



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

**CWP-1117-1999 (O&M)
Date of Decision: 22.04.2025**

JAWAHAR SINGH

....Petitioner

vs.

HARYANA AGRO INDUSTRIES CORP. LTD AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Johan Kumar, Advocate
for the petitioner

Mr. P.K.Dwivedi, Advocate
for the respondents

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting of order dated 10.11.1998 whereby his claim for promotion to the post of Mechanic has been rejected.

2. This is second round of litigation. For the same relief, on the earlier occasion, the petitioner preferred CWP-3298 of 1996 which was disposed of vide order dated 29.04.1998. The relevant extracts of order dated 29.04.1998 are reproduced as below:-

“We have heard the learned counsel representing the parties and have perused the accompanying documents.



One fact which clearly emerges from the pleadings of the parties is that the petitioner was certainly deprived to appear in interview in 1992. It has not been controverted that the petitioner had gone on sanctioned leave to his house on account of demise of his brother and that he was not present in the office when intimation was sent to him so as to appear in the interview. Despite the fact that the department had the knowledge that the petitioner was not in the office, letter of interview was sent to him at the office address. This certainly deprived the petitioner to appear for interview. Immediately when the petitioner came back from his sanctioned leave, he issued a telegram and followed it up by number of reminders but no action was taken in the matter. Ultimately in 1995 respondent No. 3 was promoted to the post of Mechanic. This court is of the considered view that the petitioner has been deprived of his right of consideration for the post of Mechanic on account of fault which can only be attributed to respondents No. 1 and 2. Respondent No. 3 was, however, promoted way back in 1995 and it is too iniquitous at this stage to straightaway set aside the order promoting him, to the post of Mechanic. The only relief that can possibly be granted to the petitioner is that he shall now be interviewed and his performance in the interview vis-a-vis service record of respondent No. 3 would be compared. The department would then find out as to who is more suited to the post under contention i.e. petitioner or respondent No. 3. In case the department finds petitioner to be better than respondent No. 3, he i.e. petitioner shall be promoted to the post of Mechanic w.e.f. the date respondent No. 3 has been promoted. We have intentionally not issued any direction so as to consider petitioner vis-a-vis the first three who were selected for the post of Mechanic in the year 1993 as



against them the claim of the petitioner is certainly belated and in any case they have not been even arrayed as party-respondents in the present petition. If the petitioner is to be promoted, the department would endeavour its very best so as not to revert respondent No. 3 as three years have rolled by when he was promoted to the post of Mechanic. In that event the department may create an additional post. In case the petitioner is promoted to the post of Mechanic, in the peculiar facts and circumstances of this case, he shall not be entitled to any back wages on the promoted post and shall be entitled to his seniority reckoned from when respondent No. 3 was promoted to the post of Mechanic. Disposed of accordingly.”

3. The respondent pursuant to aforesaid order passed impugned order dated 10.11.1998. The respondent considered claim of petitioner vis-a-vis Madan Lal. The respondent found that 66% ACRs of the petitioner are ‘Good’ and remaining are ‘Average’ or ‘Below Average’. His integrity was reported ‘Doubtful’ in ACR for the year 1994-95. Considering these facts, the respondent rejected claim of the petitioner.

4. Mr. Johan Kumar, Advocate submits that petitioner joined respondent as Helper and post of Mechanic was promotional post. As per Rule 28 of Haryana Agro Industries Corporation Standing Orders, promotion to the workers shall be granted having regard to qualification, seniority, ability, efficiency and general suitability. The petitioner was Matric as well as ITI whereas Madan Lal was under Matric. Post of Mechanic was a technical post, thus, he was holding better qualification still was ignored. This Court by order dated 29.04.1998 specifically directed the respondent to consider claim of the petitioner vis-a-vis Madan Lal. The respondent



considered nine ACRs of petitioner whereas in the case of Madan Lal five ACRs were considered.

5. Per contra, Mr. P.K.Dwivedi, Advocate submits that this Court had directed the respondent to consider claim of petitioner vis-a-vis Madan Lal. The petitioner was interviewed and his service record was considered. It was found that his 66% ACRs are 'Good' and the remaining are 'Average' or 'below Average' whereas Madan Lal was having 80% 'Good' ACRs.

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

7. The petitioner is primarily claiming post of Mechanic on the ground that he was having better qualification than Madan Lal. As per petitioner, prime criteria is qualification and other factors are supplementary. Claim of petitioner is founded on reading of Rule 28 of Haryana Agro Industries Corporation Standing Orders and the said Rule is reproduced as below:-

CONDITIONS FOR PROMOTION OF WORKERS

Promotion to the workers shall be granted with due regard to qualification, seniority, ability, efficiency and general suitability.

8. From the perusal of above quoted Rule, it is evident that qualification is one of the criteria and petitioner is claiming that qualification is sole or prime criteria. Seniority, ability, efficiency and general suitability are equally important factors. The petitioner was having better qualification than Madan Lal, thus, as per qualification he was eligible for promotion prior to Madan Lal, however, respondent considered his ACRs and found



that his 33% ACRs are 'Average' or 'Below Average'. As per State Government instructions, 70% ACRs should be 'Good' or 'Very Good' for claiming promotion. The petitioner had right to be considered for promotion. By order dated 29.04.1996, this Court directed the respondent to consider him for promotion.

9. Promotion is part of service conditions. Every employee has right to be considered for promotion as it is part of Article 16 of the Constitution of India, however, he cannot claim promotion as a matter of right. The respondent as per direction of this Court has duly considered claim of the petitioner and found him unfit in comparison to Madan Lal. This Court does not find any factual or legal infirmity warranting interference with the impugned order.

10. Dismissed.

11. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

22.04.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	