



2026:CGHC:21380

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 10339 of 2019

Reserved On: 15.04.2026

Delivered On: 07.05.2026

G. R. Sahu S/o Late Shri Punarad Sahu Aged About 64 Years Occupation Retired Assistant Commissioner Tribal Welfare, R/o Near Sahu Sadan, Kela Badi, Durg Chhattisgarh, District : Durg, Chhattisgarh

... Petitioner (s)

versus

1 - State Of Chhattisgarh Through The Additional Chief Secretary, Government Of Chhattisgarh, Department Of Scheduled Caste And Scheduled Tribal Welfare Department, Mahanadi Bhawan, Capital Complex, Atal Nagar, Raipur District Raipur Chhattisgarh

2 - Commissioner Directorate Of Scheduled Caste And Scheduled Tribe Development, Indravati Bhawan, Block-D, Ground Floor, Capital Complex, Atal Nagar, Raipur District Raipur Chhattisgarh.

3 - Chhattisgarh Public Service Commission Through Secretary, Chhattisgarh Public Service Commission, Shankar Nagar Road, Raipur District Raipur Chhattisgarh

4 - Shri Jitendra Gupta Aged About 48 Years Occupation Service, Presently Posted As Deputy Commissioner Office Of Commissioner, Directorate Of Scheduled Caste And Scheduled Tribe Development, Indravati Bhawan, Block-D, Ground Floor, Capital Complex, Raipur District Raipur Chhattisgarh.

5 - Shri A. R. Navrang Aged About 49 Years Occupation Service, Presently Posted As Deputy Commissioner Office Of Commissioner, Directorate Of Scheduled Caste And Scheduled Tribe Development, Indravati Bhawan, Block-D, Ground Floor, Capital Complex, Naya Raipur District Raipur Chhattisgarh.

--- Respondents

For Petitioner : Ms. Shriya Jaiswal, Advocate

For Respective Respondents : Mr. Sanjeev Pandey, Dy. Advocate General, Mr. K.G. Yadav, Dy. Govt. Advocate, Ms. Subhi Rusia, Ms. Priyanka Rai, Advocates.

Hon'ble Shri Narendra Kumar Vyas, J.

CAV ORDER

1. The petitioner initially filed present petition with prayer to direct the respondents to promote him with effect from the date of recommendation of review DPC placing him above respondents No. 4 and 5 with arrears of salary, seniority for further promotion and Revision of Pension.
2. During pendency of the petition, the respondents No. 1 & 2 have promoted the petitioner vide order dated 29.11.2019 on the post of the Deputy Commissioner in the Scheduled Tribe and Scheduled Caste Development Department w.e.f. 13.07.2011 notionally by applying the principle of 'No Work, No Pay'. Accordingly, his seniority, pay, pension and gratuity were revised. As such, this case is now confined to the issue whether principle of 'No Work, No Pay' is applicable to the present facts of the case or not?
3. Keeping this issue in mind, the brief facts are being considered which are as under :-
 - A) The petitioner was working as an Assistant Commissioner in the Scheduled Tribe and Scheduled Caste Development Department and attained the age of superannuation on 31.12.2016. As per the gradation list of Assistant Commissioners issued on 01.04.2008, the petitioner was placed at Serial No. 16, whereas Respondent Nos. 4 and 5 were placed at Serial Nos. 17 and 19 respectively. However, vide order dated 13.07.2011, Respondent Nos. 4 and 5 were promoted to the post of Deputy Commissioner, while the petitioner was denied such promotion.
 - B) Prior to issuance of the said promotion order (Annexure P-2), the

petitioner had submitted representations dated 07.09.2010 and 04.02.2011 seeking consideration for promotion, but the same were not decided. Subsequently, on 31.01.2014, the respondent-State issued an order based on the recommendations of the Departmental Promotion Committee dated 10.07.2012, whereby the petitioner was granted seniority on the post of Assistant Commissioner with retrospective effect from 07.09.2006, and his seniority was fixed above Respondent No. 4, Shri Jitendra Gupta.

