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

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Date of Decision: 27.04.2026

Harish Kumar

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Vikas Mohan Gupta, Advocate for the petitioner

Mr. Aakash Singla, Additional Advocate General, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed *inter alia* seeking a writ of *mandamus* directing the respondents to consider the petitioner for promotion to the post of Vice Principal, Vocational Education Institute, in terms of Service Rules - The Haryana Industrial Training and Vocational Education Department (Group-B) Directorate and Field Offices Service Rules 1998 (for short, 'the 1998 Rules').

2. Learned counsel contended that the petitioner joined as Agriculture Mechanic Instructor in a Vocational Education Scheme under the administrative control of Director of Industrial Training, Vocational Education, Haryana. The Scheme was disbanded in 2008, and the Instructors, including the petitioner, were taken in service as Instructors in the Department of Skill Development and Industrial Training/third respondent. Their cadre was declared a diminishing cadre. Despite the promotional posts of Vice Principal

being vacant, he was not considered for promotion without any valid reason



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which caused grave prejudice and defeated his rights. Learned counsel has referred to promotion orders passed by the Department, dated 15.10.2018 and 03.05.2025, Annexures P-5 and P-6 respectively, whereby other Instructors were promoted in the Department as Vice Principal/Principal. However, he does not dispute that none of the Instructors promoted vide these office orders, was the petitioner's junior. He relies upon a Division Bench judgment dated 30.01.2024, rendered in LPA-1703-2023 titled *Prem Kumar Aggarwal v. State of Punjab and others*.

3. Learned State counsel, however, contends that the petition has been filed after the petitioner superannuated from service on 31.03.2026. In terms of law laid down by the Supreme Court in *Government of West Bengal & Others v. Dr. Amal Satpathi & Others*, 2024 SCC Online SC 3512, he cannot be considered for promotion at this stage.

4. In the facts of that case, the Department had initiated the appellant's promotional process by approaching the Public Service Commission, which recommended him for promotion. However, before the Department received final approval for promotion, he superannuated from service. A petition was filed contending that his right to be considered for promotion could not be defeated only on account of administrative lapses. The Court, however, held that an employee does not have a fundamental right to promotion. Also, it cannot be granted from the date the vacancy occurs as it becomes effective from the date it is granted. The relevant extracts of the judgment are as under:

15. The primary question that arises for our consideration in the present appeal is whether respondent No.1, who was recommended for the promotion before his retirement but did not



receive actual promotion to the higher post due to administrative delays, is entitled to notional financial benefits of the promotional post after his retirement?

16. to 18. xxx xxx xxx

19. 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. In this regard, we may gainfully refer to a recent decision of this Court in the case of *Bihar State Electricity Board and Others v. Dharamdeo Das*, 2024 SCC Online SC 1768, wherein it was observed as follows:

“18. It is no longer *res integra* that a promotion is effective from the date it is granted and not from the date when a vacancy occurs on the subject post or when the post itself is created. No doubt, a right to be considered for promotion has been treated by courts not just as a statutory right but as a fundamental right, at the same time, there is no fundamental right to promotion itself. In this context, we may profitably cite a recent decision in *Ajay Kumar Shukla v. Arvind Rai*, (2022) 12 SCC 579, where, citing earlier precedents in *Director, Lift Irrigation Corporation Ltd. v. Pravat Kiran Mohanty*, (1991) 2 SCC 295, and *Ajit Singh v. State of Punjab*, (1999) 7 SCC 209, a three-Judge Bench observed thus: ...

20. xxx xxx xxx

21. While we recognize respondent No.1's right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of



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recommendation. Considering that respondent No. 1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity.

5. In this view of the matter, this Court is not inclined to entertain the petition as concededly no person junior to the petitioner has ever been promoted to the post of Vice Principal in the Department. And it cannot be said his right to consideration has been defeated. Besides, as per settled law in *Dr. Amal Satpathi* case (*supra*), an employee cannot be considered for promotion post retirement.

6. There is no ground to interfere with the matter, and the petition stands dismissed *in limine*.

(TRIBHUVAN DAHIYA)
JUDGE

27.04.2026

Payal

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No