



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

261-3 cases

1. CWP-17713-2021 (O&M)

Raj Kumar and another **Petitioners**

Versus

State of Haryana and others **Respondent**

2. CWP-15706-2021 (O&M)

Hasim Khan and others **Petitioners**

Versus

**Dakshin Haryana Bijli Vitran
Nigam and others** **Respondents**

and

3. CWP-20218-2021 (O&M)

Ranbir and another **Petitioners**

Versus

**Dakshin Haryana Bijli Vitran
Nigam and others** **Respondents**

DATE OF DECISION : 17th February, 2026

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

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Present : Mr.Vijay Kumar Jindal, Senior Advocate assisted by



Mr.Sandeep Lather, Advocate and
Mr.Abhishek Shukla, Advocate for
the petitioners in CWP-17713-2021.
Mr.Nafees Ahmad Khan, Advocate for
the petitioners in CWP-15706-2021 and CWP-20218-2021.

Mr.Nitin Kaushal, Addl.AG, Haryana.

Mr.Hitesh Pandit, Advocate for respondent – DHBVN.

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ASHWANI KUMAR MISHRA, J. (Oral)

1. This judgment shall dispose of three writ petitions i.e. CWP-15706-2021, CWP-17713-2021 and CWP-20218-2021, as they raise common questions of law. However, for reference, the facts are being taken from CWP-17713-2021.
2. This writ petition seeks to assail the notifications issued by respondent – Dakshin Haryana Bijli Vitran Nigam Limited on 18.09.2002 (Annexure P-3) and 17.11.2003 (Annexure P-4), laying down the method of preparing the seniority list of technical subordinate staff for the purposes of promotion to the rank of Junior Engineer/Field. Primarily, the ground of challenge to the notifications is the judgment of the Hon'ble Supreme Court in **Civil Appeal No.7076-2010** titled '**Parveen Gera vs. Haryana State Electricity Board and others**' **decided on 13.09.2017**, as well as certain recommendations made by the Department. The petitioners also relied upon a judgment of a Division Bench of this court in **LPA No.1515 of 2015** titled '**Sukhdev Singh and others vs. Haryana Power Generation Corporation Limited and others**', **decided on 09.08.2018**.



3. The writ petitioners before us were initially appointed as Assistant Linemen. Their services were governed by the provisions of an office order dated 07.10.1978 issued by the, erstwhile, Haryana State Electricity Board. A subsequent notification came to be issued on 10.10.1988 prescribing the method for promotion from the post of Assistant Lineman to the higher post i.e. Junior Engineer. Subsequent revisions in the policy came to be made in the year 1993 and 1995. Dakshin Haryana Bijli Vitran Nigam (DHBVN) then issued a notification on 18.01.2002, whereby, the existing recruitment and promotion policy came to be modified. Clause 1.5.4 of this notification is the subject matter of challenge in the writ petition, which reads as under:-

“20% quota will be filled up by promotion on seniority-cum-merit basis from amongst all technical cadres subordinate staff, such as AFM/SSA/LM/ASSA/ALM/SA/ Lab. Attendant/ Meter Mechanic/ Lab. Assistant/ Helper Gr.I, Helper Gr.II/ RWM/ T.Mate/ Draftsman/ Instrument Mech. etc. possessing the qualification of BE/AMIE in Electrical/ Mechanical/ Electronics Engineering or 3 Years Diploma in Electrical/ Mechanical/ Electronics Engineering provided they have 3 years service experience on 31st March, 2002 on the above post in the Nigam for promotion to the post of JE/Field. The ranking list in respect of employees possessing BE/ AMIE/ 3 Years Diploma qualification as stated above with 3 years experience shall be prepared on 1st August of each year (as existed on 31/7) and shall be valid for one year. The inter-se seniority of the selected persons in the ranking list shall be determined according to scale of pay last drawn with the employee drawing higher scale of pay being ranked senior.



If scale of pay drawn by two or more such employees is same, the inter-se seniority shall be determined according to length of service from the date of regular initial appointment and if such service is also of similar length then the older employee shall rank senior to the younger employee.”

