



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-25747-2016 (O&M)

Jaskaran Singh ...Petitioner

Versus

Punjab State Agricultural Marketing Board & another ...Respondents

Sr. No.	Particulars	Details
1.	The date when the judgment is reserved	09.09.2026
2.	The date when the judgment is pronounced	15.09.2026
3.	The date when the judgment is uploaded on the website	16.09.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	N.A.

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Akshay Kumar Goel, Advocate, for the petitioner.

Mr. Sumit Jain, Advocate, for the respondents.

NAMIT KUMAR, J.

1. The present petition has been filed by the petitioner under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing order dated 25.10.2013 (Annexure P-7) passed by respondent No.2, whereby the petitioner was granted notional promotion to the post of Auction Recorder w.e.f. 21.01.2008, as also order dated 22.09.2014 [*wrongly mentioned as dated 12.09.2014*] (Annexure P-8) passed by respondent No.1, whereby he was denied all the monetary and consequential benefits, including arrears of salary, for the period from 21.01.2008 to 23.04.2012.



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2. Briefly stated, the facts of the case, as have been pleaded in the petition, are that the petitioner joined Market Committee, Bhagta Bhaika, District Bathinda (respondent No.2) as Clerk on 06.06.1987. Thereafter, on 12.08.1998, he was placed in the pay scale of Junior Assistant. The service conditions of the petitioner were governed by the Rules ‘The Punjab State Agricultural Marketing Board (Class III) Service Rules, 1989’ (for short ‘the 1989 Rules’), which came into force on 27.01.1989. The next promotional post from the cadre of Clerk is that of Auction Recorder. There are total 09 posts of Auction Recorders in Market Committee, Bhagta Bhaika, District Bathinda (respondent No.2). In terms of Rule 8 of 1989 Rules, which prescribes the method of recruitment, 25% of the posts are to be filled by direct recruitment and 75% by promotion. Thus, out of 09 posts, 02 posts are to be filled up by way of direct recruitment and 07 posts by way of promotion. Appendix ‘B’ to Rule 8 of 1989 Rules prescribing the mode of appointment and eligibility for the post of Auction Recorder, reads as under:

Sr. No.	Designation of post	Mode of appointment	Director Appointment	Promotion
4.	Auction Recorder	(i) Twenty five per cent direct appointment, and (ii) Seventy five per cent promotion	Should have passed matriculation examination from the Education Board with at least fifty per cent marks and should have obtained a graduate of a recognized University with at least fifty per cent marks	From amongst the Clerks, Kandamen, who have an experience of working on either of the aforesaid post for a minimum period of three years.

3. It is the case of the petitioner that under the aforesaid 1989 Rules, there is no provision permitting the transfer of an Auction Recorder from one Market Committee to another. However, one Sh. Karamjit Singh,



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Auction Recorder, Market Committee, Nurmahal, was transferred to Market Committee, Bhagta Bhaika, District Bathinda (respondent No.2), vide order dated 12.01.2008. Since the said transfer of Sh. Karamjit Singh adversely affected the promotional prospects of the petitioner to the post of Auction Recorder, he along with another employee challenged the order dated 12.01.2008 before this Court by filing CWP-19529-2008. The said petition was, however, dismissed as withdrawn, vide order dated 17.12.2009, with liberty to the petitioner/s to approach the revisional authority. Consequently, the petitioner, along with two other employees, preferred a revision petition before the Secretary, Government of Punjab, Department of Agriculture, Chandigarh. The said revision petition was disposed of, vide order dated 01.04.2010 (Annexure P-1), with the following observations:

*“I have heard the arguments advanced by the learned counsels for the parties and have also gone through the record placed on file. I have also gone through the Acts and Rules. It is admitted fact that there are 9 posts of Auction Recorders in Market Committee, Bhagta Bhai Ka. It is also an admitted 75% by promotion. Meaning thereby 2 posts are to be filled by direct recruitment and 7 are to be filled by way of promotion. It is also admitted fact that Sh. Jagroop Singh and Sh. Gurnab Singh are working as Auction Recorders against the posts of direct recruitment and as such no post of direct recruitment is available. No doubt, the parent committee of an employee can be changed with certain conditions if both the lending and the borrowing committee and Punjab Mandi Board approves the same. In the case of respondent-Karamjeet Singh the same procedure seems to have been followed. But the crucial question is that permanent transfer/change of parent committee can only be allowed if there is a vacant post. **In the present case, no vacant post is available. Two posts against the quota of direct recruitment already stood filled. Therefore, in view of these facts the transfer of Sh. Karamjeet Singh-Respondent No. 3 is bad in the eyes of law, required to be set aside and is set aside.**”*



