

CWP-28255 of 2025

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

CWP-28255 of 2025

Date of decision: 06.02.2026

Jasbir Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Rahul Dev Singh, Advocate,
for Mr. Rohiteshwar Singh, Advocate,
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. Instant writ petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking a writ of *mandamus* for directing the respondents to grant notional promotion to the petitioner to the post of Station Supervisor Grade-I from due date i.e. 19.03.2024 in view of the judgment dated 07.08.2025, passed in CWP-22784 of 2025 – Jaswinder Singh v. State of Punjab and others and further refix the pay and pension of the petitioner and pay the difference of pay along with arrears and interest @ 15% per annum from the due date till its realization.

2. The undisputed facts of the case are that the petitioner initially joined the respondent-department as Ticket Verifier on daily wage basis on 01.04.1987 and his services were terminated on 28.02.1989. The said termination was challenged by him before the

Labour Court, Gurdaspur, and he was ordered to be reinstated with



continuity of service with 50% backwages vide order dated 09.06.1999. The said award was challenged by the department by filing a writ petition bearing CWP No.9346 of 2001 before this Court and the same was dismissed vide order dated 05.07.2001. The Special Leave Petition preferred against the said judgment was also dismissed by the Hon'ble Supreme Court on 22.07.2002. Consequently, the petitioner was reinstated in service vide order dated 08.06.2001. Thereafter, the services of the petitioner were regularized vide order dated 30.06.2003, however, petitioner claimed regularization w.e.f. 01.08.1995 by filing CWP No.20724 of 2014, which was allowed vide judgment dated 11.12.2018 (Annexure P-1). In compliance thereof, the services of the petitioner were regularized w.e.f. 01.08.1995, vide order dated 05.08.2019 (Annexure P-2). Subsequently, on 12.03.2024 (Annexure P-3), petitioner submitted a representation seeking promotion to the post of Station Supervisor Grade-I w.e.f. 04.02.2024, the date on which the post fell vacant. The service particulars of the petitioner were forwarded by the General Manager, Punjab Roadways, Pathankot, to the Director, State Transport, Punjab, Chandigarh, vide letter dated 19.03.2024 (Annexure P-5). Thereafter, the petitioner retired from service on attaining the age of superannuation vide order dated 25.06.2024 w.e.f. 30.06.2024.

3. Learned counsel for the petitioner contends that a vacancy in the cadre of Station Supervisor Grade-I became available on 04.02.2024 and since the petitioner was fully eligible on the said date, he was entitled to be promoted. Despite his eligibility, the petitioner

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has not been given promotion and has been illegally deprived of the same, therefore, directions may be issued to the respondents to consider and promote the petitioner to the post of Station Supervisor Grade-I on a notional basis, with all consequential benefits.

4. *Per contra*, learned State counsel, who appears on receipt of advance copy of the paperbook, contends that promotion to the post of Station Supervisor Grade-I is not a matter of right and is subject to consideration by the competent authority in accordance with the applicable rules. Since the petitioner retired from service before any decision could be taken, no vested or enforceable right to promotion accrued in his favour. Therefore, non-grant of promotion does not suffer from any illegality or arbitrariness and no direction as prayed for is warranted.

5. I have heard learned counsel for the parties and perused the record.

6. It is not in dispute that no person junior to the petitioner was ever promoted till he was in service i.e. upto 30.06.2024. As per reply dated 19.12.2025 filed by the respondents-State, the promotion order, whereby promotion to the post of Station Supervisor Grade-I was effected, was issued on 15.04.2025 i.e. after about one year from the date of retirement of the petitioner.

7. This Court in ***Faqir Chand Chawla Vs. State of Punjab : 2013(4) S.C.T. 659***, while considering the similar issue, has held that mere recommendation for promotion does not confer any right. In the said case, the recommendations for promotion was made by the D.P.C.



prior to the date of retirement of the petitioner therein and the actual promotion order was issued after his retirement. However, he was not given promotion and it was held that the date of promotion would be the date on which the order of promotion is passed by the Competent Authority and thereafter, the petitioner is not entitled for notional promotion as Sub-Divisional Engineer from the date of recommendations of the D.P.C. as the Competent Authority approved the recommendations after his retirement.

