



2025:DHC:8503-DB



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 05.08.2025
Pronounced on: 24.09.2025

+ W.P.(C) 16274/2024 & CM APPL. 68494/2024
UNION OF INDIA & ORS.Petitioners

Through: Mr.Jaswinder Singh, Adv.

versus

RAMESH CHANDRA SHUKLARespondent

Through: Mr.Deeptanshu Shukla &
Mr.Gaurav Pal, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed challenging the Order dated 29.05.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 1664/2022, titled ***Ramesh Chandra v. Union of India & Ors.***, allowing the said O.A. filed by the respondent herein with the following directions:

"6.1 We hereby set aside the impugned order rejecting the representation. We hold that he applicant is entitled for grant of notional promotion w.e.f. 01.04.2016. Consequently, appropriate re-fixation order of pay be issued by the respondents. The aforesaid exercise shall be completed by the respondents within a



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period of two months from the date of receipt of certified copy of this order.

6.2 It is made clear that the applicant shall not be entitled for any arrears w.e.f. 01.04.2016 till 21.07.2016.”

Background to the Petition

2. As a brief background of the facts in which the present petition arises, the respondent joined the Geological Survey of India on 18.03.1983 as a Junior Geologist (Group-A Officer). He was promoted to the post of Senior Geologist on 15.09.1999, and further to the post of Director, on 12.03.2011.

3. On 22.01.2016, the Supplementary Departmental Promotion Committee ('DPC') for 15 vacancies for the year 2015-2016 and Regular DPC for 20 vacancies for the year 2016-17 were held simultaneously, for promotion to the post of Deputy Director General (G) in the Geological Survey of India. In the Combined Eligibility List prepared of these DPCs, the DPC recommended 15 Officers for the year 2016-17. The name of the respondent appeared at Serial No.21, while the last name in the extended panel recommended by the Supplementary DPC for the year 2015-16 was at Serial No.20 in the Combined Eligibility List. Therefore, the respondent was recommended for promotion by the Regular DPC for the year 2016-17, with his name appearing at the top of the panel.

4. It is the case of the petitioners that the issuance of the offer of promotion is subject to the approval of the Ministry of Mines, and in the present case, the officers recommended by the Supplementary



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DPC for the year 2015-16 were given priority, and thus, the approval regarding the issuance of the offer of promotion to the officers recommended by the DPC for the year 2016-17 could not be granted until the Supplementary DPC panel was exhausted.

5. It is the case of the petitioners that subsequently, the Ministry of Mines *vide* Letter dated 20.07.2016, approved the issuance of offer of promotion to the respondent along with 10 others from the panel of 2016-17. Accordingly, after completing all requisite formalities, the offer of promotion was issued to the respondent on 21.07.2016.

6. The respondent retired on 30.06.2017, at the post of Deputy Director General of Geological Survey of India, Ministry of Mines.

7. Aggrieved by the fact that though the DPC for the year 2016-17 had been concluded on 22.01.2016 and the vacancy for the post of Deputy Director General purportedly existed since 01.04.2016, yet the respondent was promoted to the post of Deputy Director General only on 21.07.2016, depriving him of the eligibility of being considered for the grant of Non Functional Upgradation (NFU) to the next higher scale of Additional Director General on completion of one year on 01.04.2017 before his retirement on 30.06.2017, the respondent submitted representations dated 07.11.2016, 14.02.2017 and 05.09.2017. The said representations were, however, rejected by the Ministry of Mines *vide* Order dated 01.01.2018, which was communicated to the respondent on 07.02.2018. The rejection was based on the ground that as per the DoPT OM No. 22011/5/86-Estt.(D) dated 10.04.1989, promotions have a prospective effect, even



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in cases where vacancies relate to earlier years, and that in the present case, there was no violation of the DoPT rules.

8. Aggrieved thereby, the respondent filed the above O.A. seeking notional promotion to the post of Deputy Director General from 01.04.2016 and seeking NFU to the post of Additional Director General with effect from 01.04.2017, along with consequential benefits.