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The contention of the counsel of the respondent-Board is worth consideration. 2/3 posts of promotion quota are lying vacant & are to be filled from among the reserved category candidates. But eligible reserve category candidates are not available. There is also no likelihood of getting the same dereserved though a reference to that effect has already been made to the concerned authorities. In case, these posts remained vacant, the work of the Market Committee especially during the procurement season is likely to suffer. In view of the facts and circumstances, as highlighted by the counsel of the Respondent Board, the Market Committee, Bhagta Bhai Ka is directed to consider the case of promotion of all eligible clerks, care takers, kanda men as provide in Rules and promote them against promotion quota available within a period of 30 days. After exhausting this exercise if Market Committee feels that it still needs more hands to carry out its business meaningfully and effectively, then it can resort to taking staff from other market committees purely on temporary basis i.e. for a period of not more than one year, without affecting the service career of the petitioners in any manner, whatsoever. The revision petition is disposed in these terms.

Orders announced in open court.”

4. Aggrieved by the order dated 01.04.2010 (Annexure P-1), Sh. Karamjit Singh filed CWP-7912-2010, which was disposed of by this Court, vide order dated 01.08.2012 (Annexure P-2), in the following terms:

“It is not in dispute that on the request made by the petitioner, resolutions were passed by the transferor and transferee Market Committees for transfer of the petitioner from Nurmahal to Bhagta Bhaika as Auction Recorder against a post meant for direct recruitment. The order was passed on 14.1.2008 by the Chairman of the Board. In terms thereof, the petitioner had even joined on 24.1.2008 and is working till date. He is to retire in December, 2014. The order passed by the Board was set aside by the government in a revision filed by private respondents finding that while passing the resolution, Market Committee, Bhagta Bhaika had noticed wrong facts regarding availability of a vacancy in direct recruitment quota, whereas it was not available. However, the fact



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remains that subsequent thereto the vacancy has become available in direct recruitment quota in the year 2010 when Jagroop Singh, Auction Recorder, working in Market Committee, Bhagta Bhaika was promoted as Mandi Supervisor.

Considering the fact that the petitioner is working as Auction Recorder in Market Committee, Bhagta Bhaika for the last more than four years and is going to retire in December, 2014; he has further undertaken that least any right of respondent No. 3 is affected regarding seniority, he may be placed below him in the seniority list and further the counsel representing the Board and the Market Committee concerned has offered to consider the matter afresh and pass order in the changed circumstances, in my opinion, the present petition can be disposed of at this stage by directing the official respondents to pass a fresh order in the changed circumstances as per the stand taken by the petitioner before this court. However, respondent No. 3 may also be heard as he is projecting his interest adverse to the petitioner. Ordered accordingly. Till such time fresh order is passed the order passed by the Secretary, Government of Punjab, Department of Agriculture (Mandi Branch) be kept in abeyance.

The petition stands disposed of in the above terms.”

5. In the meanwhile, the petitioner was promoted to the post of Auction Recorder, vide order dated 24.04.2012 (Annexure P-3). Thereafter, in pursuance of the directions issued by this Court, vide order dated 01.08.2012 (Annexure P-2), the Chairman, Punjab Mandi Board, Chandigarh, passed an order dated 12.04.2013 (Annexure P-5). The relevant extract thereof reads as under:

“Shri Karamjit Singh got recorded in his statement that he was selected as Auction Recorder, in the year 1986 in the Market Committee, Nur Mehal. The Board transfer him to Market Committee, Bhagta Bhaika and for that he had to lose 22 years' seniority and he had been placed below all the Auction Recorders. He had been left only 02 years' service and wanted to continue in service in the Market Committee, Bhagta Bhaika. Therefore, his



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retiral and other benefits be given from that Committee and according to the consent given by the concerned employee (Karamjit Singh) before the Hon'ble High Court, submitted an affidavit with regard to the fact that respondent no.3, Shri Jaskaran Singh be placed above him in the seniority list of Auction Recorders.

The facts of this case have been considered deeply on the basis of the record and complying with the order of the Hon'ble Punjab and Haryana High Court dated 01.08.2012 and order no.124 dated 22.01.2008 passed by the Board, the fresh order is being passed that Shri Karamjit Singh, Auction Recorder, is adjusted against the promotional post of Auction Recorder reserved for S.C. quota w.e.f. 22.01.2008 to 22.07.2010 in the Market Committee, Bhagta Bhaika and the salary paid to him is regularized and further is being adjusted against the vacancy of direct recruits as Auction Recorder w.e.f. 23.07.2010.”

