

Vinod Kumar vs. State of H.P. & anr.

CWP No. 17944 of 2025

28.11.2025 Present: Mr. Surender K. Sharma, Advocate, for the petitioner.

Mr. Anup Rattan, Advocate General with Mr. Rajat Choudhry, Assistant Advocate General for the respondents/State.

Petitioner has filed this writ petition with the grievance that even though 300 posts of Headmasters are lying vacant in various schools, yet the respondents are not making promotion to the said posts. This is despite the fact that meeting of Departmental Promotion Committee (DPC) had already been convened and made its recommendations for promotion to the posts of Headmasters on 28.07.2025. According to the petitioner, his name has also been recommended for promotion as Headmaster by the DPC. The petitioner is serving in the cadre of Trained Graduate Teacher for the last 27 years. He had been anxiously waiting for his promotion to the post of Headmaster but respondents have not released promotion list for Headmasters for the last more than two & a half years. Petitioner is due to retire on 30.11.2025 and seeks a direction to the respondents to act upon DPC's recommendations dated 28.07.2025 to enable him to earn promotion to the post of Headmaster and consequential benefits in that regard.

2. On 19.11.2025 it was ordered in this petition that **“in case assertions of the petitioner regarding convening of the DPC and DPC having made its recommendations on 28.07.2025 for filling the posts of Headmasters on promotion, are correct and if there is no other hindrance in giving effect to the recommendations, the**

respondents to redress petitioner's grievance by the next date, considering the fact that he is due for retirement within two weeks."

On the next date i.e. 27.11.2025 the respondents placed on record following instructions dated 26.11.2025 from the Director, School Education:-

"In this regard, it is submitted that the DPC for promotion to the post of Headmaster was convened on 28.07.2025 and further proposal of posting order of recommended candidates was sent to the Government for approval on 06.08.2025. Thereafter, the detail of financial implication on account of promotion to the post of Headmasters was sought from the Special Secretary (Finance) and the financial implication has also been sent to the Government on 15.11.2025. Now the proposal for posting order is under consideration at the Government Level."

Taking note of the same, following directions were issued:-

"Let concerned official alongwith recommendations of the DPC and further action taken upon them alongwith fresh instructions to remain present in the Court on 28.11.2025. In case there is no legal hurdle in giving effect to the recommendations of the DPC, the same be given effect to considering petitioner's impending retirement on 29.11.2025."

In terms of the aforesaid instructions, the respondents admitted convening of DPC for promotion to the posts of Headmasters on 28.07.2025 and sending proposal for posting order of the recommended candidates to the Government for approval on 06.08.2025. The reason given in the office instructions for not issuing the posting order of recommended candidates is that the proposal of posting order of recommended candidates was sent to the Government and after seeking financial implication on account of promotion to the posts of Headmasters from the Special Secretary (Finance), the matter is now pending consideration at the Government level.

During the course of hearing today learned Advocate General submitted that record in terms of directions issued by this Court on 27.11.2025 cannot be produced as the same is lying with the Competent Authority w.e.f. 06.08.2025.

3. In case, the assertions of the petitioner are correct that hundreds of posts of Headmasters are lying vacant for want of promotion of eligible TGTs which *prima facie* appear to be the correct picture, it is indeed a pathetic state of affairs in the respondent-State. Office Instructions placed on record do not dispute convening of DPC after years delay, on 28.07.2025 for making promotion to the posts of Headmasters. Almost four months have gone by, yet the recommendations of DPC are not being given effect to. The instructions placed on record also give an inference that only posting order of recommended candidates is pending for approval.

The sole reason assigned for not promoting the petitioner and may be many others who are eagerly waiting for their promotion is the assessment of financial implication on account of promotion which is stated to be under consideration at the Government level. The financial implication *prima facie* cannot be a bar for giving effect to promotion against posts which are sanctioned, approved, part of cadre and lying vacant. It is the fundamental right of an employee to be considered for promotion. That right cannot be defeated by the respondents by firstly not convening the DPC in time and thereafter by not giving effect to its recommendations for an indefinite period. It cannot be lost sight of that normally promotion of an employee takes

place from the actual date of promotion and not from date his name was recommended by the DPC for promotion or from the date of occurrence of vacancy. Reference in this regard can be made to *Union of India & Ors. vs. K.K. Vadera & Ors*, AIR 1990 SC 442; *Jagdish Ch. Patnaik & Ors. vs. State of Orissa & Ors.*, AIR 1998 SC 1926; & *Government of West Bengal & Ors. vs. Dr. Amal Satpathi & Ors.* 2024 (14) SCALE 294.

4. At this stage, learned Advocate General has not disputed petitioner's factual assertions but prayed for time to file reply by pressing into service the above office instructions with the submission that "the proposal for posting order is under consideration at the Government Level". Respondents are though permitted to file reply to the writ petition within two weeks, however, in order to protect the interest of the petitioner, who would retire tomorrow (29.11.2025), it is ordered that in view of peculiar facts and circumstances, petitioner's retirement will not come in his way of seeking actual promotion from the due date with all consequential benefits in the eventuality his writ petition is finally allowed. Let reply be filed within two weeks.

List on 22.12.2025.

Jyotsna Rewal Dua
Judge

November 28, 2025
(PK)