



2025:CGHC:58453

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Order Reserved on :19.11.2025

Order Delivered on : 02.12.2025

WPS No. 2012 of 2023

Salik Ram Chandrakar S/o Dhuru Ram Chandrakar Aged About 62 Years Resident of H- 22, New Vairaj Colony, Rudri, Dhamtari, District : Dhamtari, Chhattisgarh

... Petitioner

versus

- 1 - State of Chhattisgarh Through- The Secretary, Department of Water Resource, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh**
- 2 - Engineer-In-Chief Water Resource Department, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh**
- 3 - Chief Engineer Mahanadi Project, Department of Water Resource, Raipur, District : Raipur, Chhattisgarh**
- 4 - Superintendent Engineer M. R. P. Dam Circle, Rudri, District : Dhamtari, Chhattisgarh**
- 5 - Executive Engineer Water Management Division, Rudri, District : Dhamtari, Chhattisgarh**

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	: Ms. Swati Verma, Advocate
For State/Respondents	: Mr. Rahul Tamaskar, Government Advocate with Mr. Dashrath Prajapati, Panel Lawyer

Hon'ble Shri Amitendra Kishore Prasad, Judge
C A V Order

1. Heard Ms. Swati Verma, learned counsel for the petitioner as well as Mr. Rahul Tamaskar, Government Advocate with Mr. Dashrath Prajapati, Panel Lawyer appearing for the State/respondents.
2. By filing the present petition, the petitioner has prayed for following relief(s) :-

“10.1 That, this Hon'ble Court may kindly be pleased to allow this petitioner and give direction respondent no. 2 to promote the petitioner in the post of assistant research officer.

10.2 That, this Hon'ble Court may kindly be pleased to direct concern department for consider the objection raised by the petitioner and direct the department to allow salary scale of Assistant research officer from the date of 8-08-2022.

10.3 That, this Hon'ble Court may kindly be pleased to direct concern department to give petitioner all benefits of seniority from the date of 07-05-2012.

10.4 Any other relief, which this Hon'ble Court deems fit and proper, may also kindly be granted to the petitioner, in the interest of justice.”

3. Brief facts of the case, in nutshell, are as under:-
 - The petitioner is presently working as an Embankment Inspector in the Water Resources Department, Government of

Chhattisgarh, and is posted at Rudri. Prior to his present posting, the petitioner was serving on the post of Laboratory Assistant Grade-B (Prayogshala Sahayak).

- As per the applicable departmental rules, the eligibility criteria for promotion to the post of Embankment Inspector is 8 years of qualifying service in the cadre of Laboratory Assistant Grade-A (Prayogshala Taknishiyan) and 12 years of qualifying service in the cadre of Laboratory Assistant Grade-B (Prayogshala Sahayak).
- Vide order dated 11.02.2011, the department issued a seniority list in which the petitioner was placed immediately below Mr. Surendra Tiwari, who was equally senior to the petitioner. In the last paragraph of the said order, the department itself recorded that, “according to the rules, promotion in 25% posts of Embankment Inspector from Prayogshala Sahayak and Prayogshala Taknishiyan cadres is not clear, and therefore instructions/decision regarding the post may be issued.”
- On 07.05.2012, the department issued an order of promotion whereby Mr. Surendra Kumar Tiwari was promoted to the post of Embankment Inspector.
- The petitioner thereafter submitted a representation before the competent authority seeking similar relief; however, vide reply dated 25.10.2014, the department rejected the petitioner’s

claim on the ground that no post of Embankment Inspector was available.

- Subsequently, vide order dated 01.02.2019, the petitioner was granted promotion to the post of Embankment Inspector, though after an unjustified delay of nearly ten years. The petitioner ought to have been promoted during the period between 2007 to 2012.
- The department thereafter published a scheduled list of Embankment Inspector posts on 07.04.2022, wherein it was again noted that Mrs. Rinu Toppo and Mr. Arun Kumar Tondon had been promoted to the post of Embankment Inspector on 07.05.2012, and further that 25% of the posts in the cadre would be filled in the ratio of 50:50 from Prayogshala Sahayak and Prayogshala Taknishiyan cadres.
- Thereafter, vide order dated 08.09.2022, the department promoted Mrs. Rinu Toppo and Mr. Arun Kumar Tondon to the post of Assistant Research Officer, whereas the petitioner was neither granted promotion nor extended consequential benefits of seniority.
- Being aggrieved, the petitioner submitted a detailed representation dated 27.09.2022 before the department, seeking clarification as to how his juniors were extended promotional benefits despite his superior placement in the seniority list, but no action was taken.