6. Thereafter, vide order dated 25.10.2013 (Annexure P-7), the petitioner was granted notional promotion to the post of Auction Recorder w.e.f. 21.01.2008. In response to the representation submitted by the petitioner, he was informed vide letter dated 22.09.2014 (Annexure P-8) that no financial benefits could be granted to an employee who had been promoted on notional basis. It is these orders dated 25.10.2013 (Annexure P-7) and 22.09.2014 (Annexure P-8), which have been impugned in the present petition.

7. Written statement on behalf of respondents No.1 & 2 has been filed, wherein it has been stated that the petitioner was granted notional promotion w.e.f. 21.01.2008, vide order dated 25.10.2013. It has been contended that since the petitioner had not actually discharged/performed the duties of the post of Auction Recorder during the period in question, the principle of “no work no pay” would apply. It has further been stated that in compliance of order passed by this Court on 01.08.2012 (Annexure P-2), Sh.



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Karamjit Singh, Auction Recorder, was adjusted against a post reserved for Scheduled Castes w.e.f. 22.01.2008 to 22.07.2010 and was thereafter adjusted against a direct recruitment vacancy w.e.f. 23.07.2010. It has further been stated that the petitioner was granted notional promotion w.e.f. 21.01.2008 and was also made senior to Sh. Karamjit Singh, Auction Recorder, who was adjusted against the vacancy of one Sh. Jagroop Singh. It has also been stated that as per instructions of the Punjab Government dated 28.10.1992, no financial benefits could be granted to an employee, who had been promoted on notional basis. The relevant paragraphs from the written statement filed on behalf of respondents No.1 & 2 are reproduced as under:

“Preliminary Submissions:-

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3. *That it is pertinent to mention here that the petitioner was given the notional promotion w.e.f. 21.01.2008 vide order dated 25.10.2013. The principle of "no work no pay" is applicable to the present case as the petitioner had not actually performed his duty during that period as Auction Recorder, therefore, he can not claim any benefit of arrears.*

Parawise Reply on merits:-

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7. *That in reply to Para No.7, it is submitted that in compliance to the order passed by this Hon'ble High Court, the Board passed the afresh order and Karamjit Singh Auction Recorder was adjusted to the post of Auction Recorder against the post for reserve quota of Schedule caste w.e.f.22.01.2008 to 22.07.2010 and later on regularized and further adjusted against the vacancy of direct recruitee as Auction Recorder w.e.f. 23.07.2010 The rest of the para is matter of record. Hence, needs no reply.*

8. *That in reply to Para no.8, it is submitted that Jaskaran Singh-petitioner was given notional promotion w.e.f. 21.01.2008 vide order dated 25.10.2013 and Karamjit Singh Auction Recorder*



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*was adjusted in the vacancy of Jagroop Singh and it was also ordered that Jaskaran Singh was made senior to Karamjit Singh and notional promotion was given to the petitioner w.e.f. 21.01.2008, but it was also made clear vide order dated 17.12.2014 that **as per the instructions of the Punjab Government dated 28.10.1992, no financial benefits can be given to an employee who has been promoted on notional basis.** True Translated copy of the instructions dated 28.10.1992 is annexed herewith as Annexure R-1. Bare perusal of Annexure R-1 would shows that no benefits can be given at the time of notional promotion except seniority, salary and pay fixation.”*

8. When the matter came up for hearing before a Coordinate Bench on 24.02.2020, it was directed that additional written statement shall be filed indicating the benefits that flow from the notional promotion given to the petitioner w.e.f. 2008, as neither the order nor the written statement shed any light on this aspect. In compliance with the said order, an additional written statement by way of an affidavit of Sh. Sukhchain Singh, Secretary, Market Committee, Bhagta Bhaika, Bathinda, was filed, wherein it was stated as under:

“4. That the employee namely Karamjeet Singh filed CWP No.7912 of 2010 against the order dated 01.04.2010 passed by The Secretary, Department of Agriculture, Chandigarh, Punjab. The Hon'ble Court taking into consideration subsequent events and the facts of the case during the pendency of the writ petition that the vacant post for recruitment was retained by Sh. Jagroop Singh Auction Recorder and the same fell vacant on his promotion. The Hon'ble Punjab & Haryana High Court disposed of the petition vide order dated 01.08.2012 (P-2) with the direction to the respondents to pass a fresh order in the changed circumstances. A perusal of the order dated 01.08.2012 (P-2) clearly reveals the fact that the petitioner is even ready to forego his seniority.

