



CWP-13865-2012 & connected cases 1

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

**(238) CWP-13865-2012
Date of Decision : March 11, 2025**

Sohan Lal .. Petitioner

Versus

**State of Punjab through the Principal Secretary to
Govt. Of Punjab .. Respondent**

(2) CWP-17671-2012

Tarsem Lal .. Petitioner

Versus

State of Punjab .. Respondent

(3) CWP-18463-2012

Gurvinder Singh Bedi .. Petitioner

Versus

State of Punjab .. Respondent

(4) CWP-22848-2013

Balbir Singh .. Petitioner

Versus

State of Punjab .. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amrik Singh, Advocate, for the petitioner(s).

Ms. Akshita Chauhan, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

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1. By this common order, four writ petitions, the details of which have been given in the heading, are being disposed of as all these petitions involve the same question of law on similar facts.

2. Learned counsel for the petitioners submits that the petitioners were entitled for promotion on the post of Executive Engineer but the benefit of promotion was not extended to them despite the fact that the said posts of Executive Engineer were vacant and the petitioners were eligible to be promoted on the said post.

3. Learned counsel for the petitioners further submits that the petitioners have retired from their service but they are still entitled for promotion to the post in question with retrospective effect and therefore, it is the prayer of the petitioner that the said benefit of promotion to the post in question be granted to them.

4. Learned counsel appearing on behalf of respondent-State submits that in the present case, the petitioners are claiming the benefit of promotion with retrospective effect after they had already retired from service.

5. Learned counsel for the respondent-State further submits that nothing has come on record to show that any employee junior to the petitioners has been promoted so as to give birth to the claim of the petitioners that there exists a right with them qua promotion with retrospective effect from the date the employee junior has been promoted hence, merely that the post in question was vacant and the petitioners were eligible to be placed on the said vacant post is no ground to claim promotion with retrospective effect.

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

7. It is settled principle of law that the promotion cannot be claimed as a matter of right but only the consideration qua the same can be claimed. In the present case, merely that the posts in question were lying vacant and the petitioners were eligible to be placed on the said vacant post is no ground to grant the promotion with retrospective effect especially when the petitioners have already retired from service.

8. Further, it is a conceded fact that no employee junior to the petitioners in the cadre from which the promotions were being sought, has been promoted. On the absence of any such junior being granted preferential treatment over and above the petitioners, the claim of the petitioners that they are entitled for retrospective promotion, cannot be accepted.

9. Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal Nos. 517-518 of 2017 titled as Union of India and antoher versus Manpreet Singh Poonam etc, decided on 08.03.2022***, it has been held that there is no concept of retrospective promotion. The relevant paragraph of the said judgment is as under:-

“18. A mere existence of vacancy per se will not create a right in favour of an employee for retrospective promotion when the vacancies in the promotional post is specifically prescribed under the rules, which also mandate the clearance through a selection process. It is also to be borne in mind that when we deal with a case of promotion, there can never be a parity between two separate sets of rules. In other words, a



right to promotion and subsequent benefits and seniority would arise only with respect to the rules governing the said promotion, and not a different set of rules which might apply to a promoted post facilitating further promotion which is governed by a different set of rules. In the present case, the authority acting within the rules has rightly granted promotion after clearance of DPC on 17.04.2012 with effect from 01.07.2011, when the actual vacancies arose, which in any case is a benefit granted to the Respondent in Civil Appeal No.518 of 2017. In our view, this exercise of power by the authority of granting retrospective promotion with effect from the date on which actual vacancies arose is based on objective considerations and a valid classification.

19. This Court in the case of Union of India v. KK Vadhera and Ors., 1989 Supp (2) SCC 625 has clearly laid down that the promotion to a post should only be granted from the date of promotion and not from the date on which vacancy has arisen, and has observed that:

“5....We do not know of any law or any rule under which a promotion is to be effective from the date of creation of the promotional post After a post falls vacant for any reason whatsoever, a promotion to that post should be from the date the promotion is granted and not from the date on which such post falls vacant. In the same way when additional posts are created, promotions to those posts can be granted only after the Assessment Board has met and made its recommendations for promotions being granted. If on the contrary, promotions are directed to become effective from the date of the creation of additional posts, then it would have the effect of giving promotions even before the Assessment Board has met and assessed the suitability of the candidates for promotion. In the circumstances, it is difficult to sustain the judgment of the Tribunal.”

10. In the aforementioned case also, the retrospective promotion

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was being sought for by the employees on the ground that the posts were vacant, which assertion was rejected by the Hon'ble Supreme Court of India.

11. In the present petitions also, the petitioners are claiming the benefit of retrospective promotion which is not admissible to them keeping in view facts and circumstances of present case along with the judgment cited hereinbefore.

12. No ground is made out for any interference by this Court in the facts and circumstances of the present cases.

13. Accordingly, the writ petitions are dismissed.

14. A photocopy of this order be placed on the files of other connected cases.

March 11, 2025

harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No