

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2946-2019
DECIDED ON: 20.02.2026

CHANDER BHAN

....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ANR

....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vivek Singla, Advocate
for the petitioner(s).

Dr. Malvika Singh, DAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

Prayer

1. The jurisdiction of this court under Articles 226/227 of the Constitution of India has been invoked by way of present civil writ petition with a prayer to quash the impugned clause of order dated 04.09.2020 (Annexure P-7) and the order dated 12.11.2020 (Annexure P-8) whereby the arrears of pay and the pay fixation of notional promotion was denied to the petitioner, with a further prayer to direct the respondents to grant consequential monetary benefits of the deemed promotion granted to the petitioner for the post of sub-inspector as well as Inspector, Food and Supplies w.e.f 20.04.2012. and 17.06.2016 respectively.

Brief Facts

2. The petitioner initially joined the department on daily wage basis on 24.04.1987 as P.R. Chowkidar at Narwana, District Jind. His services were regularized w.e.f. 01.04.1993. Thereafter, he was promoted as Clerk w.e.f. 04.04.2011 (Annexure P-1) and further as Sub-Inspector w.e.f. 27.06.2014 (Annexure P-2).

3. The grievance of the petitioner is that certain officials, namely Satbir Singh and Jai Bhagwan, who were junior to him in service, were promoted to the posts of Sub-Inspector and Inspector prior to him. One Satbir Singh was promoted as Sub-Inspector w.e.f. 20.04.2012 and further as Inspector w.e.f. 16.07.2016.

4. The petitioner submitted representation dated 22.11.2017 (Annexure P-4) claiming promotion from the date his juniors were promoted along with consequential benefits. During the pendency of the writ proceedings, the respondents examined his claim and granted him deemed dates of promotion as Clerk w.e.f. 09.09.2008, as Sub-Inspector w.e.f. 20.04.2012, and as Inspector w.e.f. 17.06.2016 vide orders dated 04.09.2020 and 12.11.2020.

5. However, while granting such retrospective/deemed promotions, the respondents incorporated clauses denying arrears of pay for the retrospective period on the ground that the petitioner had not worked on the said posts. These clauses are under challenge in the present petition.

Contentions***On behalf of petitioner***

6. Learned counsel for the petitioner contends that once the respondents themselves have accepted that the petitioner was entitled to promotion from the

date his juniors were promoted, denial of consequential monetary benefits is arbitrary and discriminatory.

7. It is argued that the petitioner was always eligible and willing to discharge duties on the higher posts, but was prevented from doing so due to administrative error in considering his claim. Therefore, the principle of “no work no pay” cannot be invoked against him.

8. It is further submitted that juniors to the petitioner enjoyed higher pay and status for years together and denial of parity in monetary benefits violates Articles 14 and 16 of the Constitution of India.

On behalf of the respondents

9. Learned State counsel submits that although the petitioner has been granted deemed promotions, he is not entitled to arrears for the retrospective period as he had not actually worked on the promotional posts. Reliance is placed upon the principle of “no work no pay.”

10. It is further submitted that the deemed promotions were granted only to rectify seniority and promotional position and do not automatically entitle the petitioner to arrears of pay.

Analysis

11. The core issue that arises for consideration is:

Whether an employee who has been granted retrospective/deemed promotion on account of wrongful denial of promotion earlier is entitled to actual monetary benefits from the date his junior was promoted?

12. It is not disputed that the respondents, upon examination of the petitioner’s representation, found him entitled to promotion from the dates his junior Satbir Singh was promoted. The grant of deemed dates of promotion is

itself an acknowledgment that the petitioner was wrongly denied promotion earlier.

13. The delay in promotion is not attributable to any fault, misconduct, or disqualification on the part of the petitioner. Rather, it resulted from administrative oversight or erroneous consideration by the department. The petitioner cannot be made to suffer for a lapse attributable to the employer.

Principle of No Work No Pay

14. Moreover, this court is sanguine to the fact that the principle of “no work no pay” is not an absolute rule. The Supreme Court in ***Union of India v. K.V. Jankiraman, (1991) 4 SCC 109***, authoritatively held that the normal rule of “no work no pay” is not applicable to cases where the employee although he is willing to work is kept away from work by the authorities for no fault of his. The Court specifically observed that the employee cannot be placed in a worse position merely because the administration committed an error.

