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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26551-2025
DECIDED ON:21.01.2026

HARVINDER KAUR AND OTHERS

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S. Banyana, Advocate
for the petitioners

SANDEEP MOUDGIL, J (ORAL)

Prayer

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the impugned order dated 28.10.2024 (Annexure P-7) vide which the claim of the petitioners for payment of arrears has been rejected and a further prayer for directing the respondents to release the arrears of salary of the promotional post w.e.f. 20.01.2017 along with an interest of 18% pa.

Brief Facts

2. The petitioners were initially appointed as Gram Sevikas in the Women and Child Development Department, Haryana, through proper channel. Pursuant to Government policy, they were adjusted/absorbed as Clerks vide order dated 18.09.2003, and posting orders were issued between the years 2003 to 2006.

3. A tentative seniority list dated 28.02.2012 was issued, wherein the names of some absorbed Gram Sevikas were omitted and objections were raised by the petitioners. Thereafter, a final seniority list dated 20.01.2017 was issued, but the petitioners were placed below persons recruited in 2011, despite their earlier adjustment.

4. Aggrieved, the petitioners filed CWP No. 3190 of 2017 tilted as “Sumitra Devi & others v. State of Haryana” wherein this Court, vide order dated 10.03.2017 (Annexure P-4), sought an explanation for placing the petitioners below junior recruits.

5. During pendency of the writ petition, the petitioners were promoted vide order dated 26.05.2023 to the post of Assistant-cum-Cashier-cum-Junior Auditor, with notional effect from 20.01.2017, but without grant of actual monetary benefits. Accordingly, the writ was disposed of on 14.09.2023 (Annexure P-5), granting liberty to the petitioners to submit a representation, with a direction to the respondents to pass a speaking order within eight weeks.

6. The petitioners submitted a representation dated 03.11.2023 (Annexure P-6) seeking grant of actual monetary benefits in view of the notional promotion already granted to the petitioners but the same was rejected by the respondents vide impugned order dated 28.10.2024 (Annexure P-7).

7. Hence, the present petition

Contentions

On behalf of the petitioners

8. Learned counsel for the petitioners submits that the petitioners were not included in the seniority list and thereby denied promotion in January 2017 despite being senior to those promoted, due to no fault of their own.

9. It is argued that once the petitioners' seniority was corrected and promotion was granted retrospectively w.e.f. 20.01.2017 vide order dated 26.05.2023, denial of the actual monetary benefits that would have accrued to the petitioner, is arbitrary and illegal on the part of the respondent department since the delay in promotion occurred solely due to administrative lapse of the Department.

10. It is further argued that the impugned order dated 28.10.2024 (Annexure P-7) is non-speaking and has been passed in violation of the directions issued by this Court on 14.09.2023 (Annexure P-5).

11. Lastly, learned counsel has urged that juniors having enjoyed higher pay from January 2017, denial of similar benefits to the petitioners amounts to hostile discrimination with the petitioners.

On behalf of respondents

12. Learned State counsel submits that the petitioners were promoted as Assistants vide order dated 26.05.2023, with notional effect from 20.01.2017, and their seniority has already been protected. However, it is contended that since the petitioners never actually worked on the post of Assistant prior to 26.05.2023, therefore, they are not entitled to any arrears of salary for the earlier period. The respondents have placed reliance upon the settled principle of "no work no pay" to justify denial of monetary benefits.

13. It is further submitted that the representation of the petitioners was duly considered in compliance with the Court's order dated 14.09.2023 (Annexure P-5), and a reasoned decision was taken based on service rules and office record.

Analysis

Issues for Consideration

14. From the pleadings and submissions, the core issue that arises for consideration of this court is that:

Whether the petitioners, who were granted retrospective promotion on notional basis due to wrongful denial of promotion earlier, are entitled to actual monetary benefits from the date their juniors were promoted?

15. The record clearly establishes that the petitioners were eligible and entitled for promotion on the relevant date, but were excluded due to erroneous fixation of seniority by the Department. It is not in dispute that the seniority dispute raised by the petitioners was ultimately resolved in their favour and the respondents themselves corrected the seniority position by placing the petitioners above their juniors. The promotion order dated 26.05.2023 granting promotion to the petitioners with notional effect from 20.01.2017 is a tacit acknowledgment by the Department that the petitioners ought to have been promoted on the date their juniors were promoted.

16. Therefore, the delay in promotion cannot be attributed to any lapse, disqualification, or inaction on the part of the petitioners. Rather, the denial of promotion stemmed entirely from administrative error and illegal placement of juniors above the petitioners in the seniority list, which was corrected only after repeated judicial interventions.

17. The respondents have sought to justify denial of arrears by invoking the principle of “no work no pay” and the judgment of the Supreme Court in ***State of Haryana v. O.P. Gupta, (1996) 7 SCC 533***. However, this court is of the opinion that the reliance is misplaced. The said judgment applies to cases where retrospective promotion is granted for administrative convenience, and not where

promotion is delayed due to illegal action of the employer. In the present case, the petitioners were kept out of promotion unjustly, while their juniors enjoyed higher pay and status for more than six years. Applying “no work no pay” in such circumstances would tantamount to perpetuating the illegality.

Principle of No Work No Pay

18. Moreover, this court is sanguine to the fact that the principle of “no work no pay” is not an absolute rule. The Supreme Court in ***Union of India v. K.V. Jankiraman, (1991) 4 SCC 109***, authoritatively held that the normal rule of "no work no pay" is not applicable to cases where the employee although he is willing to work is kept away from work by the authorities for no fault of his. The Court specifically observed that the employee cannot be placed in a worse position merely because the administration committed an error.