The subsequent notification of 17.11.2003 reads as under:-

<i>Sub-Regulation No.</i>	<i>Provision now provided in the Policy</i>
<i>1.5.3</i>	<i>35% posts instead of 40% will be filled up by promotion from amongst the AFMs/ S.S.As/ Lab. Asstts. On seniority-cum-merit basis.</i>
<i>1.5.4</i>	<i>25% posts instead of 20% posts will be filled up by promotion on seniority-cum-merit basis from amongst all Technical cadre subordinate ataff such as ; AFMs/ SSAs/ LMs/ ASSAs/ ALMs/ Sas/ Lab. Attendants/ Meter Mechanics./ Lab Asstts./ ALMs/ Sas/ Lab. Attendants/ Meter Mechanics/ Lab. Asstts./ Helper Grade-I/ Helper Grade-II/ RWMs./ T. Mates./ Draftsmans/ Instrument Mech. etc. possessing the qualification of BE/AMIE in Electrical/ Mechanical/ Electronics Engineering or 3 years Diploma in Electrical/ Mechanical/ Electronics Engineering provided they have 3 years experience on the above posts in the Nigam for promotion to the post of Junior Engineer.</i>



This issue in pursuance of the decision taken by the Board of Directors, DHBVNL in its meeting held on 30.10.2003 (Agenda Item No.15).”

4. The two petitioners before us were appointed as Assistant Lineman in the year 2010. They had acquired the qualification of Diploma on 30.04.2007 and 27.02.2007. They were promoted to the post of Lineman on 27.07.2017 and 19.02.2018. In para 5 of the writ petition, the petitioners contend that the employees of the Nigam are regulated by the Punjab State Electricity Board Service of Engineers (Electrical) Recruitment Regulations 1965 (herein for short ‘1965 Regulations’). The posts of Assistant Lineman and Lineman fall in the cadre of ‘Engineering Subordinates’, from which promotion is to be offered to the post of Junior Engineer. The quota for promotion stands specified. The petitioners contend that based upon their higher qualification of Diploma, they were included in the ranking list prepared for promotion to the post of Junior Engineer in the year 2014. However, due to non-availability of the requisite posts of Junior Engineer, the petitioners could not be promoted to the post of Junior Engineer.

5. The respondents, however, have been preparing the ranking list each year, wherein, those who had acquired the higher qualification later have been shown above the petitioners on the basis of a higher pay-scale due to their longer length of service in the cadre of ‘Technical Subordinates’. According to the petitioners, the ranking list prepared on the basis of higher qualification ought to be allowed to continue until such persons are considered for promotion, and the persons with



subsequent acquisition of higher qualification in the cadre of 'Technical Subordinates' should be placed only after the existing list is exhausted. In this context, two judgments have been relied upon by learned Senior Counsel for the petitioners.

6. The petition is opposed by the respondents, who contend that there is no stipulation in the Rules which contemplates that the seniority maintained in the ranking list has to be continued till all candidates are considered for promotion. It is also submitted that the Rules rather indicate that duration of such ranking list is restricted to one year and, therefore, employees have to be considered on the basis of seniority-cum-merit. The respondents have relied upon a judgment of this Court in **Anil Kumar Gupta and another vs. The State of Haryana and others, 2025 NCPHC 112007**. They have also placed reliance on another judgment of this Court in **Ram Kumar Sharma vs. State of Haryana, 1996(4) SCT 715**.

7. As per the respective submissions advanced at the Bar, the issue which would crop up for our consideration is that whether the Rules notified on 18.09.2002 and 17.11.2003 contemplate that the duration of the ranking list is to continue till such list is exhausted or whether it is restricted to one year. It also has to be examined as to whether the notifications contemplating the duration of ranking list to be one year, and not containing any clause for candidate acquiring higher qualification later to be placed below such persons, are patently arbitrary so as to require interference by this Court.



8. So far as the two judgments relied upon by the petitioners are concerned, we need to examine them in the context of applicable service rules which fell for consideration before the Supreme Court. In **Parveen Gera’s case** (supra), the issue related to promotion to the post of Assistant Engineer (Civil), wherein, a separate quota for promotion was made for those who had obtained higher qualification of AMIE/BE examination. Regulation 9 of the 1965 Regulations, which fell for determination before the Court, reads as under:-

"Regulation 9:-

(1) Recruitment to the post of Assistant Engineer (Civil) shall be;-

(a)	<i>By direct recruitment</i>	65%	
(b)	<i>By promotion in the manner as under:-</i>	35%	
i)	<i>From amongst Engineering subordinates as defined in Regulation 2(g) with 5 years service as JE/Civil</i>	22½ %	<i>Share quota of 35 % of posts of AEs shall be calculated on the sanctioned strength of posts of Assistant Engineers</i>
ii)	<i>From amongst Engineering subordinates as defined in Reg 2 (g) possessing AMIE/BE qualification with 5 years service as such</i>	12½ %	

Provided that if qualified persons from Para (ii) above are not available, the vacancies may be filled up by promotion of equivalent number from the category (i) and vice versa.

