



2026:CGHC:14846



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2433 of 2016

1 - Tejram Dewangan S/o Late Shri Deen Dayal Dewangan, Aged About 62 Years Retired Sub Inspector, R/o Satyam Vihar, Raipura, Near Mahadeo Ghat Road, P.S. D. D. Nagar, District Raipur, Chhattisgarh, Chhattisgarh

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through Secretary, Home And Police Affairs And Finance, Mahanadi Bhawan, New Mantralaya, District Raipur, Chhattisgarh, Chhattisgarh

2 - Director General Of Police, Police Head Quarter, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

3 - Inspector General Of Police, Bilaspur Range, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

4 - Superintendent Of Police, Janjgir, District Janjgir Champa, Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

... **Respondent(s)**

For Petitioner(s) : Mr. Prakash Tiwari, Advocate along with Mr. V. Jayant Kumar, Advocate.

For Respondent(s) : Ms. Supriya Upasane, Govt. Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Order on Board

30/03/2026

1. The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India challenging the legality, validity and



propriety of the impugned orders dated 18.11.2014 (Annexure P/1) and 25.10.2014 (Annexure P/2) passed by respondent Nos. 2 and 4 respectively, whereby the promotion granted to the petitioner from the post of Sub-Inspector to Inspector has been cancelled. The case of the petitioner is that his name was included in the fit list prepared by the Departmental Promotion Committee in the year 2013 and he was subsequently promoted to the post of Inspector vide order dated 22.10.2014. According to the petitioner, no charge-sheet had been issued or served upon him at the time of consideration of his case for promotion and, therefore, there was no legal impediment in granting promotion to him. However, the respondents cancelled his promotion on the ground that a departmental enquiry was contemplated against him. Alleging the impugned action to be arbitrary, illegal and contrary to the applicable promotion rules, the petitioner has prayed for the following reliefs in the writ petition:-

“10.1 That this Hon'ble court may kindly be pleased to call for the entire records pertaining to the case of petitioner for its kind perusal.

10.2 The Hon'ble Court may kindly be pleased to quash the order dated 18.11.2014 (ANNEXURE P-1) passed by the respondent no. 2 and the order dated 25.10.2014 (ANNEXURE P-2) passed by the respondent no. 2.

10.3 The Hon'ble Court may kindly be pleased to consider the promotion of the petitioner to the post of Sub Inspector to Inspector w.e.f. 22.10.2014 (Annexure P-5) issued by the respondent no. 2 with all consequential benefits.

10.4 The Hon'ble Court may kindly be pleased to direct the respondent authorities to work out/



calculate and disburse the final pension of the petitioner as on the post of Inspector instead of Sub Inspector with interest.

10.5 That, this Hon'ble Court may kindly be pleased to grant any other relief, as it may deem fit.

10.6 Cost of the petition may also be given.”

2. Brief facts of the case are that the petitioner was initially appointed as a Constable on 12.10.1976 and, on account of his satisfactory service record, was promoted to the posts of Head Constable in 1984, Assistant Sub-Inspector in 1994 and Sub-Inspector in 2009. The Departmental Promotion Committee considered his case for promotion to the post of Inspector and included his name in the fit list prepared in the year 2013. On the basis of the said fit list, the petitioner was promoted to the post of Inspector vide order dated 22.10.2014. However, shortly thereafter, respondent No.4 directed that the petitioner be not relieved on the ground that a departmental enquiry had been initiated against him and a charge-sheet had been issued on 24.09.2014. Subsequently, respondent No.2 cancelled the petitioner's promotion vide impugned orders dated 25.10.2014 and 18.11.2014 on the ground that a departmental enquiry was contemplated against him. According to the petitioner, since no departmental enquiry was pending and no charge-sheet had been issued when his case was considered by the Departmental Promotion Committee and his name was included in the fit list, the cancellation of his promotion is arbitrary, illegal and contrary to the applicable promotion rules.
3. Learned counsel for the petitioner would submit that the petitioner was duly considered by the Departmental Promotion Committee for



promotion from the post of Sub-Inspector to Inspector and his name was included in the fit list prepared in the year 2013. Pursuant thereto, the competent authority granted promotion to the petitioner vide order dated 22.10.2014. It is contended that on the date when the petitioner's case was considered by the Departmental Promotion Committee, neither any departmental enquiry was pending against him nor had any charge-sheet been issued. Therefore, there existed no legal impediment in considering and promoting the petitioner to the higher post.

