

CM-11429-CWP-2023 in/and  
CWP-16539-2021 (O&M)

2025:PHHC:044452



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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(113+296)

CM-11429-CWP-2023 in/and  
CWP-16539-2021 (O&M)  
Date of Decision : 02.04.2025

**Bharat Bhushan**

**...Petitioner**

**Versus**

**State of Punjab and others**

**...Respondents**

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

Present: Mr. Jimmy Singla, Advocate for the petitioner.

Mr. Malkit Singh Dhillon, Deputy Advocate General, Punjab.

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***Harsimran Singh Sethi J. (Oral)***

1. In the present petition, the challenge is to the order dated 08.06.2021 (Annexure P-2) by which, the claim of the petitioner for the grant of benefit of notional promotion to the post of Chief Engineer has been declined.

2. Learned counsel for the petitioner submits that the claim of eligible employees were considered by the Departmental Promotion Committee (DPC) for promotion to the post of Chief Engineer in the Departmental Promotion Committee Meeting held on 18.02.2021 and recommendations were made for approval by the Competent Authority. Learned counsel for the petitioner submits that the petitioner was placed at Serial No. 1 in the said recommendations, which were sent to the Competent Authority for approval.



3. The Competent Authority after receiving the recommendations, found that the recommendations have been made by keeping in mind that Cadre consists of for 14 posts of the Chief Engineering in the Water Resources Department and as there was a restructuring going on, the sanctioned posts of the Chief Engineer were reduced from 14 to 10 posts.

4. Feeling aggrieved against the said decision that the recommendations of the DPC were not being taken to the logical end, the petitioner filed a writ petition being CWP No. 8707 of 2021 titled as ***Bharat Bhushan and others Vs. State of Punjab and others***, claiming promotion on the basis of the recommendations of the DPC dated 18.02.2021. In the meantime, the petitioner retired on attaining the age of superannuation on 31.03.2021.

5. Keeping in view the orders passed in CWP-8707-2021, the claim for promotion was considered by Competent Authority again and ultimately, the promotions were made on the basis of the recommendations of the DPC dated 18.02.2021, except the petitioner on the ground that he has already retired from service on 31.03.2021, which has led to the filing of the present petition.

6. Learned counsel for the petitioner argues that once, there was a valid recommendation of the DPC on 18.02.2021 and there was still more than one and half month before the petitioner was to attain the age of superannuation on 31.03.2021, the DPC recommendations should have been accepted by the Competent Authority without delay and, therefore, the petitioner is entitled for the grant of benefit of promotion to the post of



Chief Engineer on the basis of the DPC recommendations dated 18.02.2021 from a date before he superannuated.

7. Learned counsel for the petitioner submits that even if the petitioner has retired from service on attaining the age of superannuation on 31.03.2021 but once the recommendations dated 18.02.2021 of the DPC has been accepted and the promotions have also been effected, the petitioner should have also been granted the said benefit of promotion on the basis of the said recommendations prior to a date when petitioner superannuated.

8. Learned counsel for the respondents submits that keeping in view the reply filed, the DPC recommendations dated 18.02.2021 only stood finalized after the retirement of the petitioner. The recommendations dated 18.02.2021 were kept under consideration keeping in view the fact that there was a proposal of reducing the post of Chief Engineer from 14 to 10 and when the recommendations dated 18.02.2021 were approved by the Competent Authority, the promotions were effected but by that time, the petitioner had already retired hence, the claim of petitioner for promotion was not considered.

9. Learned counsel for the respondents further submits that the employees who are in service on the day when the DPC recommendations were approved by the Competent Authority are to be considered for promotion, but as the petitioner had already retired from service, the petitioner could not be promoted which act of the State is in consonance with the settled principle of law hence, the present petition is liable to be dismissed.



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

11. It is a settled principle of law that an employee cannot claim promotion as a matter of right. He/she only has a right for consideration for promotion. Further, the date of recommendations by the DPC is only a recommendations till the same are accepted by the Competent Authority. In the present case, though the recommendations were made by the DPC on 18.02.2021 recommending the name of the petitioner for promotion but it is a conceded position that till the petitioner retired from service, the said recommendations were never accepted by the Competent Authority.

12. Further, with regard to the argument of learned counsel for the petitioner that the DPC recommendations were not accepted by the Competent Authority till the petitioner was in service upto 31.03.2021 due to the mala fide intention so as to oust the petitioner for the grant of promotion to the post of Chief Engineer, it may be noticed that the Competent Authority after considering, kept the DPC recommendations for promotion to the post of Chief Engineer in abeyance as there was a proposal for reducing the number of posts of Chief Engineer from 14 to 10. The said consideration by the Competent Authority cannot be treated as arbitrary and illegal.

13. Further, learned counsel for the petitioner has argued that once the recommendations dated 18.02.2021 have been accepted by the Competent Authority, wherein the name of the petitioner was also recommended for the promotion, even if the said recommendations were accepted after his retirement, the petitioner has to be given promotion. It



may be noticed that once the recommendations of the DPC dated 18.02.2021 were accepted by the Competent Authority after the retirement of the petitioner, the retired employee cannot be granted promotion with retrospective effect.

14. Nothing has come on record that any of the employees who were recommended for promotion by the DPC in its meeting held on 18.02.2021 were promoted prior to 31.03.2021 i.e. the date of retirement of the petitioner. Once the promotions have been effected after 31.03.2021 and the petitioner had already retired by then, the petitioner cannot claim the benefit of promotion.

15. The similar question came up for consideration before the Hon'ble Supreme Court of India in ***Civil Appeal No. 13187 of 2024*** titled as ***Government of West Bengal and others Vs. Dr. Amal Satpathi and others***, decided on 27.11.2024 wherein the Hon'ble Supreme Court of India has held that there is no concept of retrospective promotion. In the said case also, the employee was claiming retrospective promotion from the date of recommendations of the DPC which were declined. The relevant paragraphs 20 and 21 of the said judgment are as under :-

*“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."*

16. Keeping in view the fact that on the date when the recommendations dated 18.02.2021 were accepted by the Competent Authority, the petitioner had already retired and there is no concept of the grant of retrospective promotion, non-grant of promotion to the petitioner though, causes hardship to him but the same cannot be treated as arbitrary or illegal or contrary to the settled principle of law.

17. No other argument is raised.

18. No ground is made out for any interference by this Court in the present petition.

19. Dismissed.

20. Pending miscellaneous application, if any, also stands disposed of.

**April 02, 2025**  
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**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

*Whether speaking/reasoned : Yes*

*Whether reportable : No*