- The petitioner also filed an application under the Right to Information Act on 04.11.2022 seeking details regarding the seniority position of the promoted candidates and the rules invoked for promoting them superseding the petitioner's seniority; however, the authority failed to furnish any response. Hence, this petition.

4. Ms. Swati Verma, learned counsel for the petitioner, submits that the respondents have failed to adhere to the statutory rules governing promotion to the post of Embankment Inspector, resulting in serious prejudice to the petitioner. She submits that the petitioner became eligible for promotion in the year 2011 itself, yet his promotion was arbitrarily withheld for almost ten years on untenable grounds, while his juniors were promoted ahead of him. She further submits that Rule 13 of Schedule-IV clearly mandates that 25% of the posts of Embankment Inspector are to be filled by promotion, with a 50:50 quota between Prayogshala Sahayak and Prayogshala Taknishiyan cadres. Despite this clear provision, the petitioner, who was senior and eligible was ignored in the 2012 promotion process.
5. Learned counsel submits that even the departmental order dated 11.02.2011 acknowledged ambiguity in the promotional quota, yet instead of resolving the issue, the respondents allowed the petitioner's case to remain stuck in this procedural uncertainty, leading to deprivation of his legitimate right. She submits that

although the petitioner was finally promoted in 2019, the inordinate delay caused loss of ten years of seniority, enabling juniors with more than 13 years lesser service to supersede him in the subsequent promotion to the post of Assistant Research Officer. She contends that the petitioner's RTI queries seeking transparency in the promotion of his juniors were not answered, which shows the arbitrary and evasive conduct of the respondents. She submits that the petitioner's representations were either ignored or replied to mechanically, without addressing the crucial issue of delay or the wrongful denial of seniority benefits. Learned counsel argues that the impugned actions are violative of Articles 14 and 16 of the Constitution of India, besides being contrary to the principles of natural justice and the petitioner has an unblemished service record and is the sole earning member of his family as well as he stood superannuated on 30.08.2023, and therefore denial of due promotion and seniority has caused grave injustice, necessitating interference by this Court.

6. Reliance has been placed upon the judgments rendered by Hon'ble Supreme Court in **Government of West Bengal and others v. Dr. Amal Satpathi and others passed in Civil Appeal No.13180 of 2024, decided on 27.11.2024** as also by this Court in **Sitaram v. State of Chhattisgarh and another passed in WPS No.2687 of 2020 decided on 20.06.2025** to buttress her submission.

7. On the other hand, Mr. Rahul Tamaskar, learned Government Advocate with Mr. Dashrath Prajapati, learned Panel Lawyer appearing for the State/respondents, opposes the submissions of learned counsel for the petitioner and submits that at the very outset, the answering respondents categorically, specifically, and vehemently deny all adverse allegations levelled by the petitioner anywhere in the writ petition against the State authorities. He submits that the present writ petition has been filed on the grievance that a seniority list was issued on 11.02.2011 wherein the petitioner was placed immediately below Shri Surendra Tiwari, and that subsequently, vide order dated 07.05.2012, Shri Surendra Tiwari was promoted to the post of Embankment Inspector while the petitioner was not. The petitioner thereafter submitted his representation, which was duly replied to on 25.10.2014 informing him that no vacant post of Embankment Inspector was available at that time. The petitioner was thereafter granted promotion to the post of Embankment Inspector on 01.02.2019, and later he has raised a grievance about promotions made on 07.04.2022 and 08.09.2022 in favour of Smt. Rinu Toppo and Shri Arun Kumar Tondon.
8. Learned Government Advocate submits that the promotions in question have been made strictly on the basis of recommendations of the Departmental Promotion Committee (DPC), considering the gradation list and rules in force. It is submitted that the petitioner was initially working as Laboratory

Assistant Grade-B and that there are 16 sanctioned posts of Embankment Inspector, which constitute the feeder cadre for promotion to the post of Assistant Research Officer. He further submits that under the Recruitment Rules, 75% of the posts of Embankment Inspector are to be filled through direct recruitment and the remaining 25% through promotion. The DPC meeting for promotion to the post of Embankment Inspector was held on 03.05.2012, wherein, based on seniority and eligibility, the DPC considered the candidature of Shri Surendra Tiwari, who was senior to the petitioner, along with Smt. Rinu Toppo under the Scheduled Tribe/Scheduled Caste category. Accordingly, the DPC recommended both for promotion and the department issued the promotion order dated 07.05.2012 (Annexure P-4).