4. It is further submitted that the respondents have cancelled the petitioner's promotion vide the impugned orders dated 25.10.2014 and 18.11.2014 solely on the ground that a departmental enquiry had been initiated and a charge-sheet was issued on 24.09.2014. According to learned counsel, the subsequent initiation of disciplinary proceedings could not affect the recommendation already made by the Departmental Promotion Committee or the promotion granted on the basis thereof. It is argued that the relevant consideration is the status prevailing on the date of consideration by the Departmental Promotion Committee and not subsequent events occurring thereafter.
5. Learned counsel would further submit that the action of the respondents in cancelling the promotion without following the prescribed procedure is arbitrary, unjustified and contrary to the governing service rules. It is contended that the petitioner had acquired a legitimate right to be promoted pursuant to his inclusion in the fit list and issuance of the promotion order, and the same could not have been withdrawn merely on account of subsequent disciplinary



proceedings. Therefore, it is prayed that the impugned orders be quashed and the petitioner be granted all consequential service benefits flowing from the promotion order dated 22.10.2014.

6. Learned State counsel would submit that the impugned orders dated 18.11.2014 and 25.10.2014 have been passed strictly in accordance with law and the applicable service rules and, therefore, do not warrant any interference by this Court. It is contended that although the petitioner was issued a promotion order dated 22.10.2014 for promotion from the post of Sub-Inspector to Inspector, the said promotion order itself specifically stipulated that if any departmental enquiry, criminal case or other disqualification affecting promotion was found to be pending against the promotee officer, he would not be relieved to assume charge of the promotional post and the matter was required to be immediately reported to the competent authority. According to the respondents, before issuance of the promotion order, a departmental enquiry had already been initiated against the petitioner and a charge-sheet had been served upon him on 24.09.2014, to which he had submitted his reply on 10.10.2014. Therefore, when the promotion order was issued on 22.10.2014, the departmental enquiry was admittedly pending against the petitioner.
7. Learned State counsel would further submit that upon receiving information regarding the pendency of the departmental enquiry, respondent No.4 rightly directed that the petitioner should not be relieved and the competent authority thereafter cancelled the promotion order vide the impugned order dated 18.11.2014. It is argued that the action of the respondents was in conformity with the



conditions contained in the promotion order itself and was taken to ensure that an employee facing disciplinary proceedings was not permitted to assume a higher post pending adjudication of the charges. It is also submitted that the departmental enquiry was subsequently concluded and the charges levelled against the petitioner were found proved by the Inquiry Officer. Thereafter, by order dated 27.04.2016, the competent authority imposed the punishment of reduction equivalent to one increment, thereby substantiating the seriousness of the misconduct alleged against the petitioner.

8. Learned State counsel would lastly submit that the petitioner has not challenged the final order dated 27.04.2016 passed in the departmental proceedings and, therefore, the findings recorded therein have attained finality. It is further contended that the writ petition suffers from delay and laches inasmuch as the impugned orders were passed in October–November, 2014 whereas the writ petition came to be filed only in June, 2016 without any satisfactory explanation. In view of the pendency of the departmental enquiry on the date of issuance of the promotion order, the subsequent finding of guilt against the petitioner and the unexplained delay in approaching this Court, it is submitted that the writ petition is devoid of merit and deserves to be dismissed.
9. I have heard learned counsel for the parties and perused the material annexed with the petition.
10. The issue which arises for consideration in the present petition is whether the promotion granted to the petitioner from the post of Sub-Inspector to Inspector could have been cancelled on the ground of pendency of departmental proceedings, when admittedly no



departmental enquiry was pending and no charge-sheet had been issued against the petitioner on the date when the Departmental Promotion Committee (DPC) considered his case and found him fit for promotion.

11. It is not in dispute that the petitioner's name was included in the fit list prepared by the DPC in the year 2013 and thereafter he was promoted to the post of Inspector vide order dated 22.10.2014. It is also not in dispute that the charge-sheet in the departmental proceedings was issued only on 24.09.2014, much after the DPC had already considered and recommended the petitioner for promotion. The respondents have cancelled the promotion by relying upon the fact that departmental proceedings were pending on the date of issuance of the promotion order.
12. From perusal of the fit list dated 28.06.2014, Annexure P/4, it transpires that the promotion of an employee can be cancelled if, after his promotion, he is found guilty and a punishment is imposed upon him which may affect his promotion or eligibility. The relevant part of the fit list dated 28.06.2014 is reproduced as under:-

“3. यदि किसी कर्मचारी की पदोन्नति होने के उपरांत उन्हें किसी प्रतिकूल टीका बड़ी सजा अथवा ऐसी कोई जानकारी जो कि उनकी पदोन्नति को प्रभावित कर सकती हो अथवा उनकी योग्यता को प्रभावित कर सकती हो विभाग के ध्यान में आती है तो संबंधित कर्मचारी की पदोन्नति निरस्त की जा सकती है।”

