raised by the learned counsel appearing on his behalf is that pursuant to his request dated 25.08.2020 (Annexure P4), his case was considered by the Departmental Promotion Committee in its meeting held on 16.06.2021 in which, although, initially he was found fit for promotion to the post of District Revenue Officer, subsequently the proceedings of the DPC were deliberately altered/revised and the petitioner was declared ineligible on account of pendency of disciplinary proceedings initiated vide charge-sheet dated 01.06.2021 (Annexure P6) under Rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016. He then asserts that the result of the disciplinary proceedings was ultimately dropping of charges vide order dated 12.10.2021 (Annexure P9) and, therefore, denial of promotion to him on that ground is arbitrary and illegal.

(4). Aggrieved thereby the present writ petition has been filed.

(5). Heard learned counsel for the parties and judgment was reserved on 18.04.2026.

(6). Learned State counsel do not dispute that the petitioner became eligible for consideration after expiry of one year from the date of foregoing promotion in 2018. It is also not disputed that the petitioner's case was placed before a duly constituted DPC held on 16.06.2021 for promotion to the post of District Revenue Officer, however, their stand is that since a charge-sheet

under Rule 8 of the 2016 Rules ibid had already been issued to the petitioner on 01.06.2021, therefore, in terms of applicable instructions and service jurisprudence, promotion could not have been granted to him during pendency of disciplinary proceedings.

(7). There can be no dispute with the settled proposition that pendency of disciplinary proceedings permits the employer to defer promotion and that an employee cannot claim promotion as a matter of right while major penalty proceedings are pending against him. It would also be relevant to mention here that as per the instruction No. 6034-2GS-I-71/32498, dated 18-11-71 it is specifically directed that promotion should not be withheld only because disciplinary action under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 or any comparable rule is contemplated or is pending against a Government employee and instead in such cases the decision should be taken keeping in view the nature of the allegations, the quantum of the penalty proposed and the overall record. Moreover, the respondents vide order dated 12.10.2021 (Annexure P-9) dropped charges against the petitioner and vide letter dated 12.10.2021 action was called against DRO for wasting time and effort of the department (Annexure P-10).

(8). Notwithstanding this fact, a perusal of the material placed on record reveals that the proceedings of the DPC initially recorded on 16.06.2021 were subsequently revised/alterd and the petitioner was declared ineligible thereafter. The respondents have sought to justify the same on the ground that the competent authority 'noticed' the pendency of Rule 8 proceedings 'subsequently' and accordingly directed revision of the proceedings. However, the record does not indicate that any fresh meeting of the DPC was convened or

that the matter was reconsidered afresh in accordance with the prescribed procedure.

(9). Ordinarily, a DPC is not convened in a casual manner and before such meeting is held, the department is expected to place complete service record, vigilance status, disciplinary proceedings, Annual Confidential Reports/APARs, eligibility particulars and seniority position of all eligible officers before the Committee so that an informed decision may be taken at the very first instance itself. In the present case, admittedly, Rule 8 charge-sheet had already been issued to the petitioner on 01.06.2021 whereas the meeting of the DPC was convened thereafter on 16.06.2021. Meaning thereby the respondents were fully aware of the disciplinary proceedings even before the Committee resolved to assemble. In such circumstances, if the respondents intended to withhold promotion on account of pendency of disciplinary proceedings, the petitioner's case ought to have been dealt with appropriately during the course of deliberations itself in accordance with the applicable procedure, at the very inception. However, the record instead reveals that the petitioner was initially found fit, the proceedings were concluded and only thereafter the proceedings came to be revised/altered subsequently. Such post facto modification of the proceedings, particularly in absence of any material showing fresh deliberations or reconvening of the DPC, does not inspire confidence and reflects lack of procedural fairness and transparency in dealing with valuable service rights of the petitioner.

(10). It is further not disputed that the disciplinary proceedings initiated against the petitioner ultimately culminated in dropping of the charges vide order dated 12.10.2021 and no punishment whatsoever came to be

imposed upon him. In these circumstances, it is noticed that the instructions referred to above also provide that subsequently on the completion of the department proceedings the Govt. employee is exonerated than he should be promoted with retrospective effect i.e. from the date on which he was due for promotion. The respondents themselves have placed on record that after dropping of charges, similarly situated officers had in earlier cases been granted promotion from retrospective dates. In such circumstances, denial of similar consideration to the petitioner cannot be sustained.

(11). The contention raised by the respondents that the petitioner had retired on 30.06.2021 and that no junior to him was promoted till the date of his retirement also does not advance their case. It is well settled that where denial of promotion is found to be arbitrary or legally unsustainable, the Court can direct grant of notional promotion with consequential retiral benefits even after retirement of the employee.

(12). The impugned action further suffers from arbitrariness for the reason that while the petitioner was denied consideration solely on account of pendency of disciplinary proceedings, the said proceedings ultimately ended in his favour and no adverse finding whatsoever survived against him. Therefore, complete denial of promotional consideration, despite exoneration, would be inequitable and contrary to settled principles governing service jurisprudence.

Conclusion

(13). Accordingly, the present writ petition is allowed. The impugned proceedings/order (Annexures P12 & P13, respectively) whereby the petitioner was denied promotion to the post of District Revenue Officer are hereby quashed. The respondents are directed to grant notional promotion to the

petitioner to the post of District Revenue Officer w.e.f. 16.06.2021 along with all consequential benefits including re-fixation of pensionary/retiral benefits. The arrears shall carry interest @ 6% p.a.

- (14). The necessary exercise be completed within a period of two months from the date of receipt of certified copy of this order.
- (15). The present petition is also allowed in the aforesaid terms.
- (16). Pending application(s), if any, shall also stand disposed of.

21.05.2026
V.Vishal

(Sandeep Moudgil)
Judge

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