19. Similarly, in ***State of Kerala v. E.K. Bhaskaran Pillai, (2007) 6 SCC 524***, the Supreme Court held that denial of monetary benefits would be unjust where promotion is delayed due to reasons beyond the control of the employee. The Court emphasized that retrospective promotion without financial benefits in such cases would amount to empty formality, while observing that:

Sometimes in the matter when the person is superseded and he has challenged the same before Court or Tribunal and he succeeds in that and direction is given for reconsideration of his case from the date persons junior to him were appointed, in that case the Court may grant sometime full benefits with retrospective effect and sometimes it may not. Particularly when the administration has wrongly denied his due then in that case he should be given full benefits including monetary benefit subject to there being any change in law or some other supervening factors. However, it is very difficult to set down any hard and fast rule. The principle 'no work no pay' cannot be accepted as a rule of thumb. There are exceptions where courts have granted

monetary benefits also. However, so far as present case is concerned, as per directions given by the Court, petitioner's case was considered and it was found that persons junior to him were appointed and he was wrongly denied.

20. In “**Ramesh Kumar v. Union of India, (2015) 14 SCC 335**”, the Apex court reiterated that the doctrine of “no work no pay” has no application where the employee was willing and eligible to discharge higher duties but was prevented from doing so due to illegal action of the employer. The Court held that readiness to work coupled with wrongful exclusion is sufficient to attract entitlement to monetary benefits. Relevant extract of the same is as under:

“13. We are conscious that even in the absence of statutory provision, normal rule is "no work no pay". In appropriate cases, a court of law may take into account all the facts in their entirety and pass an appropriate order in consonance with law. The principle of "no work no pay" would not be attracted where the respondents were in fault in not considering the case of the appellant for promotion and not allowing the appellant to work on a post of Naib Subedar carrying higher pay scale.”

21. Also the Supreme Court in “**North Delhi Municipal Corporation v. Ram Naresh Sharma 2021 (3) SCT 538**” wherein it was observed that,

*“But, there is sufficient evidence on record to suggest that the respondent-doctor through several representations sought to be re-appointed but it was the employer who created impediments and did not allow the respondent to re-join his duties in hospitals. In such circumstances, the principle of 'No Work, No Pay' cannot be raised by the employers, as it is they who had obstructed the doctor from discharging his service. For support we may cite **Dayanand Chakrawarthy v. State of Uttar Pradesh, (2013) 7 SCC 595** where this Court speaking through Justice S. J. Mukhpadhyaya rightly held that:*

"48. ... If an employee is prevented by the employer from performing his duties, the employee cannot be blamed for having not worked, and the principle of "no pay no work" shall not be applicable to such employee."

22. It is also significant that the juniors of the petitioners not only enjoyed higher status but also drew higher pay from January 2017 onwards. Permitting such disparity to continue even after correction of seniority and promotion would offend the principles of equality enshrined in the Constitution of India.

23. The impugned order dated 28.10.2024 (Annexure P-7) fails to consider the above legal position. It merely invokes the phrase “no work no pay” without addressing the factual context of wrongful denial of promotion, promotion of juniors, or binding judicial precedents. Such an order does not satisfy the requirement of a reasoned and speaking order as mandated by law.

24. Thus, the denial of benefit to the petitioners lies ill in the mouth of the respondent-department, for it is an all too familiar argument with the exploiting class and a welfare State committed to a socialistic pattern of society cannot be permitted to advance such argument.

25. The court is of the opinion that since the petitioners were deprived of promotion due to an illegal act of the respondent department and was later promoted retrospectively after correction of the illegality, denial of actual monetary benefits would amount to perpetuating the original wrong. Equity, fairness, and settled service jurisprudence demand that the petitioner be placed, as far as possible, in the same position in which he would have been but for the illegal action of the department.

26. It is a sad paradox that a civil servant, who should be a partner in the State’s mission of service, was forced into a multiple rounds of litigation not by choice, but by a department’s unbending sternness. Having survived the first ordeal to secure his rightful promotion, he was met with a second, colder wall by

denial of monetary benefits through a mechanical application of the 'No Work, No Pay' doctrine. When the State, a model employer obstructs the very work the employee is eager to perform, it cannot later plead the employee's 'absence' as a shield against paying his due wages. To do so is to allow the employer to 'take advantage of its own wrong' and to make an employee walk through the fire of two rounds of litigation just to reach his rightful position is a travesty that our constitutional conscience cannot condone.

Conclusion

27. In view of the above discussion, this Court holds that the petitioners were wrongly denied promotion due to the fault of the respondent-department, and thus, the principle of “no work no pay” is not applicable to the facts of the present case. The petitioners are entitled to actual monetary benefits from the date their juniors were promoted, i.e. 20.01.2017. The impugned order dated 28.10.2024 (Annexure P-7) is illegal, arbitrary, and is hereby set aside.

28. The respondents are directed to release arrears of salary and all consequential benefits to the petitioners on the post of Assistant from 20.01.2017 to 26.05.2023 along with an interest @ 6% per annum on the arrears from 20.01.2017. This entire exercise be completed within a period of three months from the date of receipt of a certified copy of this order.

29. Accordingly, the writ petition is allowed. Pending applications, if any, stand disposed of.

21.01.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

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