13. The promotion order dated 22.10.2014 also contains the condition that:

“यदि उपरोक्त किसी उप निरीक्षक के विरुद्ध जांच / विभागीय जांच / अपराधिक प्रकरण लंबित हो अथवा कोई दीर्घ शास्ति



मिली हो, जो पदोन्नति को प्रभावित करती हो तो पदोन्नति पर कार्यमुक्त / कार्यभार ग्रहण न कराते हुये अविलम्ब इस कार्यालय को अवगत कराया जावे। उप निरीक्षक की पदोन्नति पर कार्यभार ग्रहण दिनांक से अविलम्ब इस कार्यालय को अवगत कराया जाये।"

14. After issuance of the promotion order of the petitioner dated 22.10.2014, the Superintendent of Police, Janjgir-Champa, was informed that during posting of the petitioner at District Bilaspur, a charge-sheet was ordered to be issued on 24.09.2014. Therefore, the Superintendent of Police, Janjgir-Champa, vide its letter dated 25.10.2014, Annexure P/2, directed the Station House Officer, Police Station Akaltara, District Janjgir-Champa, not to relieve the petitioner for his promoted post. It is also necessary to notice here the contents of letter dated 25.10.2014, which read as under:-

"उपरोक्त संदर्भित आदेश के अवलोकन करें जिसके माध्यम से उप निरीक्षक तेजराम देवांगन को उप निरीक्षक से निरीक्षक के पद पर पदोन्नति आदेश जारी कर निर्देशित किया गया है कि यदि उपरोक्त किसी उप निरीक्षक के विरुद्ध जांच / विभागीय जांच / अपराधिक प्रकरण लंबित हो अथवा कोई दीर्घ शास्ति मिली हो जो पदोन्नति को प्रभावित करती हो तो पदोन्नति पर कार्यमुक्त/कार्यभार ग्रहण न कराते हुये अविलम्ब अवगत करावें।

संदर्भित पदोन्नति आदेश के सरल क्रमांक 26 पर अंकित उप निरीक्षक तेजराम देवांगन जिला जांजगीर-चाम्पा को निरीक्षक के पद पर पदोन्नत किया गया है। उप निरीक्षक तेजराम देवांगन के विरुद्ध जिला बिलासपुर में पदस्थापना अवधि के दौरान पुलिस अधीक्षक बिलासपुर द्वारा आरोप पत्र क्रमांक-पुअ/बिला/स्टेनो-1/वि.जा./10/2014 दिनांक 24.09.2014 आदेशित की गई है। अतः उप निरीक्षक तेजराम देवांगन को पदोन्नति पर खानगी न दी जावे।"

15. The petitioner could not dispute issuance of charge-sheet against him



by the Superintendent of Police, Bilaspur, vide order dated 24.09.2014.

The respondent-State has filed the document of the charge-sheet, Annexure R/1, which is an inquiry report dated 17.03.2012 submitted by the Sub Divisional Officer (Police), District Bilaspur, to the Superintendent of Police, Bilaspur, in which the complaint against the petitioner was preliminarily inquired into and it was found that the conduct of the petitioner was suspicious and his investigation in Crime No. 89/2011 registered at Police Station Takhtpur, District Bilaspur, is tainted. Based on the said inquiry report, charge-sheet was issued against the petitioner on 24.09.2014 by the Superintendent of Police, Bilaspur. A departmental inquiry was initiated against the petitioner, in which he was held guilty, and punishment for reducing the amount equivalent to one increment of his salary was passed by the Inspector General of Police, Bilaspur Range, Bilaspur, vide order dated 27.04.2016. It is also notable here that, in between, the petitioner was superannuated with effect from 31.03.2016. The petitioner filed the present writ petition on 23.03.2016, which is after holding him guilty and imposing punishment upon him vide order dated 27.04.2016.

