

2025.PHHC:132083



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

103 (2 Cases)

DECIDED ON:15.09.2025

CWP-14257-2020 (O&M)

RAVINDER AND ORS.

...PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CWP-4397-2023 (O&M)

MUKESH KUMAR AND ORS.

...PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Sangwan, Advocate with  
Mr. Ritesh Malik, Advocate for the petitioners.  
Mr. Sushil Bhardwaj, Addl. AG, Haryana

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**SANDEEP MOUDGIL, J**

Vide this common order this Court shall dispose of above said two writ petitions as common question of facts and law is involved therein.

For the sake of convenience, the facts are being taken from CWP-4397-2023.

***1. Prayer***

The present writ petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioners seeking issuance of

direction to the respondents to change the nomenclature of their posts from *Storekeeper* to *Clerk*, and thereafter promote them to the post of *Assistant*, in accordance with certain Government letters, notifications, and purported past practice.

**2. Brief Facts**

The petitioners were appointed as Storekeepers in the Health Department, Government of Haryana, between the years 1993 and 2009 through the Haryana Staff Selection Commission. They have been discharging their duties since their respective dates of appointment.

The grievance of the petitioners is that despite the issuance of Government instructions dated 07.11.2013 and a subsequent notification dated 08.11.2013, advising uniform nomenclature across departments by merging posts like Storekeeper with that of Clerk, the respondent department has neither amended its service rules nor changed the nomenclature of the petitioners' posts accordingly. The petitioners claim that such inaction has denied them promotional opportunities to the post of Assistant, whereas Clerks, who are allegedly junior to the petitioners, have already been promoted. They further challenge the issuance of office orders dated 24.02.2023 and 27.02.2023, by which promotions were granted to other employees while the petitioners were left out. It is also claimed that certain similarly situated employees in other departments and medical colleges under the State Government have been extended the benefit of nomenclature change and subsequent promotion to the post of Assistant.

Aggrieved by same, the petitioners have approached this Court seeking appropriate directions for change in nomenclature and consequential promotions.

3. **Contentions**

**On behalf of Petitioner**

Counsel for the petitioners submits that despite having been appointed through the Haryana Staff Selection Commission and having served for several years, the petitioners have not been granted the benefit of promotion solely due to the respondent department's failure to implement the Government's instructions dated 07.11.2013 and the subsequent notification dated 08.11.2013. It is argued that these instructions specifically required the unification of various clerical designations, including Storekeeper, under the common nomenclature of "Clerk." Relying on the Chief Secretary's letter dated 12.06.2020, it is submitted that the intention of the Government was clear and binding upon all departments, including the Health Department.

It is further contended that similarly situated employees in other government institutions have already been extended the benefit of nomenclature change and have subsequently been promoted to the post of Assistant. Counsel argues that the inaction of the respondents has led to a situation where juniors in the clerical cadre have been promoted while the petitioners continue to stagnate. Reliance have been placed on RTI replies (Annexure P-13) and departmental communications (Annexures P-5 and P-6) wherein it is allegedly admitted that the cadres of Storekeeper and Clerk are functionally similar and the petitioners are entitled to promotion.

Learned counsel further challenges the impugned office orders dated 24.02.2023 (Annexures P-15), through which Storekeepers have been promoted to the newly created post of Senior Storekeeper, contending that this amounts to an unlawful and artificial bifurcation of service conditions. It is argued that the creation of a new promotional channel, instead of merging the

petitioners into the existing clerical hierarchy, is contrary to the government's own instructions and an attempt to deny the petitioners their rightful career progression.

**On behalf of Respondents**

On behalf of the respondents, learned State counsel submits that the instructions relied upon by the petitioners are general in nature and cannot override the statutory service rules applicable to the Health Department. It is submitted that the service rules have not been amended to reflect any merger between the cadres of Storekeeper and Clerk, and as such, the petitioners continue to be governed by Service Rule, 1997 as they are working in the field cadre. The change in nomenclature contemplated in the 2013 instructions is applicable to staff posted Headquarters were not self-executing and required formal incorporation, which has not taken place in this department.

It is further argued that promotion can only be claimed in accordance with the applicable recruitment and promotion rules, and no employee has a vested right to promotion in the absence of eligibility under the existing rules i.e. Service Rules, 1997. The department has created a promotional channel from Storekeeper to Senior Storekeeper in order to address stagnation within that cadre, being an act within the administrative discretion of the employer.

**4. Analysis**

Having heard counsel for both parties at length and perusing the material placed on record, this court is of the considered opinion that the central issue before this Court is whether the petitioners can claim a change in the nomenclature of their posts from "Storekeeper" to "Clerk" and seek consequential promotional benefits to the post of "Assistant," solely on the

strength of executive instructions and government circulars, in the absence of any corresponding amendment to the statutory service rules governing their cadre.

