

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-623-2008

BALRAJ SINGH

...PETITIONER

VERSUS

PUNJAB & HARYANA HIGH COURT AND ORS.

...RESPONDENTS

|    |                                                                                                      |                |
|----|------------------------------------------------------------------------------------------------------|----------------|
| 1. | The date when the judgment is reserved                                                               | 28.01.2026     |
| 2. | The date when the judgment is pronounced                                                             | 16.03.2026     |
| 3. | The date when the judgment is uploaded                                                               | 16.03.2026     |
| 4. | Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced | Full           |
| 5. | The delay, if any of the pronouncement of full judgment and reason thereof.                          | Not applicable |

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. R.K. Malik, Sr. Advocate with  
Mr. Yashdeep Singh, Advocate for the petitioner(s).

Mr. Raman Mahajan, Advocate for respondents no. 1 and 2.

Mr. R.D. Sharma, DAG, Haryana

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SANDEEP MOUDGIL, J

*Prayer*

1. The jurisdiction of this court has been invoked under Articles 226/227 of the Constitution of India praying for quashing of order dated 18.12.2007 (Annexure P-6) whereby representation of the petitioner has been rejected with a further direction to the respondent to consider the petitioner for promotion as assistant from the date juniors to the petitioner have been promoted with grant of all consequential benefits.

**Brief Facts**

2. The petitioner was appointed as a Clerk on regular basis on 21.08.1996 in the establishment governed by the Haryana Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997. During his service career he claims to have maintained a good service record and asserts that no adverse confidential report was ever communicated to him. However, a departmental inquiry was initiated against him on account of negligence which resulted in the loss of a judicial document, namely the deposition of a witness filed in a civil suit pending before the Civil Judge (Senior Division), Fatehabad. After the conclusion of the inquiry, the competent authority imposed a minor punishment on 09.10.2006 by stopping one annual grade increment without cumulative effect.

3. Subsequently, a seniority list of Clerks was issued in which the petitioner was placed at Serial No. 11, while the private respondents were placed below him. On 18.10.2006, the respondents promoted several juniors to the post of Assistant. The petitioner was not considered for promotion on the ground that he was undergoing the punishment of stoppage of increment and that, in view of the Government instructions dated 31.05.2006 issued in the light of the judgment of the Supreme Court in ***State of Tamil Nadu v. K. S. Murugesan 1995 (3) SCC 273***, an employee undergoing punishment could not be granted promotion during the currency of such penalty.

4. Aggrieved by his non-promotion, the petitioner submitted representations to the authorities requesting that he be promoted on the basis of the rule of seniority-cum-merit prescribed under the applicable service rules. His representations were rejected by the District & Sessions Judge,

Fatehabad on 18.12.2007.

5. Hence, the present writ petition.

**Contentions**

**On behalf of petitioner**

6. Learned counsel for the petitioner submitted that the petitioner has a long and unblemished service record with consistently good confidential reports over the last ten years, and except for one minor punishment of stoppage of increment without cumulative effect, he has never been found unfit for promotion. It was argued that the punishment imposed on 09.10.2006 related to a period between 2002 and 2003, and as per government instructions, the effect of such minor punishment should only reflect in the confidential report of the period to which the misconduct pertains, not as a bar to promotion.

7. Counsel further contended that the criteria for promotion from Clerk to Assistant is seniority-cum-merit, and the petitioner, being senior to the private respondents who were promoted, fulfilled all minimum standards prescribed for promotion. He submitted that the respondents acted arbitrarily by promoting juniors while ignoring the petitioner solely on the ground of a minor punishment, which had no operative effect at the time of promotion.

8. It was also argued that the instructions dated 31.05.2006, relied upon by the respondents, are arbitrary and discriminatory as they allow authorities to manipulate the timing of punishments to deny promotion, undermining the principle of seniority-cum-merit and equality.

**On behalf of respondent**

9. Learned counsel for the respondents submitted that the petitioner's

non-promotion was entirely justified and in accordance with law. It was contended that the petitioner was responsible for the loss of a crucial judicial record, and a departmental inquiry was conducted in strict compliance with the Civil Services (Punishment and Appeal) Rules, 1987. After due consideration, a minor punishment of stoppage of one annual grade increment without cumulative effect was imposed on 09.10.2006, which has been upheld by the High Court in the petitioner's service appeal.

10. Counsel argued that the petitioner was undergoing the currency of this punishment at the time when the juniors were promoted on 18.10.2006. Government instructions dated 31.05.2006, issued in light of the Supreme Court's judgment in *K. S. Murugesan (supra)*, explicitly provide that no promotion can be granted during the currency of a punishment, even if minor. Therefore, the deferment of the petitioner's promotion was in strict compliance with these instructions and is neither arbitrary nor discriminatory.

11. It was further submitted that the petitioner's argument regarding the period of misconduct is misconceived. Although the misconduct relates to an earlier period, the punishment order attaches immediately upon its issuance, and its effect on promotion is valid regardless of the operative financial consequences of the increment. The respondents maintained that a post of Assistant was deliberately kept vacant so that the petitioner could be considered for promotion once the punishment period is complete, demonstrating fairness and proportionality.

12. Counsel emphasized that the petitioner's promotion was deferred, not denied, and that the principle of seniority-cum-merit does not override

administrative instructions or the proper exercise of disciplinary authority. Accordingly, the action of promoting juniors while the petitioner's punishment was in force was lawful, reasonable, and in accordance with the rules and prevailing judicial precedents.

