

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1)

CWP-7388-2022
Date of Decision: 17.03.2026

SHIV KUMAR AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

(2)

CWP-12419-2022

RAJENDER SINGH AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

(3)

CWP-26229-2022

MONIKA AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

(4)

CWP-9263-2024

PINTU AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

(5)

CWP-16856-2024

MANDEEP SINGH AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

(6)

CWP-33909-2025

NOOR HUSSAIN AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present : Mr. Sunil Kumar Nehra, Sr. Advocate
with Mr. Rahil Mahajan, Advocate,
Mr. Tejpal Singh Dhull, Advocate,
Mr. Ajay Kumar, Advocate,
Mr. Ankur Sidhar, Advocate for the petitioner(s).

Mr. Sanjeev Kaushik, Addl. A.G., Haryana.
Mr. Divyanshu Kaushik, Advocate
and Ms. Amisha Rana, Advocate
for the respondent-State.

ASHWANI KUMAR MISHRA, J. (ORAL)

Since the controversy involved in these writ petitions is identical, they are being dealt with together by this common judgment. For the sake of brevity, the facts are being extracted from CWP-7388-2022.

2. Petitioners were originally appointed as Group 'D' employees, pursuant to Advertisement No.4 of 2018. The advertisement included appointments on 18,218 posts of Group 'D', in various Departments, Boards and Corporations in the State of Haryana.

3. Having secured selection, the petitioners have been working as such for last several years. They are aggrieved by a policy framed by the respondent-State contained in Annexure P-6 dated 03.05.2021 as also the

amendment made in Haryana Group 'D' employees (Recruitment and Conditions of Service) Amendment Act, 2020 at Annexure P-5 as per which, all persons appointed to Group 'D' would form a composite cadre and their claim for promotion etc. would be accorded consideration treating them to be a part of homogeneous Group 'D' cadre. The petitioners contended that they have been appointed to different posts with different experience and qualification prescribed and have worked as such in different departments. As per petitioners, their claim for promotion to Class 'C' posts in their respective department is now being overlooked only because they are part of a composite State wide cadre.

4. In order to substantiate their grievance, the petitioners have highlighted facts as per which, they were appointed to different offices as Class 'IV' employees. Attention of this Court has been invited to advertisement which would show that the appointment in Group 'D' posts was on the post of Peon, Baildar, Attendant, Helper, Mali, Peon-cum-Chowkidar, Cook, Workshop Attendant, Mechanical Helper, Water Carrier etc. Class IV employees were also appointed to the Office of Chief Secretary of the State of Haryana. It is contended that the seniority of such Class 'IV' employees was earlier maintained in the respective department/offices where they were appointed and based upon such seniority, they were accorded consideration for promotion to different posts in Class 'C' category.

5. It is submitted that on account of the impugned amendment in the Rules, as a result of which a composite cadre is being created of Group 'D' employees, a person who is appointed in one department and has worked

on a particular post for several years would be denied consideration for promotion in their respective department, and someone else from a different department altogether may claim promotion irrespective of the fact that his/her experience is from a different cadre.

6. Along with the writ petition, the petitioners had annexed the appointment letter dated 29.01.2019 contained in Annexure P-4 as issued to one of the petitioners which records that the appointment offered is on the post of Peon-cum-Chowkidar in Haryana Civil Secretariat. *Inter se* seniority of the candidate was to be determined with reference to the recommendation made by the Haryana Staff Selection Commission later. At the time of appointment being offered to the petitioners, their services were covered by the provisions of the Haryana Group 'D' employees (Recruitment and Conditions of Service) Act, 2018 notified on 27.03.2018.

7. Under the Act, 2018, appointing authority has been defined under Rule 2A, to mean the authority specified as such in the service rules made under the proviso of Article 309 of the Constitution of India in respect of any Service or post. Section 5 contemplates creation of permanent cadre, category and grade-pay of service by the government. With reference to other appointment dated 22.01.2019, it is pointed out that the appointment to the petitioners are made under the authority of the Chief Secretary to the Government of Haryana. The petitioners also relied upon notification dated 09.11.2013, issued in exercise of provisions to Article 309 of the Constitution of India, constituting the Punjab Civil Secretariat (State Service Class III) Haryana Amendment Rules, 2013. This notification makes

reference to the appointment of Clerk. The notification envisages promotion to the post of Clerk on the basis of five years experience of working of any Class-III whose scale of pay is less than that of a Clerk or any Class-IV post or combined experience on such Class-III and IV post. With reference to such notification, it is urged on behalf of the petitioners that having worked in the office of Chief Secretary for a period of five years, the petitioners acquired the right to be considered for promotion to the post of Clerk in the office of Chief Secretary. However, this right of consideration for promotion has been taken away on account of impugned amendment as now all Class-IV posts throughout the state would be treated as homologous composite cadre. The seniority will not be specific to the department or the office, wherein, the Class-IV employee was appointed. It is submitted that the establishment of cadre is with reference to the department or the organization and as a result of impugned amendment, an employee appointed in one department/cadre could be considered for promotion to a higher post in a different department which may require experience of a different kind. It is, therefore, submitted that the amendment made has caused grave injustice to the petitioners inasmuch as their right to be considered for promotion in their respective department is completely obliterated.

8. It is also submitted that the persons earlier appointed under 2018 Rules, are now included in a composite cadre with retrospective effect, which is impermissible.

9. The writ petition was entertained on 07.04.2022, by passing the

following orders:-

“Counsel for the petitioners inter alia contends that the petitioners are working on Group-D posts in the office of the Chief Secretary. They had applied in pursuance of the advertisement No.4/2018 dated 26.08.2019 (Annexure P-1) wherein preference had to be given for the post and the department as per Clause 7 and it was to be given in a decreasing manner upto 15 categories. As per merit, the said allocation was to be made and the applicant who was first would get the preference as per the available vacancies. The total number of posts advertised was 18218 and there were 116 categories and for Peon-cum-Chowkidar at Sr.No.6, there were 531 vacancies (page No.53 of the paperbook).