The law on this point is well-settled as in service jurisprudence, there is a clear and consistent line of authority from the Supreme Court that executive or administrative instructions cannot override or replace statutory rules framed under Article 309 of the Constitution or under the enabling service laws. In “*Jaiveer Singh v. State of Uttarakhand 2023 INSC 1024*”, the Supreme Court held that executive instructions can supplement existing rules where there is a gap, but they cannot supplant the rules altogether. Relevant paragraph of the same is as follows:

*“34. It can thus be seen that it is a trite law that the Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point, it can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed. It is a settled proposition of law that an authority cannot issue orders/office memorandum/executive instructions in contravention of the statutory rules. However, instructions can be issued only to supplement the statutory rules but not to supplant it.”*

This principle was reiterated by the Apex court in “*P.U. Joshi v. Accountant General, Ahmedabad, (2003) 2 SCC 632*”, where the Court emphasized that the framing of recruitment and promotion policies falls squarely within the domain of the employer and the rule-making authority. The Court further held that judicial interference in such matters is warranted only when the rules or the classification are shown to be arbitrary, discriminatory, or violative of constitutional guarantees. Relevant paragraph of the same has been reproduced below:

*“Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by additions/substruction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”*

In the case at hand, it is undisputed that the Service Rules, 1997 applicable to the Health Department of the State of Haryana continue to maintain a distinction between the post of Storekeeper and that of Clerk. The administrative instructions dated 07.11.2013 while reflective of a broader policy objective to unify designations, have not been incorporated into the applicable service rules. As such, the existing cadre structure remains unchanged in law. It is trite that unless the service rules are formally amended, no legal right can accrue to the petitioners based on executive directions alone.

Furthermore, the petitioners have also relied upon practices

followed in other departments and institutions, including certain medical colleges, where storekeepers were treated at par with clerks and given promotional benefits accordingly. However, such reliance is legally untenable. The service conditions and promotional avenues can vary across departments, and the plea of parity is not maintainable unless the same set of rules governs both entities. Merely because a different department may have adopted a uniform nomenclature pursuant to the government instructions of 2013, it does not mandate that such a change across all departments, particularly when the statutory rules in a given department remain unamended.

As regards the doctrine of legitimate expectation, it is equally well-settled that such expectation must be based on a clear, consistent, and legitimate promise or representation from the authority concerned. In “***Punjab Communications Ltd. v. Union of India, (1999) 4 SCC 727***”, the apex court stated that the principle of legitimate expectation permits the court to find out the change in the policy, which is the reason for defeating the legitimate expectation, is irrational or in other words which no reasonable person have made. Later, in the recent case of “***Jitendra Kumar and Others v State of Haryana and Others 2008(2) SCC 161***”, the Supreme court observed:

*“Application of doctrine of legitimate expectation or promissory estoppel must also be considered from the aforementioned viewpoint. A legitimate expectation is not the same thing as an anticipation. It is distinct and different from a desire and hope. It is based on a right. It is grounded in the rule of law as requiring regularity, predictability and certainty with the Government's dealings with the public. We have no doubt that the doctrine of legitimate expectation operates both in procedural and substantive matters.”*

In simple words, it is based on a right and is grounded in the rule of law requiring regularity, predictability and certainty in government dealings with the public and the doctrine of legitimate expectation cannot be used as a

tool to seek relief contrary to express statutory provisions.

Furthermore, on the constitutional plane the petitioners have invoked Articles 14 and 16 of Constitution of India, alleging discrimination and arbitrariness. However, no such violation is made out as the creation of a separate promotional channel from Storekeeper to Senior Storekeeper, as undertaken by the respondents, is a policy decision taken within the framework of their administrative discretion. In the absence of demonstrable malice, arbitrariness, or hostile discrimination within the same cadre, this Court cannot sit in judgment over such policy choices. The principle of equal protection as envisaged in the constitution does not imply uniformity in all administrative actions but requires fair and non-discriminatory treatment within similarly situated categories.

In view of the legal position discussed above, this Court is of the considered view that the reliefs sought by the petitioners cannot be granted as the petitioners continue to be governed by Service Rules, 1997 which treat their cadre as distinct from that of Clerks and this Court cannot direct a change in nomenclature or grant promotions by judicial fiat.

5. **Conclusion**

Accordingly, the present writ petition is dismissed as being devoid of merit.

A photocopy of this order be placed on the file of connected case.

15.09.2025  
anuradha

(SANDEEP MOUDGIL)  
JUDGE

*Whether speaking/reasoned*  
*Whether reportable*

*:Yes/No*  
*:Yes/No*