CLARIFICATION



The eligibility for consideration for promotion from AMIE/BE against 12½ % quota shall be determined from the date of qualifying such examination, provided that:-

(i) the ranking list of Engineering subordinates for their promotion as AE after having qualified the AMIE/BE Examination and completion of 5 years service in the cadre, may normally be prepared on first day of January of each year and duly notified to all concerned.

(ii) the name(s) of eligible candidate(s) in the Ranking list, will be arranged in order of their date of passing AMIE/BE Examination. The name(s) of the JEs, who qualify the AMIE/BE Examination, during the subsequent years, will be added in the Ranking list below the name(s) of the candidates, who have passed the said Exam in the earlier years."

9. Similarly, in the Division Bench judgment of this Court in **Sukhdev Singh's case** (supra), Regulation 9 of the 1965 Regulations fell for determination. Rule 9 and 19(1)(b) would be relevant and are reproduced hereinbelow:-

Regulation 9 :

“(a) By direct recruitment 65%

(b) By promotion for General Cadre in the manner 33% as under:-

i) From amongst Engineering subordinates as defined for General Cadre under Regulation-2(9)

(i) with 5 years service as Junior Engineer-I 22 ½%

ii) From amongst Engineering subordinates of General Cadre possessing AMIE/BE qualification and having 5 years service as such 12 ½%



(c) By promotion for Generation Cadre in the manner as under:-

(i) From amongst Engineering subordinates of Generation Cadre as defined in Regulation 2(g)(ii) with 5 years service as JE-I/ Boiler Controllers *22 ½%*

(ii) From amongst Engineering Subordinates of Generation Cadre possessing AMIE/ BE qualification and having 5 years service as such. *12 ½%*

Provided further that share quota posts of AEs shall be calculated on the vacancies which have arisen either by new creation, retirement, promotion etc.

Provided further, if qualified candidates from (b) (ii) and (c) (ii) above, are not available, either vacancies may be filled up by promotion of excess number from the category (b) (i) and (c) (i) respectively on the availability of qualified persons and vice versa.”

Regulation 19(1)(b) :

“(i) The Ranking List of Engineering Subordinates for their promotion as A.E. after having qualified the AMIE/BE examination and completion of 5 years service in the cadre, may normally be prepared on first day of January of each year and duly notified to all concerned.

(ii) The names of eligible candidates in the Ranking List, will be arranged in order of their date of passing AMIE/BE examination. The name(s) of the JEs who qualify the AMIE/BE Examination, during the subsequent years, will be added in the Ranking List below the name(s) of the candidates, who have passed the said exam. In the earlier years.

2. This issues with the approval of the Board in its meeting held on 19.12.88 and continued upto 20.12.88.



This notification was superseded by another notification dated 20.10.1993 (Annexure P6) and for the said promotion following guidelines were provided:-

- i) The determination of the eligibility for promotion will be the acquisition of qualification of AMIE BE and completion of 5 years service in the cadre of Engineering Subordinates. The eligibility shall thus be determined on satisfying both the conditions i.e. passing of AMIE/BE examination of the official will be entered in the ranking and experience. The name(s) of list from the date they complete both the conditions. If a candidate is recruited as Engineering Subordinates having qualification of AMIE/BE, his eligibility for promotion will also be considered after he attained experience of 5 years on the post.*
- ii) The ranking list of Engineering Subordinates for their promotion as AE, shall normally be prepared on 1st day of January of each year and duly notified to all concerned. The name(s) of the eligible candidate(s) in the ranking list will be entered strictly from the date of official fulfills both the conditions i.e. passing of AMIE/ BE examination and completion of 5 years service of Engineering Subordinates. If two or more officials fulfills both the conditions on the same date, the names in the ranking list will be entered in accordance with their original seniority in the Engineering Subordinates.”*

10. The Rules which have been relied upon by the learned Senior Counsel for the petitioners, in categorical terms, indicate that the ranking list for promotion is to be arranged in order of their passing AMIE/BE examination. It further provides that names of Junior Engineers, who qualify these examinations in subsequent years, would be



listed below the earlier candidates, who have already qualified the said examination. This specific stipulation under the Rules is categorically provided. It is in the context of such provision that the Hon'ble Supreme Court in **Parveen Gera's case** (supra) and a Division Bench of this Court in **Sukhdev Singh's case** (supra) held that seniority in the ranking list would be adhered to on the date of acquisition of higher qualification and any candidate who acquired such qualification subsequently, would be thus, placed below the candidate who acquired acquisition previously.