10. Arguments were heard and the judgement was kept reserved on 28.01.2026.

**Legal Issue**

***Whether an employee undergoing a validly imposed minor disciplinary punishment can be lawfully denied promotion during the currency of such punishment, notwithstanding the principle of seniority-cum-merit***

**Analysis**

11. The Court has carefully considered the submissions of learned counsel for the petitioner and respondents, the statutory rules, government instructions, and the relevant judicial precedents. The central issue for determination is whether a minor disciplinary punishment can lawfully defer promotion of a senior employee under the principle of seniority-cum-merit.

12. It is well settled that the doctrine of *seniority-cum-merit* does not operate in absolute isolation. While seniority is an important factor in promotion, the employee must also meet the minimum standards of merit and integrity, and disciplinary actions affecting suitability may legitimately be taken into account.

13. The Court places significant emphasis on the Government instructions dated 31.05.2006 (P/9), which expressly provide that an employee undergoing the currency of a disciplinary punishment shall not be considered for promotion. These instructions were issued in compliance with the

judgment of the Supreme Court in *State of Tamil Nadu v. Thiru K.S. Murugesan* 1995(3) SCC 273, where it was held that disciplinary consequences may legitimately affect promotional eligibility, and such consideration does not constitute double jeopardy. The rationale underlying this principle is rooted in the dual objectives of public service: maintaining merit-based advancement while ensuring accountability and integrity in service. Relevant extract of the same is under:

*7. It would thus be clear that when promotion is under consideration, the previous record forms basis and when the promotion is on merit and ability, the currency of punishment based on previous record stands on impediment. Unless the period of punishment gets expired by efflux of time, the claim for consideration during the said period cannot be taken up. Otherwise, it would amount to retrospective promotion which is impermissible under the Rules and it would be premium on misconduct. Under these circumstances, we are of the opinion that the doctrine of double jeopardy has no application and non-consideration is neither violative of Article 21 nor Article 14 read with 16 of the Constitution.*

14. The instructions aim to prevent a situation where an employee found negligent or otherwise responsible for misconduct is prematurely advanced to a higher post before the disciplinary consequences have been fully implemented. By making promotion contingent on the completion of the punishment period, the administration ensures that the individual being promoted has met all the requisite standards of conduct and integrity at the time of promotion. This serves the larger public interest of preserving the credibility and efficiency of the service, particularly in sensitive establishments like the subordinate judiciary where the petitioner was

employed.

15. Moreover, these instructions act as a practical safeguard against manipulation of the timing of disciplinary actions. Without such a rule, an authority could face situations where the effect of a punishment is nullified for the purposes of promotion, potentially undermining the deterrent effect of disciplinary measures and creating inconsistency in the application of rules. The suitability for promotion must consider both seniority and merit, and disciplinary infractions are a legitimate aspect of assessing merit. In this light, deferring promotion during the currency of punishment is both legally valid and administratively sound.

16. The Court also observes that the instructions do not permanently bar the employee from promotion; rather, they defer consideration until the employee completes the punishment period. In the instant case, the respondents even kept a post vacant specifically to accommodate the petitioner once the punishment period concludes. This demonstrates that the administration acted in good faith, with proportionality, and in alignment with the principles laid down by the Supreme Court, balancing the employee's seniority against the necessity of preserving discipline and integrity in public service.

17. Given this context, it is clear that the petitioner's non-promotion during the currency of his punishment was neither arbitrary nor discriminatory. It was a lawful implementation of instructions issued in conformity with binding Supreme Court precedents. These instructions ensure that promotion is conferred only when an employee is fully eligible in terms of conduct and service record, which justifies the dismissal of the present writ

petition.

18. The Court notes the principle that the effect of a disciplinary order attaches from the date of its imposition, even if the financial consequence arises later. This is consistent with the doctrine of *legitimate expectation*; an employee cannot claim promotion during a subsisting period of punishment, as the administration is entitled to assess suitability only after the punishment is completed. Government instructions issued on 31.05.2006 clarify that employees undergoing punishment cannot be promoted during its currency, which is a reasonable and proportionate exercise of administrative discretion aimed at preserving discipline.

19. The principle of equality under Articles 14 and 16 does not compel the administration to treat employees under punishment on par with unblemished employees. Equality under the Constitution applies to equals, and differential treatment is permissible where there is a material distinction in circumstances, such as the imposition of a disciplinary penalty. The petitioner's deferment, in this context, is not discriminatory but a lawful application of rules and instructions.

20. Moreover, judicial review under Article 226 is limited to examining whether the administrative action is illegal, arbitrary, or malafide. In the present case, the respondents have kept a post vacant to ensure the petitioner's promotion is considered after completion of punishment, demonstrating proportionality and fairness. The administrative action was taken in accordance with statutory rules, government instructions, and binding judicial precedents.



**Conclusion**

21. In view of these principles, the Court finds no merit in the contention that the petitioner's promotion was unlawfully denied. The minor punishment imposed on the petitioner lawfully deferred his promotion without violating the principles of seniority-cum-merit, equality, or fairness.

22. Consequently, the writ petition is dismissed being devoid of merit.

23. Pending applications, if any, stand disposed of.

**(SANDEEP MOUDGIL)**  
**JUDGE**

**16.03.2026**

*Meenu*

*Whether speaking/reasoned* : *Yes/No*

*Whether reportable* : *Yes/No*