



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 21031/2012

Purshendra Singh S/o Late Shri Hem Singh, aged 68 years, R/o
279/6, Near Lakshmi Kant Mandir, Behind Ragunath, Ajmer.

----Petitioner

Versus

Municipal Corporation, Ajmer through it's Chief Executive Officer.

----Respondent

For Petitioner(s) : Mr. Sunil Samdaria with
Mr. Arihant Samdaria
For Respondent(s) : Mr. B.K. Sharma

HON'BLE MR. JUSTICE ANAND SHARMA

Order

15/09/2025

1. Aggrieved by not granting actual monetary and other benefits consequent upon his promotion on the post of Lower Division Clerk (LDC), the petitioner has filed the instant writ petition.

2. It is stated that the petitioner was initially appointed on the post of Jamadar on 16.04.1976. For considering cases for promotion on the post of LDC, Departmental Promotion Committee (DPC) was convened on 28.05.1990. However, while ignoring the petitioner the persons who were junior to the petitioner were promoted on the post of LDC.

3. Feeling aggrieved the petitioner preferred S.B. Civil Writ Petition No. 2830/1990 before this Court, which was decided vide order dated 29.01.2001 and directions were given to the respondent to consider case of the petitioner for promotion on the



post of LDC taking into account all the factors including that juniors of the petitioners have also been given promotion and if, the petitioner is found fit on the basis of seniority-cum-merit, then he should be promoted from the date on which, the benefit of promotion had been granted to his juniors. It is further submitted that when the aforesaid order dated 29.01.2001 passed by this Court was not complied with, the petitioner was constrained to file S.B. Civil Contempt Petition No. 41/2002, in which one order dated 06.09.2005 was passed by this Court directing the respondent to appear personally in the Court in case, the order was not complied with. Thereafter, one order dated 24.09.2005 was issued by the Commissioner Municipal Counsel, Ajmer reflecting that in compliance of order dated 29.01.2001, the Departmental Promotion Committee convened its meeting and recommended for an ad hoc promotion of the petitioner on the post of LDC w.e.f 28.05.1990. It was further submitted that thereafter another order dated 15.04.2008 was issued by the respondents-municipal counsel, whereby petitioner was regularly promoted on the post of LDC w.e.f. 28.05.1990.

4. Grievance of the petitioner is that although, promotion was granted to him on the post of LDC w.e.f. 28.05.1990, by way of issuing order of regular promotion in the year 2008, yet, despite the fact that the delay in convening DPC was not attributable to the petitioner, he was denied actual monetary benefits from the date of his promotion i.e 28.05.1990 and he was simply given notional benefits of pay fixation, which has caused him serious prejudice as well as heavy financial loss.





5. The writ petition filed by the petitioner was opposed by the respondents and it was submitted that as per the prevailing rules, in case any DPC for the vacancies of earlier years is convened in subsequent years, then the beneficiary would be entitled only for notional benefits and not for actual monetary benefits. In support of his arguments, learned counsel for the respondent has relied upon one order dated 30.07.2013 issued by the Rules Division of Finance Department, Government of Rajasthan, which states that where DPC of earlier year is convened in the subsequent year, then fixation of pay shall be made on promotion post from 1st April of the year of DPC or date of vacancy against which selection is made and the actual benefits of pay and allowances will be payable from the date of actual working/charge taken over on the promotion post.

6. I have considered the submissions and perused the record.

7. It is undisputed that that in the instant case, the petitioner was promoted w.e.f. 28.05.1990 on the post of LDC although, the DPC was convened in the year 2008. It is not the case that, the petitioner himself was responsible for delaying the DPC or there was any statutory Bar in holding the DPC for promoting the petitioner.

8. It is also admitted that the dispute with regard to promotion of the petitioner has already been examined by this Court in earlier S.B. Civil Writ Petition No. 2830/1990, where specific directions were given to consider the case of the petitioner for promotion from the date when his juniors were promoted.





Accordingly, in compliance of order of this Court, the promotion has been granted to the petitioner w.e.f. 28.05.1990.

9. In the case of **Ramesh Kumar Vs. Union of India & Ors. reported in 2015 (14) SCC 335**, the Hon'ble Supreme Court has considered the similar matters where promotion against the vacancies of earlier year was granted by convening DPC in later years and on the point of grant of financial benefits, it has been held that the principle of 'no work no pay' shall not be applied in such cases. The Hon'ble Supreme Court has taken into consideration the fact that, in such cases the person has already suffered injustice on account of not being granted promotion by convening DPC on time. Negating the objection raised by the respondent-Government with regard to the principle of 'no work and no pay, directions were given for granting actual monetary benefits of pay and allowances from the date on which, the promotion was accorded to the employee. The following paras of the aforesaid judgment are reproduced as under:

13. The respondents have advanced the argument that the denial of pay and allowances is on the principle of "no work no pay" and no injustice has been done to the appellant since he has not actually worked in the promotional post of Naib Subedar during the aforesaid period. It was submitted that the benefit of pay and allowances was rightly awarded w.e.f. 13-11-2000, the date on which the appellant actually assumed the rank of Naib Subedar but his seniority was maintained so as to protect his interest in his further promotions.

15. 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. In the facts of the present case when the appellant was granted promotion w.e.f. 1-1-2000 with the ante-dated seniority from 1-8-1997 and maintaining his seniority along with his batchmates, it would be unjust to deny him higher pay and allowances in the promotional position of Naib Subedar.





10. As regards, arguments were put forward by learned counsel for the respondent that in the light of order dated 30.07.2013, issued by Finance Department of Government of Rajasthan, actual benefit of promotion shall be granted only from the date of DPC, it is suffice to observe that the aforesaid order dated 30.07.2013 itself makes it clear that such directions shall be deemed to have come into force w.e.f. 01.04.2012. In the instant case, the DPC was convened in the year 2008, whereby promotion was granted to the petitioner w.e.f. 28.05.1990 hence, the order dated 30.07.2013 cited by learned counsel for the respondent, having no retrospective effect, is not applicable.

11. In the light of foregoing discussion, and the guidelines issued by Hon'ble Supreme Court, the writ petition filed by the petitioner stands allowed. Accordingly, the respondents are directed to sanction and release actual monetary benefits of pay and allowance to the petitioner w.e.f. 28.05.1990 i.e. the date of promotion of the petitioner on the post of LDC. Arrears of difference of pay, while granting actual benefits, shall be paid to the petitioner within a period of two months from the date of receipt of certified copy of this order.

12. In case, compliance is not made within the aforesaid period then the outstanding amount shall carry interest @ 6% per annum.

13. Ordered accordingly.

(ANAND SHARMA),J

NEERU/48