15. Similarly, in ***State of Kerala v. E.K. Bhaskaran Pillai, (2007) 6 SCC 524***, the Supreme Court held that denial of monetary benefits would be unjust where promotion is delayed due to reasons beyond the control of the employee. The Court emphasized that retrospective promotion without financial benefits in such cases would amount to empty formality, while observing that:

Sometimes in the matter when the person is superseded and he has challenged the same before Court or Tribunal and he succeeds in that and direction is given for reconsideration of his case from the date persons junior to him were appointed, in that case the Court may grant sometime full benefits with retrospective effect and sometimes it may not. Particularly when the administration has wrongly denied his due then in that case he should be given full benefits including monetary benefit subject to there being any change in law or some

other supervening factors. However, it is very difficult to set down any hard and fast rule. The principle 'no work no pay' cannot be accepted as a rule of thumb. There are exceptions where courts have granted monetary benefits also. However, so far as present case is concerned, as per directions given by the Court, petitioner's case was considered and it was found that persons junior to him were appointed and he was wrongly denied.

16.. In “**Ramesh Kumar v. Union of India, (2015) 14 SCC 335**”, the Apex court reiterated that the doctrine of “no work no pay” has no application where the employee was willing and eligible to discharge higher duties but was prevented from doing so due to illegal action of the employer. The Court held that readiness to work coupled with wrongful exclusion is sufficient to attract entitlement to monetary benefits. Relevant extract of the same is as under:

“13. We are conscious that even in the absence of statutory provision, normal rule is "no work no pay". In appropriate cases, a court of law may take into account all the facts in their entirety and pass an appropriate order in consonance with law. The principle of "no work no pay" would not be attracted where the respondents were in fault in not considering the case of the appellant for promotion and not allowing the appellant to work on a post of Naib Subedar carrying higher pay scale.”

17. Also the Supreme Court in “**North Delhi Municipal Corporation v. Ram Naresh Sharma 2021 (3) SCT 538**” wherein it was observed that,

*“But, there is sufficient evidence on record to suggest that the respondent-doctor through several representations sought to be re-appointed but it was the employer who created impediments and did not allow the respondent to re-join his duties in hospitals. In such circumstances, the principle of 'No Work, No Pay' cannot be raised by the employers, as it is they who had obstructed the doctor from discharging his service. For support we may cite **Dayanand Chakrawarthy v. State of Uttar Pradesh, (2013) 7 SCC 595** where*

this Court speaking through Justice S. J. Mukhpadyaya rightly held that:

"48. ... If an employee is prevented by the employer from performing his duties, the employee cannot be blamed for having not worked, and the principle of "no pay no work" shall not be applicable to such employee."

18. In the case at hand, the petitioner was eligible and entitled to promotion when his juniors were promoted. He was deprived of promotional benefits due to administrative lapse. His juniors drew higher pay for years. To deny him monetary benefits now, after acknowledging his rightful claim, would amount to allowing the State to take advantage of its own wrong.

19. The impugned clauses in orders dated 04.09.2020 and 12.11.2020 merely state that since the petitioner did not work on the promotional posts, he is not entitled to arrears. The orders do not consider the settled legal position laid down by the Supreme Court nor do they address the fact that the petitioner was wrongfully denied timely promotion. The reasoning is thus mechanical and unsustainable in law.

20. The State, being a model employer, is expected to act fairly. When it corrects an illegality by granting retrospective promotion, it must, as far as possible, restore the employee to the same financial position in which he would have been but for the wrongful act.

Conclusion

21. In view of the above discussion, this Court holds that the petitioner was wrongly denied promotion to the posts of Clerk, Sub-Inspector and Inspector from the dates his juniors were promoted, and the subsequent grant of deemed promotion is an acknowledgment of such illegality. The principle of "no work no pay" is not applicable in the peculiar facts of the present case.

22. Accordingly, the impugned clauses contained in order dated 04.09.2020 (Annexure P-7) and order dated 12.11.2020 (Annexure P-8), denying arrears of pay on the ground that the petitioner had not worked on the promotional posts, are hereby quashed.

23. The respondents are directed to grant the petitioner all consequential monetary benefits arising from his deemed promotions as Clerk w.e.f. 09.09.2008, as Sub-Inspector w.e.f. 20.04.2012, and as Inspector w.e.f. 17.06.2016, including arrears of salary and re-fixation of pay.

24. The entire exercise shall be completed within a period of three months from the date of receipt of a certified copy of this order.

25. The writ petition is hereby allowed. Pending applications, if any, also stand disposed of.

26. Ordered Accordingly.

(SANDEEP MOUDGIL)
JUDGE

20.02.2026
anuradha

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*