- C) On 15.07.2014, a proposal was forwarded to Respondent No. 3 for convening a review Departmental Promotion Committee (DPC) meeting to consider the case of the petitioner and other eligible officers for promotion to the post of Deputy Commissioner. Pursuant thereto, a review DPC meeting was held on 20.02.2015, wherein it was recommended that the petitioner is fit for promotion and was entitled to be placed above Respondent Nos. 4 and 5, who were admittedly junior to him. The petitioner thereafter submitted several representations dated 15.07.2015, 04.08.2015, 02.09.2015, 24.09.2015, 16.10.2015, 17.11.2015, and 23.11.2015, requesting consideration of his case for promotion.
- D) However, no action was taken which compelled the petitioner to file Writ Petition before this Court which was registered as W.P.(S) No.175/2016 and this Court vide order dated 22/07/2016 disposed of the petition directing the State Government to consider the claim of petitioner for promotion and while taking decision recommendations of PSC shall also be kept in view. In pursuance of the order passed by this Hon'ble Court petitioner made representation along with a copy of the order on 01/08/2016, 23/08/2016, 14/09/2016 and 13/06/2016 but nothing

happened to those representations. When the respondent authorities did not take any action despite the orders passed by the Court and the representations of the petitioner, he filed a Contempt petition before this Court which was registered as Contempt Petition No. 533/2016. On 11/11/2016, said petition was disposed of stating that there is no specific time frame provided but the order reasonably construed that claim of the petitioner shall be considered as early as possible. Still as nothing moved, yet again, the petitioner made representations on 24/11/2016 and 26/11/2016 with the hope that he would be given promotion before attaining the age of superannuation i.e. on 31/12/2016.

- E) About one year later, i.e. on 29/12/2017 some more officers were promoted from the post of Assistant Commissioner to Deputy Commissioner but no orders with regard to petitioner's promotion were issued. He further submitted representations on 10/01/2019 and 21/01/2019 requesting that he be promoted as per recommendations of Public Service Commission.
 - F) After filing of the present petition, the petitioner was granted notional promotion on 29.11.2019 retrospectively w.e.f. 13.07.2011 as detailed. Now the petition is only confined to arrears of salary to the promotional post from 13.07.2011 to 31.12.2016. Additionally, the petitioner has prayed for Rs. 5,00,000/- as compensation towards cost of litigation and hardship suffered by him.
4. The State has filed its reply contending that since the petitioner has been given promotion to the post of Deputy Commissioner retrospectively w.e.f. 13.07.2011 and he has been provided with consequential benefits and accordingly, his pension has also been

revised and arrears of gratuity has been paid. However, since the promotion has been given on notional basis he is not entitled to any arrears of salary for the said period and would pray for dismissal of the writ petition. He would refer to judgment of the Hon'ble Supreme Court in case of **State of Haryana vs. O.P. Gupta {(1996) 7 SCC 533}** and **Union of India vs. B.M. Jha {(2007) 11 SCC 632}**.

5. The Chhattisgarh Public Service Commission has filed reply contending that they had recommended that the petitioner was fit for promotion and above the respondent No. 4 and 5. The concerning department is proper and necessary party to put forth its stand in the matter of promotion, they do not have any role to play to the relief sought by the petitioner in the matter.
6. Learned counsel for the petitioner would submit that he has been promoted notionally from 13.07.2011 whereas he was always willing to discharge duties on the promotional post but was prevented due to inaction on part of the respondents. Therefore, the principle of "*No Work No Pay*" is not applicable in the present case, as the petitioner was kept away from work for no fault of his own. She would further submit that due to illegal denial of promotion, the petitioner has suffered substantial monetary loss for the period from 13.07.2011 till 31.12.2016, apart from severe mental harassment and prolonged litigation spanning several years. Therefore, the petitioner is entitled for full arrears of salary and all consequential benefits on the promotional post of Deputy Commissioner for the period from 13.07.2011 to 31.12.2016 with an additional compensation of Rs. 5,00,000/- towards the hardship, harassment, and prolonged litigation suffered by him and would pray for allowing the petition.