16. The fit list for promotion on the post of Inspector from the post of Sub Inspector was issued on 28.06.2024, in which the condition was there that even after the promotion of the employee, if the department came to know about any punishment or information against the employee which may affect his promotional eligibility, his promotion may be cancelled. Likewise, in the promotion order dated 22.10.2014 also, the said condition was there. Both these orders, i.e., fit list dated 28.04.2014 and promotion order dated 22.10.2014, Annexure P/4 and



Annexure P/5, were issued through the endorsement made by the Office of Superintendent of Police, Janjgir Champa. Prior to issuance of promotion order dated 22.10.2014, the charge-sheet was already issued against the petitioner from the Office of Superintendent of Police, Bilaspur, on 24.09.2014. The Superintendent of Police, Janjgir Champa, directed the Station House Officer, Akaltara, not to relieve the petitioner as there was a departmental inquiry proceeding initiated by the Superintendent of Police, Bilaspur, through the charge-sheet dated 24.09.2014. The petitioner had not challenged the memo dated 25.10.2014 or the departmental inquiry proceeding. It is only when the departmental inquiry proceedings were concluded and he was held guilty and punishment was imposed upon him by the order dated 27.04.2016, Annexure R/6, that he challenged the order dated 18.11.2014 by which his promotion order was cancelled, and the order dated 25.10.2014 by which the Station House Officer, Akaltara, was directed not to relieve the petitioner as the departmental inquiry against him was contemplated. In the meantime, the petitioner retired on 31.03.2016, and thus the writ petition, which was filed after about 02 years from the issuance of the impugned orders dated 18.11.2014 and 25.10.2014, Annexure P/1, also suffers from delay and laches.

17. In the Case of **Government of West Bengal and Others vs. Amal Satpathi and Others**, 2024 SCC Online SC 3512, the Hon'ble Supreme Court has held that the promotional benefit cannot be extended to the employee after his retirement, as he has not served on the promotional post. In paragraphs 19, 20 and 21, it has been held: -

“19. 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. While the Courts have recognized the right to be considered for promotion as not only a statutory right but also a fundamental right, there is no fundamental right to the promotion itself. In this regard, we may gainfully refer to a recent decision of this Court in the case of Bihar State Electricity Board v. Dharamdeo Das, wherein it was observed as follows:

"18. It is no longer res integra that a promotion is effective from the date it is granted and not from the date when a vacancy occurs on the subject post or when the post itself is created. No doubt, a right to be considered for promotion has been treated by courts not just as a statutory right but as a fundamental right, at the same time, there is no fundamental right to promotion itself.

In this context, we may profitably cite a recent decision in Ajay Kumar Shukla v. Arvind Rail where, citing earlier precedents in Director, Lift Irrigation Corporation Ltd. v. Pravat Kiran Mohanty and Ajit Singh v. State of Punjab, a three-Judge Bench observed thus:

41. This Court, time and again, has laid emphasis on right to be considered for promotion to be a fundamental right, as was held by K. Ramaswamy, J., in Director, Lift Irrigation Corpn. Ltd. v. Pravat Kiran Mohanty in para 4 of the report which is reproduced below:

4..... There is no fundamental right to promotion, but an employee has only right to be considered for promotion, when it arises, in accordance with relevant rules. From this perspective in our view the conclusion of the High Court that the gradation list prepared by the corporation is in violation of the right of respondent-writ petitioner to equality enshrined under Article 14 read with Article 16 of the Constitution, and the respondent-writ petitioner was unjustly denied of the same is obviously unjustified.'

42. A Constitution Bench in Ajit Singh v. State of Punjab, laying emphasis on Article 14 and Article 16(1) of the Constitution of India held that if a



person who satisfies the eligibility and the criteria for promotion but still is not considered for promotion, then there will be clear violation of his/her's fundamental right. Jagannadha Rao, J. speaking for himself and Anand, C.J., Venkataswami, Pattanaik, Kurdukar, JJ., observed the same as follows in paras 22 and 27:

'Articles 14 and 16(1) is right to be considered for promotion a fundamental right

22. Article 14 and Article 16(1) are closely connected. They deal with individual rights of the person. Article 14 demands that the 'State shall not deny to any person equality before the law or the equal protection of the laws'. Article 16(1) issues a positive command that:

'there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State'.

It has been held repeatedly by this Court that clause (1) of Article 16 is a facet of Article 14 and that it takes its roots from Article 14. The said clause particularises the generality in Article 14 and identifies, in a constitutional sense "equality of opportunity" in matters of employment and appointment to any office under the State. The word "employment" being wider, there is no dispute that it takes within its fold, the aspect of promotions to posts above the stage of initial level of recruitment. Article 16 (1) provides to every employee otherwise eligible for promotion or who comes within the zone of consideration, a fundamental right to be "considered" for promotion. Equal opportunity here means the right to be "considered" for promotion. If a person satisfies the eligibility and zone criteria but is not considered for promotion, then there will be a clear Infraction of his fundamental right to be "considered" for promotion, which is his personal right. "Promotion" based on equal opportunity and seniority attached to such promotion are facets of fundamental right under Article 16(1).