9. Learned Government Advocate submits that the subsequent DPC meeting for promotion to the post of Assistant Research Officer was held in the year 2022, and on consideration of seniority and eligibility, the DPC recommended the names of Shri Arun Kumar Tondon and Smt. Rinu Toppo. Based on this recommendation, the promotion order dated 08.09.2022 (Annexure P-8) was issued. He submits that the petitioner's representation was duly considered by the competent authority, and after examining all relevant records, the claim of the petitioner was rejected through a detailed and reasoned order dated 03.01.2023 (Annexure P-1). Thus, the allegation of non-consideration of petitioner's grievances is wholly unfounded. He submits that although the petitioner's name was

under consideration in the DPC meeting of 2022, the petitioner did not fulfil the requisite criteria or seniority position for being recommended for promotion to the post of Assistant Research Officer, and therefore his name could not be considered. Lastly, he submitted that there is no illegality, irregularity, or arbitrariness in the action of the answering respondents. The representation of the petitioner has been decided strictly in accordance with rules and pursuant to the direction of this Court, and as such, no interference is warranted in the present matter.

10. I have heard learned counsel for the parties, considered their rival contentions and perused the material available with the writ petition with utmost circumspection.
11. From perusal of the record, it transpires that the petitioner was duly eligible for promotion to the post of Embankment Inspector as early as in the year 2011–2012, in terms of the applicable Recruitment Rules, which mandate that 25% of the posts be filled by promotion, distributed in the ratio of 50% from Laboratory Assistant Grade-A (Prayogshala Taknishiyan) and 50% from Laboratory Assistant Grade-B (Prayogshala Sahayak). The seniority list dated 11.02.2011 placed the petitioner immediately below Mr. Surendra Kumar Tiwari and showed him as fully eligible for consideration. The same document also records that the Department itself admitted ambiguity and lack of clear guidelines regarding the promotional quota, resulting in difficulty in making

promotions. This admission itself establishes that the petitioner's case was not evaluated in accordance with rules.

- 12.** It further transpires that despite being eligible, the petitioner was not considered for promotion in the DPC held on 03.05.2012, and only Mr. Surendra Kumar Tiwari was promoted vide order dated 07.05.2012. The Department did not furnish any cogent reason for bypassing the petitioner. The plea of "non-availability of post" taken in the reply dated 25.10.2014 is contradicted by the admitted position in the record that all promotional posts were filled from only the Laboratory Technician cadre, leaving only one person from Laboratory Assistant cadre promoted, resulting in violation of the mandated 50-50% distribution.
- 13.** It is an admitted position that the petitioner's first promotion was granted only on 01.02.2019, almost ten years after he became eligible, and without assigning any reason for the delay. Because of such delay, the petitioner not only lost ten years of seniority but also became junior to persons far below him in seniority, including Mrs. Rinu Toppo and Mr. Arun Kumar Tandon, who were subsequently promoted to the post of Assistant Research Officer vide order dated 08.09.2022. It further transpires that several representations, including the detailed representation dated 27.09.2022 and the RTI application dated 04.11.2022, were filed by the petitioner, raising fundamental issues regarding seniority, eligibility, misapplication of quota and improper roster allocation.

However, the Department failed to address these issues in a reasoned manner. The impugned order dated 03.01.2023 rejecting the petitioner's claim is mechanical, non-speaking and suffers from complete non-application of mind. None of the petitioner's core grievances were considered.

14. From the record, it emerges that the Department relied solely on the ground of reservation for Scheduled Caste/Scheduled Tribe candidates while considering the 2022 promotion, but completely ignored the petitioner's prior right accrued in 2011–2012, when the roster was not properly implemented and when the petitioner's consideration was unlawfully withheld. It is settled law that an administrative authority cannot take advantage of its own wrong, nor can a subsequent reservation roster justify earlier illegal supersession.

15. In the matter of **Dr. Amal Satpathi** (supra), while dealing with the similar issue, the Hon'ble Supreme Court has held as follows :-

“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 and Others v. Dharamdeo Das, 2024 SCC OnLine SC 1768**, 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 Rai*, (2022) 12 SCC 579 where, citing earlier precedents in *Director, Lift Irrigation Corporation Ltd. v. Pravat Kiran Mohanty*, (1991) 2 SCC 295 and *Ajit Singh v. State of Punjab*, (1999) 7 SCC 209, 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).

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*27. In our opinion, the above view expressed in **Ashok Kumar Gupta [Ashok Kumar Gupta v. State of U.P., (1997) 5 SCC 201** and followed in **Jagdish Lal [Jagdish Lal v. State of Haryana, (1997) 6 SCC 538** 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 (ie. 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 fundamental right guaranteed under Article 16(1) and this has never been doubted in any other case before Ashok Kumar Gupta Ashok a Kumar Gupta v. State of U.P.], right from 1950.'