9. The learned Tribunal noted that the Regular DPC for the year 2016-17, held on 22.01.2016, for promotion to the post of Deputy Director General, provided a clear picture regarding the number of vacancies for the year 2016-2017, including the vacancy which arose on 31.03.2016. The learned Tribunal observed that the respondent ought to have been considered for promotion as on 31.03.2016, that is, when the vacancy became available.

10. Further, while acknowledging that promotions are prospective in nature, the learned Tribunal held that this principle was not applicable in the present case since the respondent was already within the zone of consideration for the grant of promotion. The Tribunal further observed that the petitioners ought to have prepared a clear statement of the vacancy position before issuing the Order dated 21.07.2016 and should have reached a proper conclusion as to whether, upon the said post becoming vacant, the respondent ought to have been granted promotion with effect from 01.04.2016.

11. It held that once a DPC has recommended the name of an employee for promotion to a higher post, the promotion order should



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not be delayed unless there are compelling reasons or impediment(s) under the Rules and, in the present case, nothing has been brought on record to establish the same. Consequently, the learned Tribunal allowed the said O.A. with the above-quoted directions.

12. Aggrieved thereby, the petitioners have filed the present petition.

Submissions of the learned counsel for the petitioners

13. The learned counsel for the petitioners submits that the promotion of the respondent can take place only from the actual date of his promotion and not from the date his name was recommended by the DPC for such promotion. In support of this submission, he places reliance on the judgments of the Supreme Court in ***Union of India & Ors. v. K.K. Vadera & Ors.***, AIR 1990 SC 442; ***Jagdish Ch. Patnaik & Ors. v. State of Orissa & Ors.***, AIR 1998 SC 1926; ***Govt. of West Bengal & Ors. v. Dr. Amal Satpathi & Ors.***, 2024 (14) SCALE 294, and of the High Court of Meghalaya in ***Andrew Shabong v. State of Meghalaya***, 2023 SCC OnLine Megh 12.

14. He submits that in the present case, it was due to administrative reasons that the respondent could not be issued the promotion letter. He submits that priority was accorded to the officers who had been recommended under the Supplementary DPC for the year 2015-16, and the offer of promotion to the officers recommended by the Regular DPC for the year 2016-17 could not be made until the panel recommended by the Supplementary DPC for the year 2015-16 had been exhausted.



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15. He submits that later, the respondent was appointed against the post vacated by one Shri N. Ramasubba Reddy, who retired on 31.05.2016. However, a panel of 10 other officers, along with the respondent, was promoted by a common Order dated 21.07.2016, clearly stipulating that the promotion will take effect from the date of assumption of charge.

16. He submits that in these circumstances, the respondent could not have claimed retrospective promotion.

Submissions of the learned counsel for the respondent

17. On the other hand, the learned counsel for the respondent submits that the last officer from the panel of the Supplementary DPC for the year 2015-16 was promoted on 02.03.2016. He submits that the respondent was at serial no. 1 in the panel of officers to be promoted against the vacancy year 2016-17. He submits that it is the petitioners who delayed grant of actual promotion to the respondent, despite the DPC having already recommended the respondent for promotion, and there being no impediment to the respondent being granted such promotion prior to 30.06.2016.

18. He submits that, in fact, the delay in granting promotion was *mala fide*, which is evident from the fact that even earlier the respondent had been transferred from Bhopal to Bhubaneswar at the behest of a Member of Parliament from the Rajya Sabha.

19. Placing reliance on the judgment dated 29.01.2008 of the Bombay High Court in Writ Petition No. 5735/2006 titled ***Union of India & Ors. v. Dr.Krishna Kumar Sinha & Anr.***, he submits that the



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promotion to the respondent should have been given a retrospective effect, and the respondent should be entitled to the NFU benefit. He submits that a Special Leave Petition filed against the above judgment, being SLP(C) No.23555/2008/Diary no. 19106/2008, has been dismissed by the Supreme Court *vide* Order dated 15.09.2008.

