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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Decided on: 29.08.2025*

+ W.P.(C) 12280/2023

KIRAN SONKUSALE

.....Petitioner

Through: Mr. Mrityunjai Singh, Advocate.

versus

CENTRE FOR RAILWAY  
INFORMATION SYSTEMS (CRIS)

.....Respondent

Through: Mr. Chandan Kumar & Mr.  
Vikram Sharma, Advocates with  
Mr. Aman Prakash, Executive  
HRD. [M:-9810312011]

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**J U D G M E N T**

1. By way of this petition under Article 226 of the Constitution, the petitioner seeks a direction upon the respondent to promote him to the post of Principal Project Engineer ["PPE"] in Pay Level 13A, from the date on which he became eligible for the said promotion, alongwith all consequential benefits. He also challenges communications dated 09.03.2023 and 11.08.2023, by which such promotion was denied to him.

**A. FACTS:**

2. The petitioner joined the respondent as an Assistant Software Engineer on 13.09.2004. He was promoted to the post of Software Engineer with effect from 17.10.2006, and to the post of Senior Software Engineer with effect from 17.10.2009. He was thereafter promoted to the



post of Project Engineer in 2013, granted three increments in *lieu* of accelerated promotion from 2016, and further promoted to the post of Senior Project Engineer [“SPE”] on 29.06.2017.

3. The petitioner resigned from the services of the respondent on 17.10.2022, stating that his last day of work would be 16.01.2023. The respondent accepted his resignation by a communication dated 10.11.2022, with effect from 16.01.2023, subject to completion of certain formalities. He was relieved of his duties with effect from 16.01.2023 and joined his new employment at Pune Metro, under the Maharashtra Metro Rail Corporation Limited, on 17.01.2023.

4. The present writ petition concerns the petitioner’s claim for promotion to the post of PPE from the post of SPE. It is not disputed that, for promotion to the post of PPE, the qualifying service requirement was four years’ service in the grade of SPE, which the petitioner attained in the year 2021. However, it is the petitioner’s case that no Departmental Promotion Committee [“DPC”] was constituted in the year 2021 at all, or in May/June 2022, as required by an Office Order of the respondent dated 04.03.2009. The DPC was constituted to consider promotion from the post of SPE to PPE only on 26.10.2022, by which time the petitioner had already submitted his resignation. The petitioner made a representation on 14.11.2022 in this regard, but was not considered by the DPC. In its recommendations dated 02.12.2022, the DPC noted that the petitioner’s name had been removed from the earlier eligibility list, in view of his resignation. Pursuant to the DPC’s recommendations, a promotion order was issued on 12.01.2023, excluding the petitioner’s name. The promotions were made retrospective from the dates of their eligibility.



5. The petitioner made further representations in this regard, even after he had been relieved by the respondent. In fact, on his very last date of service with the respondent, i.e., 16.01.2023, he acknowledged that his promotion was not considered, as his resignation had been accepted. However, he requested issuance of a communication stating that he was due for such promotion since June 2021, and stated that it would be helpful in his new employment. He again made representations for promotion on 30.01.2023, 01.03.2023, 13.03.2023, 20.03.2023, 26.05.2023, 11.06.2023, 19.07.2023, 21.07.2023, and 02.08.2023, which were rejected by the impugned communications dated 09.03.2023 and 11.08.2023. While rejecting his representations, the respondent noted that he had already resigned from service, and that the promotions required a probation period of six months, which he was not in a position to fulfill.

**B. SUBMISSIONS OF THE PARTIES:**

6. Mr. Mrityunjai Singh, learned counsel for the petitioner, submitted that the petitioner remained an employee of the respondent until 16.01.2023, when he was finally relieved. His eligibility for promotion to the post of PPE was fulfilled in the year 2021 itself, much prior to submission of his resignation on 17.10.2022. However, he had not been considered for promotion, as the respondent did not hold a DPC at the relevant time in 2021 or 2022, thus depriving him of promotional avenues, which would have also inured to his benefit for the purposes of seniority, etc., in his new employment. Mr. Singh drew my attention to an Office Order dated 04.03.2009, which requires DPC to be constituted in May/June of each year for consideration of promotions for the period up



to 30<sup>th</sup> June, and for those becoming eligible by 31<sup>st</sup> December of the year.