7. On the other hand, learned State counsel would submit that the grievance of the petitioner does not survive in the present form, inasmuch as the respondents have already granted him notional promotion to the post of Deputy Commissioner vide order dated 29.11.2019 with retrospective effect from 13.07.2011 and pursuant thereto, all consequential service benefits have been extended to the petitioner, including revision of pay on notional basis, re-fixation of pension, and payment of arrears of gratuity. Thus, the grievance of the petitioner has redressed substantially. He would further submit that notional promotion does not entitle an employee to back wages it is a settled principle of service jurisprudence that where promotion is granted retrospectively on notional basis, the employee is not entitled to arrears of salary for the period during which he did not actually discharge duties on the promotional post. It is well settled position of law that the purpose of grant of notional promotion is limited to fixation of seniority, current salary and retiral benefits. The financial burden on the State exchequer cannot be imposed in absence of actual discharge of duties. The petitioner's claim for compensation of Rs. 5,00,000/- is wholly misconceived and without any legal basis. Therefore, he would pray for dismissal of the writ petition.
8. I have heard learned counsel for the parties and perused the record with utmost satisfaction.
9. Undisputed facts as reflected from the records are that the petitioner was earlier denied his seniority on the post of Assistant Commissioner by the respondents without any rhyme and reason. From perusal of gradation list issued by the respondent State as on 01.04.2008, it is quite vivid that the petitioner was promoted to the post of Assistant

Commissioner on 20.02.2008 and respondent No. 4 and 5 were promoted on 07.09.2006 as Assistant Commissioner. However, in the gradation list, the petitioner was placed above respondents No. 4 and 5. Thereafter, the respondent-State has conducted DPC for promotion from the post of Assistant Commissioner to Dy. Commissioner on 25.03.2011 and respondents No. 4 and 5 have been promoted on 13.07.2011. It is also not in dispute that petitioner submitted representation for granting him seniority w.e.f. 07.09.2006 and the State has considered his representation and he was granted seniority w.e.f. 07.09.2006 by applying the principle of 'No Work, No Pay' vide order dated 31.01.2014. It is also not in dispute that the respondent vide memo dated 15.07.2014, has initiated proceedings for review DPC on 20.02.2015 vide Annexure P/6 wherein the petitioner was also found fit for promotion above respondents No. 4 and 5. Despite this, he was not granted promotion w.e.f. the date on the juniors have been promoted.

10. Only after, the intervention of this Court in writ petition and filing of contempt petition, the respondents have initiated proceedings to redress the grievances of the petitioner. Though, partly grievances have been redressed, but again applying the principle of 'No Work, No Pay'. From the entire undisputed facts it is quite vivid that the mistake committed by the respondents have compelled the petitioner to get fruits of promotion and only after the intervention of the Court, the authorities have woken up. Thus, the entire shortcoming is in the part of the respondents to deprive the fruits of promotion to the petitioner. Therefore, this Court is of the view that it is a fit case where the principle of "No Work, No Pay" is not applicable but the entire denial occurs due to fault committed by the authorities.

11. As such, the petitioner cannot be made to suffer for the fault of the respondents. The Hon'ble Supreme Court in case of **Ramesh Kumar v. Union of India, {(2015) 14 SCC 335}** has 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. Hon'ble the Supreme Court has 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."

12. Again, the Hon'ble Supreme Court in case of **North Delhi Municipal Corporation v. Ram Naresh Sharma {2021 (173) SCC 642}** has observed in paragraph 21 as under:-

21.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 5 of 7 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."

13. Considering the law laid down by the Hon'ble Supreme Court, and

further taking into account that although the petitioner was deprived of discharging duties on the promoted post due to inaction of the respondent-State, this Court cannot lose sight of the fact that the petitioner did not actually perform the duties attached to the promoted post. As such, an equitable relief is need of the hour by balancing the burden on the public exchequer, of course, due to lapses and untimely action on the part of the authorities, this Court is of the view that if the petitioner is granted 50% of arrears of difference of pay between the post of Deputy Commissioner and the Assistant Commissioner for the period from 13.07.2011 to 31.12.2016, i.e., from the date on which his juniors were promoted till the date of his superannuation, that will meet the ends of justice. Therefore, the respondent-State is directed to calculate and pay the aforesaid arrears i.e. 50% of difference of pay between the post of Deputy Commissioner and the Assistant Commissioner from 13.07.2011 to 31.12.2016, within a period of four months from the date of receipt of a copy of this order. In the event of failure to comply within the stipulated period, the entire amount shall thereafter carry interest @ 6% per annum till realization.

14. With the aforesaid observation and direction, the Writ Petition (S) is allowed in part.

Sd/-
(Narendra Kumar Vyas)
Judge

Head Note

Principle of 'No Work, No Pay' is not universally applicable, it is dependable upon facts and circumstances of each case.

हेड नोट

'नो वर्क, नो पे' का सिद्धांत सर्वत्र लागू नहीं होता, यह प्रत्येक प्रकरण के तथ्य तथा परिस्थितियों पर निर्भर करता है।