8. To the same effect is the judgment of this Court in ***CWP-26491 of 2013 - Raj Kumar Sharma and others Vs. State of Punjab and others, decided on 03.07.2023 : Law Finder Doc Id #2427561***. In the said case similar issue was raised by the petitioners therein for issuance of directions to the respondents to grant notional promotion w.e.f. the date when the D.P.C. recommended their names and it was held that report of the D.P.C. is recommendatory and the final decision is required to be taken by the Competent Authority and the promotions cannot be ordered from the date vacancy arises.

9. The Hon'ble Supreme Court in its recent judgment dated 27.11.2024 passed in ***Government of West Bengal and others Vs. Dr. Amal Satpathi and others : 2024 INSC 906*** has held that the promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of vacancy or the date of recommendation. In the said case, the respondent namely Dr. Amal Satpathi became eligible for promotion to the post of Chief Scientific Officer. The department initiated the promotion process and

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the Public Service Commission in its meeting dated 29.12.2016 recommended his name for promotion. However, the department received the final approval for promotion on 04.01.2017 but by that time he had already superannuated on 30.12.2016. He submitted representation to the department claiming promotion and promotional benefits. Since the said benefits were not granted by the department, he filed Original Application before the Tribunal and the Tribunal had held that the promotion cannot be granted retrospectively after the retirement of the Government employee, however the Tribunal acknowledged that respondent No.1 had been duly recommended for promotion before his superannuation, which was only delayed due to procedural obstructions beyond his control, therefore, while actual promotion was not acceded to, however, he was entitled for grant of notional financial benefits of the promotional post w.e.f. 31.12.2016 to ensure pensionary benefits commensurate with the promotional post. The said order of Tribunal was challenged before the Calcutta High Court and the said writ petition was dismissed by concurring with the Tribunal. The said judgment of the High Court was challenged before the Hon'ble Supreme Court and the same was reversed and it was held as under :-

“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

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*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:*

*41. This Court, time and again, has laid emphasis on right to be considered for promotion to be a fundamental right, as was held by K. Ramaswamy, J., in **Director, Lift Irrigation Corpn. Ltd. v. Pravat Kiran Mohanty** in para 4 of the report which is reproduced below:*

'4.....There is no fundamental right to promotion, but an employee has only right to be considered for promotion, when it arises, in accordance with relevant rules. From this perspective in our view the conclusion of the High Court that the gradation list prepared by the corporation is in violation of the right of respondent-writ petitioner to

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equality enshrined under Article 14 read with Article 16 of the Constitution, and the respondent-writ petitioner was unjustly denied of the same is obviously unjustified.'

42. A Constitution Bench in **Ajit Singh v. State of Punjab**, laying emphasis on Article 14 and Article 16(1) of the Constitution of India held that if a person who satisfies the eligibility and the criteria for promotion but still is not considered for promotion, then there will be clear violation of his/her's fundamental right. Jagannadha Rao, J. speaking for himself and Anand, C.J., Venkataswami, Pattanaik, Kurdukar, JJ., observed the same as follows in paras 22 and 27:

'Articles 14 and 16(1) : is right to be considered for promotion a fundamental right

22. Article 14 and Article 16(1) are closely connected. They deal with individual rights of the person. Article 14 demands that the 'State shall not deny to any person equality before the law or the equal protection of the laws'. Article 16(1) issues a positive command that:

'there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State'.

It has been held repeatedly by this Court that clause (1) of Article 16 is a facet of Article 14

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and that it takes its roots from Article 14. The said clause particularises the generality in Article 14 and identifies, in a constitutional sense "equality of opportunity" in matters of employment and appointment to any office under the State. The word "employment" being wider, there is no dispute that it takes within its fold, the aspect of promotions to posts above the stage of initial level of recruitment. Article 16 (1) provides to every employee otherwise eligible for promotion or who comes within the zone of consideration, a fundamental right to be "considered" for promotion. Equal opportunity here means the right to be "considered" for promotion. If a person satisfies the eligibility and zone criteria but is not considered for promotion, then there will be a clear infraction of his fundamental right to be "considered" for promotion, which is his personal right. "Promotion" based on equal opportunity and seniority attached to such promotion are facets of fundamental right under Article 16(1).