7. Mr. Singh relied upon the Division Bench decisions in *Union of India v. P.G. George*<sup>1</sup> and *Bhagwan Singh v. Union of India*<sup>2</sup>, to submit that superannuating employees have a right to be considered for promotion in DPCs constituted belatedly, so that they can be accorded the benefits of retrospective promotions. Mr. Singh also cited the judgment of a coordinate Bench in *V.P. Kathuria and Others v. Cement Corporation of India and Another*<sup>3</sup>, which considered the claims of several employees of Cement Corporation of India for promotion by constitution of DPCs. The Court held that the petitioners were entitled to consideration of promotion, as they were in service on the date from which retrospective promotion had been granted to other employees, although they had superannuated prior to the constitution of the DPC. The Court expressly rejected the distinction between employees who had superannuated and one employee who had resigned, stating that the resigned employee was also in service on the date in question and therefore had a right to consideration, just as employees who had superannuated in the *interregnum*.

8. According to Mr. Singh, such a course is also mandated by an Office Memorandum [“O.M.”] dated 12.10.1998, issued by the Department of Personnel & Training [“DoPT”], which requires consideration of eligible employees, who were in the zone of consideration at the relevant time, even if they were not in service when

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<sup>1</sup> W.P. (C) 4864/2010, decided on 23.07.2010 [hereinafter, “*P.G. George*”].

<sup>2</sup> 2023 SCC OnLine Del 5545 [hereinafter, “*Bhagwan Singh*”].



the DPC was held. Mr. Singh submits that application of the O.M. is warranted by application of Rule 15 of the respondent's Recruitment Rules, 1986, ["Recruitment Rules"] which provides that the terms and conditions of service would, to the extent not specifically mentioned in the Recruitment Rules, be on the pattern of the Central Government.

9. Mr. Chandan Kumar, learned counsel for the respondent, on the other hand, submitted at the outset that the respondent, being a Registered Society, the OMs of the DoPT do not *ipso facto* apply to it. He further submitted that Rule 12.2 of the Recruitment Rules of the respondent provides for a probation period of six months even on promotion, and that a promoted employee is required to be confirmed in the promoted post based on his/her satisfactory performance during the probation period, failing which he/she is liable to be reverted to the original post. Mr. Kumar argued that the petitioner's promotion could not have been considered by the DPC constituted in October 2022, as he would not have been in a position to fulfil the probation requirement prior to lapse of his three months' notice period. According to Mr. Kumar, issuance of a writ of mandamus of this nature, would therefore be impossible of compliance in accordance with the applicable Recruitment Rules.

10. Mr. Kumar also drew my attention to an Office Order dated 29.09.2023, issued by the respondent, which referred to representations from employees/former employees who were not considered for promotion, as they could not fulfil the mandatory six-month probation period after promotion, due to superannuation or resignation with residual service of less than six months. The respondent reiterated Rule 12.2 in

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<sup>3</sup> 2024 SCC OnLine Del 7799 [hereinafter, "*V.P. Kathuria*"].



this regard, and stated that employees who do not have residual service of six months are not eligible for the benefit of promotion.

11. Mr. Singh, however, submitted in rejoinder, that the Office Order dated 29.09.2023 could not be applied retrospectively to the petitioner's case.

12. Pursuant to an order dated 15.07.2025, the respondent also filed an affidavit dated 22.07.2025, stating that, to the best of the deponent's knowledge, no employee with less than six months of residual service had been considered for promotion prior to the Office Order dated 29.09.2023, in view of Rule 12.2. It was stated that the said Rule had been in existence since the constitution of the respondent, and that the Office Order dated 29.09.2023 was only intended to be clarificatory.