"20. In State of Bihar v. Akhouri Sachindra Nath, 1991 Supp (1) SCC 334, 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, 1992 Supp (1) SCC 272 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., (2006) 10 SCC 346***, 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.”

- 16.** Having considered the rival submissions advanced on behalf of the parties and on meticulous scrutiny of the material placed on record, this Court is of the considered view that the action of the respondents in denying timely consideration of the petitioner's

candidature for promotion to the post of Embankment Inspector in 2011–2012 is *ex facie* arbitrary, contrary to the governing Recruitment Rules and violative of the constitutional mandate under Articles 14 and 16 of the Constitution of India. The record unmistakably reveals that the petitioner fulfilled all eligibility criteria for promotion; yet his rightful consideration was deferred for almost a decade without any cogent justification. The departmental plea of “non-availability of posts” stands contradicted by their own admission regarding ambiguity in quotas and improper implementation of the 50:50 promotional distribution, thereby rendering the non-consideration of the petitioner wholly unjustified.

17. The consequence of such inaction was not merely a procedural irregularity, but it resulted in grave civil consequences to the petitioner. The delay of nearly ten years in according him his first promotion has irreversibly impaired his seniority position, leading to manifest injustice whereby candidates far junior to him in the feeder cadre, including Smt. Rinu Toppo and Shri Arun Kumar Tandon, were able to supersede him in the subsequent promotion process to the post of Assistant Research Officer. Although the respondents have attempted to justify the 2022 promotions on the basis of reservation roster and DPC recommendations, such justification fails to answer the core illegality committed in 2011–2012, where the petitioner’s rightful consideration was illegally withheld. It is a well-settled principle of law that the State cannot

be permitted to take advantage of its own wrong, nor can later DPC proceedings obliterate the prejudice caused earlier.

18. The petitioner has consistently pursued his grievance through multiple representations and RTI applications; however, all such communications were either ignored or disposed of mechanically. The impugned order dated 03.01.2023 rejecting his claim is cryptic, non-speaking and reflects absolute non-application of mind. It fails to address the core issues relating to violation of quota, misapplication of rules, delay in promotion and wrongful loss of seniority. Such an order cannot withstand judicial scrutiny. The reasoning rendered is neither supported by facts nor consistent with the statutory scheme.
19. The Hon'ble Supreme Court in ***Dr. Amal Satpathi*** (supra) has reaffirmed that although the right to promotion itself is not fundamental, the right to be considered for promotion in accordance with rules is a facet of Articles 14 and 16(1) and stands elevated to the status of a fundamental right. The petitioner was denied such consideration at the relevant time, causing clear infraction of his constitutional rights. While retrospective promotion with financial benefits is impermissible in the absence of actual assumption of charge, as held in the said judgment and other precedents, the denial of fair and timely consideration cannot be left without remedy, especially when such denial has materially

altered the petitioner's career progression and resulted in irreversible prejudice.

20. In the present case, the petitioner superannuated on 30.08.2023 after having an unblemished service career. Injustice caused to him is apparent on the face of the record and is attributable solely to the administrative inaction and misapplication of rules by the respondents. This Court cannot remain a silent spectator where an employee is deprived of his legitimate promotional and seniority rights due to arbitrary and unexplained delay attributable solely to the employer.

21. Consequently, for the reasons aforesaid, the writ petition deserves to be and is hereby allowed in the following terms:

(i) The non-consideration of the petitioner for promotion to the post of Embankment Inspector in the DPC held on 03.05.2012 is declared illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

(ii) The petitioner shall be deemed to have been considered for promotion to the post of Embankment Inspector as on 07.05.2012, along with his immediate senior and juniors.

(iii) The petitioner shall be entitled for notional seniority in the cadre of Embankment Inspector by assigning him the appropriate place in the seniority list as he would have held had he been considered and promoted in the year 2012.

(iv) As the petitioner has already superannuated on 30.08.2023, he shall not be entitled to arrears of pay for the promotional posts not actually held; however, the respondents shall extend to him all notional benefits, including fixation of pay for pensionary purposes and recalculation of retiral dues, based on his revised seniority, expeditiously in accordance with law.

22. With the aforesaid observations/directions, instant writ petition stands allowed. There shall be no order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
19.11.2025	02.12.2025	-----	02.12.2025

Head Note

No retrospective promotion or retrospective seniority can be granted from a date when the employee had not even been borne in the cadre. Such retrospective benefits, if conferred, would prejudicially affect the rights of validly appointed direct recruits in the interregnum and are, therefore, impermissible in law.