11. In contradiction to the Rules aforesaid, we find that the impugned notifications issued herein do not contemplate any such stipulation. The Rules merely state that the promotion is to be offered on the strength of seniority-cum-merit. It also contemplates preparation of a ranking list of employees possessing BE/ AMIE/ 3 years Diploma with 3 years experience as on 1st August of each year (as existing on 31st July). The Rule also provides that such list shall be valid for one year. It further provides that the inter-se seniority of the selected persons in the ranking list shall be determined according to scale of pay last drawn, with the employee drawing higher scale of pay being ranked senior. If two employees are placed in the same scale of pay, then their inter-se seniority is to be determined according to the length of service of regular initial appointment and if such service is also of similar length then the person older in age would be treated senior.

12. Learned Senior counsel for the petitioners submits that the notifications are patently unjust and arbitrary as the same do not provide for exhaustion of the ranking list before any further candidate with higher



qualification, obtained later, is included in the ranking list. It is contended that such provision, as would be seen from the Regulations considered in the case of **Parveen Gera's case** (supra) and **Sukhdev Singh's case** (supra), ipso facto would render the notifications bad in law.

13. In order to accept the petitioners' contention, this Court will have to hold that on the strength of mere inclusion of petitioners' names in the ranking list, they acquired an indefeasible right to be promoted.

14. The law is well-settled that there is no fundamental right to promotion in favour of an employee. The only right which an employee acquires is of consideration for promotion in accordance with the Rules. It is equally settled that mere eligibility does not, by itself, vest a right to promotion. The consideration for promotion would be depending upon the applicable Rules as well as the availability of posts, etc.

15. This court in **Anil Kumar Gupta's case** (supra) has examined the nature of right, which arises in favour of an employee for his consideration for promotion. The judgments applicable on the point have been elaborately dealt with in para 16 to 30 of the judgment, which is extracted hereinunder:-

“16. The petitioners have assailed Rules 9 and 12 of the 1966 Rules on the ground that they do not specifically provide for promotion of a Junior Engineer (Civil) to the post of Sub-Divisional Engineer (Civil) after attaining the higher qualification of AMIE, etc. as is provided for in Rule 7(3)(ii) of the 1966 Rules. The underline premise on which such submission is made is that the eligibility for promotion having been acquired by the incumbent, he becomes entitled



to be promoted. This premise, however, has no sanctity in law. It is by now well settled that mere eligibility does not confer any right of promotion for the incumbent. We may refer to the judgment of the Supreme Court in I. Chuba Jamir and others vs The State of Nagaland and others 2009 (15) SCC 169, wherein it has been held as under: -

“19. We may also add here that the validity and legality of the Government Order and the Notification effecting the encadrement of the post held by respondent no.3 in the PWD and Housing Department with the E and S Service does not seem to have been squarely challenged before the High Court. One can understand that the Court, on scrutiny, might find that the encadrement was wrong and illegal. In that case the Court would undoubtedly strike down the encadrement resulting in the posting of respondent No.3 as Assistant Director in the E & S Service notwithstanding the fact that the decision was taken at the highest level in the government and the notification was issued with the approval of the highest government functionary. But the learned Single Judge accepted the validity of the encadrement and yet proceeded to direct the deemed promotion of the appellants-writ petitioners as Assistant Directors from a date prior to the appointment of respondent no.3 as Assistant Director. The only ground for passing such extra ordinary order was that when vacancies arose in the post of Assistant Director the appellants-writ petitioners were eligible for promotion. It is elementary and well settled that mere eligibility does not confer any right for promotion. The direction of the learned Single Judge, viewed from any angle was unsustainable. The Division Bench was



perfectly right in setting aside the order of the learned Single Judge.”