20. Further, placing reliance on the judgment of the Supreme Court in ***Lt. Col. Suprita Chandel v. Union of India & Ors.***, 2024 SCC OnLine SC 3664, he submits that once other officers of the Geological Survey of India had been granted relief of retrospective promotion by the judgment of the Bombay High Court in ***Dr. Krishna Kumar Sinha*** (supra), the same benefit deserves to be accorded to the respondent herein on the principle of parity.

21. Placing reliance on the judgment of the Supreme Court in ***Union of India v. N.R. Banerjee***, (1997) 9 SCC 287 and of this Court in ***Dr. Sahadeva Singh v. Union of India***, 2012 SCC OnLine Del 1199, he submits that it was the obligation of the petitioners to ensure that there is no delay in making promotions and that the respondent was granted timely promotions.

22. Placing reliance on the judgment of the Supreme Court in ***Union of India v. K.B. Rajoria***, (2000) 3 SCC 562, he submits that where notional promotion is given, it is the period from the date of the notional promotion that is to be counted as regular service in the feeder cadre for the purposes of future promotions.

23. He submits that once an employee has been adjudged fit for promotion, promotion against a vacancy is a fundamental right and a



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condition of service. In support, he places reliance on the judgments of the Supreme Court in ***H.M. Singh v. Union of India***, (2014) 3 SCC 670 and ***Union of India v. Hemraj Singh Chauhan***, (2010) 4 SCC 290.

24. He submits that the State cannot take advantage of its own wrong and allow the injustice to perpetuate, especially where its inaction has caused prejudice to the employee. In support, he places reliance on the judgment of the Supreme Court in ***P.N. Premachandran v. State of Kerala***, (2004) 1 SCC 245 and ***Kusheshwar Prasad Singh v. State of Bihar***, (2007) 11 SCC 447; of this Court in ***Govt. (NCT of Delhi) v. Rakesh Beniwal***, 2014 SCC OnLine Del 3944; and of the High Court of Punjab and Haryana in ***Chander Kanta Verma v. State of Haryana and Others***, 2018:PHHC:016366.

25. He submits that in the present case, all officers in the previous panel, that is, for the year 2015-16, had been promoted by 02.03.2016. The vacancy, on which the respondent should have been appointed, arose on 01.04.2016. He submits that, therefore, the plea of the petitioners that, because of certain functional requirements, the promotions were delayed, cannot be accepted as a valid reason.

Analysis and Findings

26. We have considered the submissions made by the learned counsels for the parties.

27. From the above narration of facts, it would emerge that the respondent was considered by the Regular DPC held on 22.01.2016



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for the year 2016-17 for 20 vacancies for the post of Deputy Director General (G) in the Geological Survey of India. Simultaneously, a Supplementary DPC was also held for the year 2015-16, in which 15 vacancies were recommended to be filled. The name of the respondent was placed at Serial No. 21, that is, at the top of the 2016-2017 panel.

28. Though there is some dispute on when the vacancy arose against which the respondent was to be appointed, the fact remains that the eventual promotion order was issued to the respondent only on 21.07.2016. As the respondent superannuated on 30.06.2017, he could not complete the one-year period required for the grant of the NFU to the next higher scale of Additional Director General.

29. While we do appreciate that the same would have some financial repercussions for the respondent, at the same time, the law mandates that the promotion must take place from the date it is granted. Merely because vacancies exist, or that the name of the officer has been recommended by the DPC for promotion, the same will not create a right in such officer to claim promotion till it is actually granted. It is only in exceptional cases, where the Court finds that the delay in grant of promotion is *mala fide* or on facts completely unreasonable or arbitrary, that the Court may, in its discretion, interfere with the same. In our view, no such case has been made out by the respondent in the facts of the present case. In fact, in similar circumstances in **Dr. Amal Satpathi** (supra), the Supreme Court, while considering the case of an officer whose name had been recommended by the DPC for promotion before his retirement, but who did not



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receive actual promotion to such higher post due to administrative delays, considered whether he would be held entitled to the notional financial benefits of promotional post after his retirement, and rejected such claim by observing that it is a well-settled principle that promotion becomes effective from the date it is granted rather than from the date a vacancy arises, or the post is created. The Court held as under:

“21. While we recognize respondent No.1’s right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation. Considering that respondent No.1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity.”