13. With regard to non-constitution of the DPC in the year 2021 and until October 2022, the respondent stated as follows:

*"4.1 That with regard to query raised in paragraph no.3 of the said order, I say that COVID Lock Down started from March 2020. Constitution of DPC for 2020 was delayed. That CRIS Rules requires participation of two External Members. Letters to other organisations for nominating external members were issued in December 2020. Post receiving names of external members, DPC was constituted on 16.2.2021. That post constitution of the DPC, two members, one internal and one external sought recusal. DPC was finally constituted in August 2021. DPC met on 25.8.21 to 25.11.21 through VC and made recommendation dated 25.11.2021. The Managing Director raised some queries and those queries were satisfied in July 2022 when the Managing Director accepted the recommendation and promotion orders were issued dated 28.7.2022.*

*4.2 That petitioner was due for promotion in June 2021. That DPC for next year starts post completion of previous year DPC. In view thereof, list of eligible candidates due for promotion was prepared on 15.9.2022. Petitioner's name was there in the said list. Letters for nomination of External Members were issued in September 2022. External organisation communicated nomination of their employees by their letter dated 6.10.2022. On 17.10.2022 Petitioner submitted his*



*resignation with 3 months' notice. DPC was constituted by letter dated 26.10.2022. Petitioner had exit interview with GM HR on 27.10.2022 when he was explained that in the event of his resignation, he would not be eligible for promotion. He agreed to forgo his promotion in order to get native place job and better promotion opportunity in new organisation. Accordingly his resignation was accepted by letter dated 10.11.2022. In terms of mandate of Chapter 5, Para 12.2 of CRIS Bye Laws, a revised list of eligible candidate was prepared on 15.11.2022 where his name did not figure in the list. DPC sat between 30.11.22 to 2.12.2022 when it issued its recommendation dated 2.12.2022. Promotion orders were issued dated 12.1.2023. Petitioner's 3 months notice got completed on 16.1.2023. He joined Pune Metro after relieving from the CRIS. This petition was filed in September 2023."*

**C. ANALYSIS:**

14. For the purposes of the present case, I proceed on the basis that, by virtue of the O.M. dated 12.10.1998, the petitioner would ordinarily have been eligible for consideration for promotion, having attained eligibility in June 2021, when he was in the service of the respondent. This position is also evident from the judgments relied upon by Mr. Singh, particularly in *V.P. Kathuria*, which expressly considered the case of a resigned employee, and applied the judgments in *P.G. George*, *Bhagwan Singh*, and *Union of India v. Bishan Dass*<sup>4</sup>.

15. However, in my view, the position in the respondent's case is distinguishable, due to Rule 12.2 of the Recruitment Rules, which reads as follows:

*"a) Probation period for all employee promoted shall be six months.  
b) Confirmation of an employee working in a higher post is subject to his/her performance in the higher post being satisfactory during the probation period. He/She is liable to be reversed to his/her original post if his/her performance is considered to be unsatisfactory by the competent authority."*<sup>5</sup>

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<sup>4</sup> 2023 SCC OnLine Del 5914.

<sup>5</sup> Emphasis supplied.



16. In none of the judgments referred to above, was there a rule-based requirement of probation in the promoted posts. The denial of promotion to employees who do not possess sufficient residual service is not, in my view, arbitrary or unreasonable, so as to invite interference by the writ Court.

17. I am unpersuaded by Mr. Singh's argument that this Rule could be applied only after the respondent's Circular dated 29.09.2023. The said Circular reads as follows:

*"Sub: Probation period on promotion- Para 12 of Chapter 5 Recruitment Rules (issued under Bye Laws 3.1).*

*This office is receiving representations from retired/resigned or working employees who were not considered for promotion/ denied promotion as they were not fulfilling the mandatory criteria of satisfactory completion of 6-month probation period in higher post after promotion either due to superannuation or resignation and having residual service less than 6 months.*

*In this regard it is reiterated that promotions in CRIS are governed by CRIS By Laws and Rules/orders/ instruction issued thereunder from time to time. Para 12 of Chapter 5 on Recruitment Rules (under CRIS By laws 3.1) about Probation on Promotion (12.2) stipulates as under –*