17. *So far as right of an employee for promotion is concerned, the position in law is by now well settled as per which the limited right with the employee is to be considered for promotion, and that there is no vested right as such for promotion. Reference in this regard can be made to the judgment of the Supreme Court in P. Sakthi vs The Government of Tamil Nadu and others, 2025 INSC 620.*

18. *In Nirmal Chandra Sinha vs Union of India and others 2008 (14) SCC 29, the Supreme Court has clearly held that a promotion takes effect from the date it is granted and not from the date when the vacancy occurs on the promoted post, or the promoted post is created. The observations contained in para are reproduced as under: -*

“7. It has been held in a series of decisions of this Court that a promotion takes effect from the date of being granted and not from the date of occurrence of vacancy or creation of the post vide Union of India and others vs. K.K. Vadera and others 1989 Supp (2) SCC 625, State of Uttaranchal and another vs. Dinesh Kumar Sharma 2007 (1) SCC 683, K. V. Subba Rao vs. Government of Andhra Pradesh, 1988(2) SCC 201, Sanjay K. Sinha & others vs. State of Bihar and others 2004 (10) SCC 734 etc.”

19. *In Union of India and another vs Manpreet Singh Poonam etc. 2022 (6) SCC 105, the Supreme Court has held that a vacancy alone does not give an employee the right to a retrospective promotion, particularly when the rules for promotion include a prescribed selection process. Promotions and related benefits are governed by the specific rules for such posts and not by rules for a different post.*



20. *In the light of the principles settled by the Supreme Court in the aforesaid decisions, we have no hesitation in rejecting the petitioners' challenge to the vires of the Rules 9 and 12 of the 1966 Rules on the ground that they do not provide for promotion on mere attaining of higher qualification as is provided in Rule 7(3)(ii) of the 1966 Rules. The challenge to the vires of the Rules is, therefore, rejected.*

21. *Coming to the issue of promotion, Mr. Sanjiv Gupta learned counsel for the petitioner, has placed reliance upon the judgment of Supreme Court in Shailendra Dania and others vs S. P. Dubey and others ; 2007 (5) SCC 535 to buttress petitioner's claim for promotion. In this case promotion to the post of Assistant Engineer was from separate channels of Junior Engineers possessing diploma and degree. 50% posts were to be filled up by direct recruitment, while 50% were to be filled by way of promotion. 50% promotion quota was equally divided between Junior Engineers possessing degree on completion of 3 years of service after obtaining Engineering Degree and 8 years' service for the diploma holders. The Supreme Court after analyzing the service rules held that service experience required for promotion from the post of Junior Engineer to the post of Assistant Engineer by a degree holder in the limited quota of degree holder Junior Engineers cannot be equated with the service rendered as a diploma holder nor can be substituted for service rendered as a degree holder. When the claim is made for a fixed quota, the condition necessary for becoming eligible for promotion has to be complied with. The two channels of promotion were held to be watertight compartments and a respective claim for promotion had to be made with reference to its specific quota. Neither a diploma holder Junior Engineer could*



claim promotion in the quota of degree holder, nor can a degree holder Junior Engineer make any claim for promotion for the quota fixed for diploma holder. This principle laid down by the Supreme Court does not advance the cause of the present petitioners. There is no separate quota earmarked for promotion for degree holders vis-à-vis diploma holders. The criteria for promotion herein is seniority-cum-merit. Thus, the promotion can be offered to those who are senior and possess the eligibility and promotional post is available for them. It has not been shown by the petitioners that any ineligible person junior to them is promoted.

22. Reliance is also placed by the petitioners upon judgment of Supreme Court in Parveen Gera's case (supra), wherein while interpreting a similar provision in the recruitment rules, the Court held that the eligibility criteria for promotion has to be reckoned only from the date when AMIE qualification is obtained. It is only the experience, obtained after passing the higher qualification, which can be taken into consideration. This principle of law has to be applied in the particular service rules applicable to the petitioners. The submission advanced on behalf of the petitioners, to provide for separate maintenance of seniority or for grant of promotion, on acquiring the requisite experience with higher qualification, as a matter of right, finds no support from the judgment of the Supreme Court in this case.

23. In N. Suresh Nathan's case (supra), the question raised was different. The Court held that seniority between the degree holders and diploma holders for promotion to the post of Assistant Engineer was not relevant since it was a selection post. The Recruitment Rules did not provide that seniority-cum-merit would be the criteria for promotion.