*27. In our opinion, the above view expressed in **Ashok Kumar Gupta [Ashok Kumar Gupta v. State of U.P. (1997) 5 SCC 201,** and followed in **Jagdish Lal [Jagdish Lal v. State of Haryana (1997) 6 SCC 538,** and other cases, if it is intended to lay down that the right guaranteed to employees for being "considered" for promotion according to relevant rules of recruitment by promotion*

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*(i.e. whether on the basis of seniority or merit) is only a statutory right and not a fundamental right, we cannot accept the proposition. We have already stated earlier that the right to equal opportunity in the matter of promotion in the sense of a right to be "considered" for promotion is indeed a fundamental right guaranteed under Article 16(1) and this has never been doubted in any other case before **Ashok Kumar Gupta [Ashok Kumar Gupta v. State of U.P.]**, right from 1950.'*

*"20. In **State of Bihar v. Akhouri Sachindra Nath 1991 Supp (1) SCC 334**, it was held that retrospective seniority cannot be given to an employee from a date when he was not even borne in the cadre, nor can seniority be given with retrospective effect as that might adversely affect others. The same view was reiterated in **Keshav Chandra Joshi v. Union of India 1992 Supp (1) SCC 272**, where it was held that when a quota is provided for, then the seniority of the employee would be reckoned from the date when the vacancy arises in the quota and not from any anterior date of promotion or subsequent date of confirmation. The said view was restated in **Uttaranchal Forest Rangers' Assn. (Direct Recruit) v. State of U.P. (2006) 10 SCC 346**, in the following words:*

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'37. We are also of the view that no retrospective promotion or seniority can be granted from a date when an employee has not even been borne in the cadre so as to adversely affect the direct recruits appointed validly in the meantime, as decided by this Court in **Keshav Chandra Joshi v. Union of India** held that when promotion is outside the quota, seniority would be reckoned from the date of the vacancy within the quota rendering the previous service fortuitous. The previous promotion would be regular only from the date of the vacancy within the quota and seniority shall be counted from that date and not from the date of his earlier promotion or subsequent confirmation. In order to do justice to the promotes, it would not be proper to do injustice to the direct recruits.....

38. This Court has consistently held that no retrospective promotion can be granted nor can any seniority be given on retrospective basis from a date when an employee has not even been borne in the cadre particularly when this would adversely affect the direct recruits who have been appointed validity in the meantime."

(emphasis supplied)

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20. In the instant case, it is evident that while respondent No.1 was recommended for promotion before his retirement, he could not assume the duties of the Chief Scientific Officer. Rule 54(1)(a) of the West Bengal Service Rules, clearly stipulates that an employee must assume the responsibilities of a higher post to draw the corresponding pay, thus, preventing posthumous or retrospective promotions in the absence of an enabling provision.

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 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.

22. As a result of the above discussion, the judgment dated 1st February, 2023 passed by the High Court of Calcutta and the judgment dated 26th June, 2019 passed by the Tribunal are unsustainable in the eyes of law and are hereby reversed and set aside.”

10. In the present case, the petitioner acquired eligibility for promotion on completion of four years of service as Inspector on 04.02.2024 and within four months he retired from service on 30.06.2024. Admittedly, no person junior to the petitioner was promoted while he was in service. The alleged junior was promoted only on 15.04.2025 i.e. after ten months from the date of his retirement.



11. The judgment in *Jaswinder Singh’s* case (supra), relied upon by learned counsel for the petitioner is not applicable to the facts and circumstances of the present case.

12. Finding no merit in the present petition, same is hereby dismissed.

06.02.2026
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No