30. As far as the judgments cited by the respondent are concerned, the same are distinguishable from the facts of the present case. In **Krishna Kumar Sinha** (supra), the Bombay High Court found that despite there being 19 vacancies, which the Department could not dispute, and a recommendation from the DPC, the competent authorities had failed to complete the formalities for issuing the order of promotion and caused undue delay in doing so. In the present case, the delay was due to priority given to the exhaustion of the



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Supplementary DPC panel for the year 2015-16 first before considering officers from the 2016-17 panel.

31. Furthermore, the reliance on ***Lt. Col. Suprita Chandel*** (supra) to claim parity is misplaced inasmuch as, therein the officer had wrongly been excluded from being considered for grant of permanent commission, when similarly situated officers had been granted relief by the learned Armed Forces Tribunal.

32. The decision in ***Krishna Kumar Sinha*** (supra) was rendered on the specific facts and circumstances of that case. The principle of parity cannot be mechanically applied without examining the individual merits of each case.

33. In ***N.R. Banerjee*** (supra), the Government was mandatorily required to prepare panels of candidates for consideration by the DPC to fill up the clear vacancies for promotion on a yearly basis as per established guidelines, unless duly certified by the appointing authority that no vacancy would arise or no suitable candidate was available, which the Government failed to do.

34. Similarly, in ***Dr. Sahadeva Singh*** (supra), there was administrative failure in following prescribed timelines for DPC meetings as per Model Calendar issued by DoPT. In both cases, administrative failure and delay without justification was established whereas, in the present case, the delay has been justified by the petitioners as being due to the priority given to the exhaustion of the 2015-16 DPC panel.



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35. The reliance placed by the respondent on **K.B. Rajoria** (supra) is also misplaced inasmuch as, in the said case, notional promotion was granted to rectify the wrongful supersession of an officer by his junior, which is not the case herein.

36. In **H.M. Singh** (supra), the Court found clear administrative negligence where the Selection Board was convened only two days before the officer's retirement despite the vacancy existing for over a year.

37. In **Hemraj Singh Chauhan** (supra), the Court found total administrative failure by the State Government which delayed the mandatory cadre review for two years without any justification and granted relief by exercising its powers under Article 142 of the Constitution of India. In contrast, the delay herein was due to the administrative reason of exhausting the Supplementary DPC panel for the year 2015-16 before considering the panel for the year 2016-17.

38. Further, the principle that the State cannot take advantage of its own wrong, as relied upon from **P.N. Premachandran** (supra), **Kusheshwar Prasad Singh** (supra) and **Rakesh Beniwal** (supra), is applicable only when there is established *mala fide* or unreasonable conduct on the part of the State, which, in the present case, has not been established.

39. Most significantly, these judgments must be read in light of the decision of the Supreme Court in **Dr. Amal Satpathi** (supra), which has clarified that promotion becomes effective only upon the assumption of duties on the promotional post and not on the date of



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occurrence of the vacancy or the date of recommendation and if an officer superannuates before the effectuation of promotion, he is not entitled to retrospective financial benefits associated to the promotional post as he did not serve in that capacity.

40. While there can be no dispute with the proposition that the State, being a model employer, must take timely action in advance to fill all vacancies, at the same time, unless it is found that the inaction of the petitioner was *mala fide* or unreasonable, so as to warrant a departure from the general rule that promotion must take effect from the date it is granted, the general rule must apply. Sympathetic consideration in this regard would not be warranted.

41. Keeping in view the above, we are of the opinion that the Impugned Order passed by the learned Tribunal cannot be sustained, and is accordingly, set aside.

42. The petition is allowed in the above terms. The pending application also stands disposed of.

43. There shall be no order as to costs.

NAVIN CHAWLA, J.

MADHU JAIN, J.

SEPTEMBER 24, 2025/rv/SJ