The list of departments/Boards/Corporations in the posts were separately notified which were 74 in number and for the office of the Chief Secretary specific code No.547 was given at Sr.No.47 (page No.58 of the paperbook). Reference has been made to Clause 1.2(h) that the selection was made in accordance with the Haryana Group D Employees (Recruitment and Conditions of Service) Act, 2018 as applicable to State of Haryana which was notified on 28.03.2018 and the Government instructions issued from time to time (Annexure P-2).

While relying upon the provisions of the Act, Mr.Nehra has pointed out that the appointing authority under Section 2(a) was the authority specified in the service rules made under proviso to Article 309 of the Constitution of India in respect of any service or post. Similarly under Section 2(n) service means any Group D service in the State and as per Section 3, the appointments would be made by the Head of the Department or Head of Office as the case may be. Reference is also Section 10(2) that the candidates were to apply for any number of departments and indicate their priority for such departments.

Section 14 provided that there are different cadres in the State and seniority shall be maintained separately for each cadre. It is accordingly pointed out that as per the appointment letter dated 22.01.2019 (Annexure P-4), 166 candidates were appointed to the post of Peon-cum-Chowkidar in the Haryana Civil Secretariat. By virtue of the impugned amendment notified on 31.03.2020 (Annexure P-5), the same has been made retrospective w.e.f. 28.03.2018 by inserting Section 1(3). Similarly the "Appointing Authority" has been amended and Section 2(n) has been substituted by providing that service would mean the common cadre of Group D post in the State.

It is contended that the common cadre has not been defined but vide instructions dated 03.05.2021 (Annexure P-6) the mode of promotion of more than 18000 persons who had been selected and appointed vide advertisement No.4/2018 dated 26.08.2019 (Annexure P-1) has restricted the promotion to the Group C posts or any other post of the Department concerned. The employees working on the Group D posts which is the feeder cadre of Clerks appointed before the enactment of the Act in question have been given the preferential right of promotion. The petitioners were only liable to be considered if none is available from the earlier appointees and action was to be taken by the department to fill up posts by promotion from a combined seniority list.

Thus, it is submitted that prejudice will be caused as the service conditions are now being changed and the petitioners had opted for a particular department and made it on the strength of their merit and therefore, the State was not justified in amending the Act with retrospective effect.

Notice of motion.

Notice re: Stay.

Mr.Pandit accepts notice on behalf of the respondents. He justifies the said amendment by pointing out that the earlier provisions also provided that service means any Group D

service in the State and that under Section 14, seniority inter se the members were to be determined by the length of service on any post in the service. It is, thus submitted that the petitioners were duly appointed and issued appointment letter to be governed by the 2018 Act and thus cannot have any grouse on the amendment as the purpose is to have a common cadre and the Act in principle has been enacted for that purpose. He accordingly prays for time to file reply.

Needful be done on or before the next date of hearing.

List on 18.07.2022.

In the meantime, petitioners shall not be shifted/transferred from their place of posting till further orders.”

10. Thereafter, the matter has been adjourned from time to time and the following order came to be passed on 30.09.2025:-

“Mr. Kaushik, appearing for the State, prays for four weeks’ time to file an exhaustive reply in the matter, clearly specifying the object of creating the composite cadre of Group ‘D’ employees in the State. The exclusion of the employees of the Corporations etc., as well as the non-availability of a composite cadre in Group ‘C’ and the manner in which promotion etc. would be offered to Group ‘D’ employees, would be clarified.

Adjourned to 18.11.2025.

Interim order to continue till the next date of hearing.

A photocopy of this order be placed on the files of the other connected cases.”

11. Again when the matter was taken up on 13.02.2026, following orders were passed:-

“On the previous occasion, various anomalies arising out of the impugned State action was highlighted during the course of submissions. The matter was adjourned in order to

enable the learned State counsel to examine such issues and take further instructions.

Today, when the matter is taken up, Mr. Sanjeev Kaushik, learned Additional Advocate General for the State of Haryana, on instructions from the Chief Secretary, seeks an adjournment on the ground that the State is having a re-look at its own policy.

Adjourned to 05.03.2026.

A photocopy of this order be placed on the files of the other connected cases.”

12. Today when the matter is taken up, Mr. Sanjeev Kaushik, Addl. AG, Haryana, on the basis of instructions received from the concerned office, makes a statement that the claim of the petitioners for promotion to Group-C, in their respective department where they are working as Class-IV employees, would be accorded consideration and they will be allowed to continue in the same department unless the petitioners request for their shifting to some other department. It is also stated that seniority in the respective cadre/department where the petitioners are working, would be adhered to for the purpose of promotion. Mr. Kaushik also states that the State is now in the process of having a re-look into its policy and a new legislation is likely to be brought into force. The statement made by the State Counsel adequately protects the petitioners.

13. In the event, the petitioners are allowed to continue in the respective department, where they were initially posted, their claim for consideration for promotion would also be accorded consideration in such department only, relying upon the their seniority in the feeding cadre in the same department, there would be not grievance available for the petitioners.

14. Noticing such stand of the State, we, therefore, dispose of these writ petitions in terms of the statement made by the State Counsel, as recorded above.
15. All Misc. application(s), if any, stand disposed of.

[ASHWANI KUMAR MISHRA]
JUDGE

March 17, 2026
gurpreet/rajesh

[ROHIT KAPOOR]
JUDGE

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