



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

**CWP-4381-2000 (O&M)  
Date of Decision: 27.05.2025**

**NASIB SINGH**

**... PETITIONER**

**VS.**

**PEPSU ROADWAYS TRANSPORT CORPORATION AND ANR  
.. RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rai Singh Chauhan, Advocate, with  
Mr. Balram Singh, Advocate,  
for the petitioner.

Mr. Anil Sharma, Advocate,  
for respondent No1.

Mr. Abhishek Masih, Advocate for  
Mr. B.S.Patwalia, Advocate,  
for respondent No.2.

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**HARSIMRAN SINGH SETHI, J.(ORAL)**

1. In the present petition, the grievance being raised by the petitioner is that the petitioner was promoted as Assistant on 07.12.1979. The private respondent was promoted as Assistant with effect from 08.12.1980 and has been further promoted as a Superintendent vide order dated 15.02.1999 (Annexure P-5), whereas the said benefit of promotion as Superintendent has not extended to the petitioner.

2. Learned counsel for the petitioner argues that once the petitioner also belong to the reserve category falling under scheduled caste and respondent No.2 was also promoted in the said category as Superintendent, the said benefit of promotion could not have been extended to respondent No.2 without considering the claim of the petitioner being senior to him. Counsel for the petitioner further submits that the

representation of Shri Nasib Singh, was under consideration even at the time of extending benefit of promotion, which related to the antedated promotion as Assistant i.e., promotion even prior to December, 1979 which had no bearing at all on the promotion dated 15.02.1999 by which respondent No.2 was promoted as Superintendent and which representation is taken as a ground by respondent for not giving benefit of promotion to petitioner.

3. Learned counsel for the respondent(s) has not been able to rebut the fact that the benefit of promotion to post of Assistant was extended to respondent No.2 with effect from 08.02.1980 which is clear from order dated 20.06.1995 (Annexure R2/3). Once, the said date is to be taken into account, the petitioner was senior to respondent No.3 as an Assistant, which is the feder cadre for the promotion to the post of Superintendent.

4. Keeping in view the fact that nothing has come on record to show that the service record of the petitioner was adverse, non-consideration of his claim for promotion to the post of Superintendent is incorrect. Once, an employee junior to petitioner was being considered for promotion, the senior employee cannot be ignored for such benefit unless and until, there is a valid reason.

5. Learned counsel for the respondent(s) only argues that the petitioner was claiming antedated promotion in the feder cadre of Assistant which was under consideration and till the said claim was decided, the benefit of promotion could not have been given to the petitioner. Learned counsel submits that even in the impugned order dated 24.12.1999 (Annexure P-8), it has been mentioned that the petitioner could not have been promoted to the post of Assistant from December, 1979 as five

years of experience in service was a required condition and, therefore, once the promotion of the petitioner to the post of Assistant was in dispute with effect from December, 1979. The promotion of the private respondent No.3 to the post of Superintendent in preference to the petitioner was correct.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Once, the petitioner's promotion as Assistant was with effect from 1979, any one getting the promotion to the post of Assistant after the said date is to be treated junior to the petitioner for all intents and purposes. The date of promotion of respondent No.2 is February, 1980 to the post of Senior Assistant. Hence, the respondent(s) could not have been granted promotion to the post of Superintendent to respondent No.2 in preference to the petitioner. In case, the petitioner was available to be promoted and eligible for the same, his case should have been considered which has not been done by the respondent(s) while promoting the respondent No.2 on 15.02.1999. Nothing has come on record to show that the petitioner was not eligible or his service record was such that he could not have been granted promotion. In the absence of any such record being brought to the notice of this Court, it has to be taken that the petitioner was eligible and fit for promotion to the post of Superintendent.

8. With regard to the arguments that the petitioner was not eligible for promotion, nothing has come on record to show that the said promotion order dated 07.12.1979 to the post of Assistant was withdrawn. Once, the promotion order remained valid until the date of retirement, it cannot be said that the same should be ignored on the ground that the same is contrary to the rules. Hence, the direction that the petitioner was ineligible to the

promotion is incorrect. Hence, the petitioner was entitled for promotion to the post of Superintendent when the claim of respondent No.2 was being considered in the year 1999.

9. Keeping in view the totality of the facts and circumstances, the petitioner is held entitled for the post of Superintendent with effect from 15.02.1999 with all consequential benefits.

10 If the petitioner has retired even his pensionary benefits should be revised and he should be given the arrears of the same. As, there was no fault of respondent No.2-employee for the benefit of promotion he received and the said employee has retired, the promotion granted to respondent No.2 will also not be disturbed.

11. Present petition is allowed in above terms.

12. Pending applications, if any, also stand disposed of.

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

**27.05.2025**  
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Whether speaking/reasoned : Yes/No  
Whether Reportable : Yes/No