27. In our opinion, the above view expressed in Ashok Kumar Gupta [Ashok Kumar Gupta v. State of U.P.¹², and followed in Jagdish Lal [Jagdish Lal v. State of Haryana, and other cases, if it is intended to lay down that the right guaranteed to employees for being "considered" for promotion according to relevant rules of recruitment by promotion (i.e. whether on the basis of seniority or merit) is only a statutory right and not a fundamental right, we cannot accept the proposition. We have already stated earlier that the right to equal opportunity in the matter of promotion in the sense of a right to be "considered" for promotion is indeed a fundamental right guaranteed under Article 16(1) and this has never been doubted in any other case before Ashok Kumar Gupta [Ashok Kumar Gupta v. State of U.P.], right from 1950.'

"20. In State of Bihar v. Akhouri Sachindra Naths, it was held that retrospective seniority cannot be given to an employee from a date when he was not even borne in the cadre, nor can seniority be given with retrospective effect as that might adversely affect others. The same view was reiterated in Keshav Chandra Joshi v. Union of India, where it was held that when a quota is provided for, then the seniority of the employee would be reckoned from the date when the vacancy arises in the quota and not from any anterior date of promotion or subsequent date of confirmation. The said view was restated in Uttaranchal Forest Rangers' Assn. (Direct Recruit) v. State of U.P.¹⁷, in the following words:

'37. We are also of the view that no retrospective promotion or seniority can be granted from a date when an employee has not even been borne in the cadre so as to adversely affect the direct recruits appointed validly in the meantime, as decided by this Court in Keshav Chandra Joshi v. Union of India held that when promotion is outside the quota, seniority would be reckoned from the date of the vacancy within the quota rendering the previous service fortuitous. The previous promotion would be regular only from



the date of the vacancy within the quota and seniority shall be counted from that date and not from the date of his earlier promotion or subsequent confirmation. In order to do justice to the promotes, it would not be proper to do injustice to the direct recruits.....

38. This Court has consistently held that no retrospective promotion can be granted nor can any seniority be given on retrospective basis from a date when an employee has not even been borne in the cadre particularly when this would adversely affect the direct recruits who have been appointed validity in the meantime."

(emphasis supplied)

20. In the instant case, it is evident that while respondent No. 1 was recommended for promotion before his retirement, he could not assume the duties of the Chief Scientific Officer. Rule 54(1)(a) of the West Bengal Service Rules, clearly stipulates that an employee must assume the responsibilities of a higher post to draw the corresponding pay, thus, preventing posthumous or retrospective promotions in the absence of an enabling provision.

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."

18. Though in the judgment of **Union of India and Others vs. Doly Loyi, 2024 SCC Online SC 2613, Union of India and Others vs. Anil Kumar Sarkar, 2013 (4) SCC 161, and Abhay Nath Thakur vs. State of Chhattisgarh**, decided by the coordinate Bench of this Court on



20.03.2015 in WPS No. 4042/2013, it is held that the relevant consideration of issuance of charge-sheet on the date of DPC, however, in view of the facts of the present case, that the fit list as well as the promotion order stipulated the condition that even after promotion of the employee, if even after promotion of the employee, in any adverse material would be found against him which would affect his promotional eligibility, his promotion can be cancelled, and before relieving him for the promotional post, the issuance of charge-sheet dated 24.09.2014 by the Superintendent of Police, Bilaspur, came into the knowledge of the Superintendent of Police, Janjgir-Champa, and he stopped his relieving for the promotional post. Therefore, these judgments cited by the learned counsel for the petitioner do not extend him any benefit.

19. In view of the foregoing discussion, this Court is of the considered opinion that the impugned orders dated 25.10.2014 and 18.11.2014 do not suffer from any illegality, arbitrariness or perversity warranting interference in exercise of writ jurisdiction under Article 226 of the Constitution of India. The record clearly demonstrates that prior to the petitioner being relieved on the promotional post, a charge-sheet had already been issued against him on 24.09.2014 and the promotion order itself, as well as the fit list, contained a specific condition empowering the authorities to withhold or cancel the promotion if any material affecting the employee's promotional eligibility came to light. It is also not in dispute that the departmental proceedings were subsequently concluded against the petitioner and he was found guilty and punished vide order dated 27.04.2016, which has attained finality.



Furthermore, the petitioner admittedly superannuated on 31.03.2016 without ever assuming charge of the promotional post of Inspector. In such circumstances, the petitioner cannot claim any vested right either to the promotional post or to consequential monetary and pensionary benefits attached thereto. The judgments relied upon by the petitioner are distinguishable on facts and do not advance his case.

20. Consequently, finding no merit in the writ petition, the same deserves to be and is hereby **dismissed**. No order as to costs. Pending application(s), if any, shall also stand disposed of.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Alok