24. *Reliance is also placed upon judgment of the Supreme Court in Union of India and others vs N.R. Banerjee and others 1997 (9) SCC 287. This decision arose out of a direction issued by the Tribunal to constitute a Departmental Promotion Committee and to take confidential reports of the eligible candidates for a particular year. This direction was issued as the employees were to retire in the year 1994. Therefore, the confidential report of 1993 was to be looked into and not the confidential reports of 1994. This judgment has no applicability to the facts of the present case.*

25. *The judgment of the Supreme Court in Union of India and others vs Vipincandra Hiralal Shah 1996 (6) SCC 721, related to a distinct exigency i.e., clubbing of vacancies of a number of years while preparing the select list for promotion to the Indian Administrative Service from the State Civil Service. The Court endorsed the directions of the Tribunal to prepare a separate select list for each year based on vacancies arose in that particular year. This was a case on the facts of its own and its principles are not shown to have any applicability in this case.*

26. *The Division Bench judgment of this Court in Sukhdev Singh and others vs Haryana Power Generation Corporation Limited and others 2018 (4) SCT 716, also is a judgment on the facts of its own. This Court was interpreting Regulation 9 of the Regulations 92/12 which provided for separate channel of recruitment to the post of Assistant Engineer. It was held that 12½% quota for accelerated promotion based upon higher qualification has to be filled on the basis of seniority of a candidate possessing requisite experience for the post with higher qualification.*

27. *The Division Bench judgment of this Court also in CWP No. 10931 of 1990 Gian Singh vs The State of Haryana*



and another decided on 18.01.2011, do not advance the cause of the petitioners urged in the present petitions, either.

28. The petitioners have also placed reliance upon a judgment of learned Single Judge in Ram Kumar Sharma vs State of Haryana, 1996 (4) SCT 715 wherein the petitioner has joined as Junior Engineer (Mechanical) in Haryana PWD on 27.09.1973. He passed AMIE examination in the year 1982. Consequently, he became eligible to be considered for promotion on 01.01.1983, as against respondent no.3 and 4, although they had joined as Junior Engineers on 17.10.1968 and 03.10.1961 but had obtained qualification only in the year 1983 and consequently became eligible to be considered for promotion on 01.01.1994.

29. The petitioners have also relied upon judgment of the Supreme Court in Union of India and others vs N. C. Murali and others 2017 (13) SCC 575, wherein it has been held that unless there is specific rule entitling the applicants to receive promotion from the date of occurrence of vacancy, the right of promotion does not crystallize on the date of occurrence of vacancy and the promotion is to be extended on the date when it is actually effected.

30. In the light of the discussions aforesaid, we have no hesitation coming to the conclusion that the petitioners' claim for promotion in the manner claimed in the writ petition cannot succeed. Claim for promotion will, thus, have to be reckoned based upon seniority on the post of Junior Engineer as well as on attaining the qualification for promotion i.e. Degree or Diploma, with requisite experience of working, subject to suitability. On this touch stone, no illegality or perversity is shown to have been committed by the respondents in denying the petitioners claim for promotion. It has not been shown on facts that any person junior to the petitioners or ineligible otherwise has stolen a



march over the petitioners. In light of the above, the writ petitions are dismissed and are consigned to records.”

16. So far as the petitioners’ challenge to the legality of the notification is concerned, we do not find any illegality in the notification itself when it contemplates preparation of the ranking list on a yearly basis. This is so because consideration for promotion is based on seniority-cum-merit. Once we hold that an employee has no right to promotion and that the limited right is only to be considered in accordance with the Rules, we would not be justified in interfering with the notification on the ground that no provision, similar to the one that existed in the case of **Parveen Gera’s case** (supra) has been incorporated. In what manner right of promotion is to be given to a candidate is a matter of policy and has to be left to the discretion of the employer. Such discretion can be interfered with only if the policy is unfair and arbitrary. It cannot be said that non-inclusion of a provision for placing a candidate who obtains higher qualification later to be placed lower in seniority would defeat the object of granting promotion based on higher qualification. This is so as the policy contemplates consideration for promotion based on seniority-cum-merit. The zone of consideration for promotion has been restricted to one year. Since the promotion herein is an out-of-turn promotion, therefore, the policy of the respondent – Nigam in including all eligible persons in that zone of promotion for posts which arise in the year cannot be termed as faulty. The petitioners, merely on the strength of their higher qualifications, cannot object to



inclusion of the names of others who have been working in the feeding cadre for a longer time and, as a result thereof the policy contains a reasonable provision weighing the seniority as well as the higher qualification, both are respected for the purposes of promotion.

17. In such circumstances, we do not find any merit in the petitions. Consequently, the same are dismissed.

(ASHWANI KUMAR MISHRA)
JUDGE

February 17, 2026

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(ROHIT KAPOOR)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>