- a) Probation period for all employees promoted shall be six months.*
- b) Confirmation of an employee working in a higher post is subject to his/ her performance in the higher post being satisfactory during the probation period. He/she is liable to be reversed to his/her original post if his/her performance is unsatisfactory by the competent authority.*

*In view of the above notified provision, it is reiterated that those employees who do not have a residual service of 6 months left at the time of consideration their promotion/issue of promotion order either before their superannuation or before leaving the organisation by way of resignation, for completing the mandatory six-month satisfactory probation on higher post are not eligible for the benefit of promotion.*

*The rule position quoted above is issued for information. Past cases, if any, decided otherwise will not be re-opened.*

*This issues with the approval of Competent Authority."*





The Circular evidently relies upon Rule 12.2 itself, which was admittedly applicable from the original constitution of the respondent, and reiterates the consequential position. I agree with Mr. Kumar that the Circular was clarificatory in nature and did not establish a new regime for prospective application.

18. As noted above, learned counsel for the parties joined issue on the question as to whether the O.M. dated 12.10.1998 is applicable to the respondent. Mr. Singh relied upon Rule 15 of the Recruitment Rules, which reads as follows:

*“15. All other terms and conditions of service not specifically mentioned in these rules will be on the pattern of the Central Government, except when these are further specified by the Centre from time to time.”*

The Rule on its own terms applies the terms and conditions of service on the pattern of the Central Government where they are not specifically mentioned in the service rules, except when they are further specified by the respondent from time to time. Therefore, in the context of the specific question raised in this petition, the O.M. would not be applicable, as the consequence thereof would be inconsistent with the express mandate of respondent's Rules. It is, therefore, not necessary to consider the general question as to whether OMs of the Government of India are applicable to the respondent – Society.

19. In the facts of the present case, I am also of the view that the petitioner cannot be granted the benefit of non-constitution of the DPC in the years 2020 and 2021. As stated in the respondent's additional affidavit, the petitioner became eligible for promotion only in June 2021. As a result of the COVID-19 pandemic and its consequent effect on



administrative functioning, the DPC for 2020 was held only in August to November 2021, and promotion orders were issued on 28.07.2022. The DPC for 2021 was therefore constituted only thereafter, and by the time it completed its deliberations, the petitioner had submitted his resignation with three months' notice. The delay in holding of the DPC was, in my view, not so inordinate as to justify a departure from the probation requirements, in the petitioner's case. The extraordinary consequences of the COVID-19 pandemic resulted in unforeseen effects on many administrative procedures, and the petitioner's non-consideration for promotion cannot be invalidated on this ground.

20. One further matter requires consideration. The petitioner has referred to the case of one Balwan Singh, who was apparently considered for promotion in the year 2011, although he had only two months' service prior to superannuation. This information has been derived by the petitioner from a communication dated 13.06.2025, addressed by the respondent to the National Commission for Scheduled Castes, in response to a complaint by another employee of the respondent. The respondent has justified non-promotion of the concerned employee by reference to Rule 12.2, but accepted that Balwan Singh was promoted while in service with effect from 30.06.2011, although he was due to retire on 31.08.2011. I am not inclined to allow the petitioner's claim on the basis of an isolated incident of 2011, which runs contrary to the scheme of the respondent's Rules.

21. In the facts and circumstances aforesaid, it is evident that the petitioner had resigned from the services of the respondent to pursue other opportunities, and voluntarily disabled himself from completing the



mandatory probation period, which was a pre-requisite for promotion. The respondent's actions were therefore in accordance with its Recruitment Rules, and are not vitiated by arbitrariness or unreasonableness, so as to warrant interference in the extraordinary and discretionary jurisdiction of the writ Court.

**D. CONCLUSION:**

22. For the aforesaid reasons, the writ petition is dismissed, but without any orders as to costs.

**PRATEEK JALAN, J**

**AUGUST 29, 2025**

*'SS/UK/Jishnu/Khushi' /*