5. That the respondent no.2 in compliance with the order dated 01.08.2012 passed by Hon'ble High Court and order dated



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12.04.2013 passed by respondent no.1 promoted the petitioner on notional basis w.e.f. 21.01.2008. It is pertinent to mention here that the petitioner was informed vide order dated 17.12.2014 that as per the instructions no. 7/89/91-5 of Punjab Govt. PP1/18626 dated 28.10.1992 (R-1), no financial benefits can be given to the employee who has been given promotion on notional basis. A perusal of the instructions would show that notional promotion will be considered for all other aspects like seniority, pay fixation, except for paying arrears But it would be considered for grant of ACP and grant of such benefits would be counted from the date of seniority in that cadre. Benefit cannot be given at the time of notional promotion with regard to the arrears.”

9. Thereafter, when the matter came up for hearing before this Court on 19.09.2024, the following order was passed:

“The petitioner is claiming arrears of pay w.e.f. 21.01.2008, the date he has been given notional promotion to the post of Auction Recorder. No reasons have been stated in the written statement as to why he was not promoted on that day, if the vacancy was available.

Learned counsel for the respondents seeks adjournment to file an additional affidavit to this effect.

Adjourned to 03.12.2024.

Let the needful be done before the next date of hearing.”

10. In compliance of the aforesaid order dated 19.09.2024, the respondents have filed another additional affidavit of Sh. Harshwant Singh, Secretary, Market Committee, Bhagta Bhaika, Bathinda. The relevant contents of the affidavit read as under:

“5. That the respondent no.2 in compliance of order dated 01.08.2012 passed by Hon'ble High Court and order dated 12.04.2013 passed by respondent no.1 promoted the petitioner on notional basis w.e.f 21.01.2008. It is pertinent to mention here that the petitioner was informed vide order dated 17.12.2014 that as per the instructions no.7/89/91-5 of Punjab Govt. PP1/18626 dated



28.10.1992 (R-1), no financial benefits can be given to the employee who has been given promotion on notional basis.

6. That in a recent judgment passed by the Hon'ble Supreme Court in CWP No. 432 of 2023 titled as "Ravikumar Dhanshuklal Meheta and Anr. vs. High court of Gujrat and Ors.", it was held that: "No government servant can claim promotion as their right because constitution does not prescribe criteria for filling seats in promotional posts".

Similarly, in the present case, the Petitioner cannot claim to be promoted as and when the seat gets vacant."

11. Learned counsel for the petitioner submits that firstly, there was no provision under the applicable Rules i.e. 1989 Rules, for transfer of an Auction Recorder from one Market Committee to another. It is contended that Sh. Karamjit Singh was, therefore, wrongly transferred from Market Committee, Nurmahal to Market Committee, Bhagta Bhaika (respondent No.2). The said transfer was challenged by the petitioner and the Revisional Authority, vide order dated 01.04.2010, accepted the revision petition and held the transfer of Sh. Karamjit Singh to be bad in the eyes of law and accordingly set aside the same. The said order was thereafter challenged by Sh. Karamjit Singh by filing CWP-7912-2010, which was disposed of by this Court vide order dated 01.08.2012 (Annexure P-2). At the time of disposal of the said petition, Sh. Karamjit Singh had stated that he may be placed below respondent No.3 therein i.e. the present petitioner, in the seniority list of Auction Recorders, as he was due to retire on 31.12.2014 and had been continuing on the post of Auction Recorder in Market Committee, Bhagta Bhaika from 24.01.2008.

12. Learned counsel for the petitioner further submits that once the petitioner has been found entitled to and granted promotion with effect from



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the due date, i.e. 21.01.2008, he cannot be denied the consequential pay and allowances for the intervening period from 21.01.2008 to 23.04.2012, particularly when there is nothing on record to suggest that the petitioner was unwilling to discharge the duties of the promotional post. It is contended that the petitioner cannot be made to suffer on account of circumstances which were beyond his control and which had prevented him from actually discharging the duties of the promotional post during the said period.

13. Per contra, learned counsel representing the respondents, while referring to the averments made in the written statement, submits that the petitioner was granted only notional promotion to the post of Auction Recorder w.e.f. 21.01.2008 and that he did not discharge the duties of the said post during the period in question. It is, therefore, contended that applying the principle of “no work no pay”, the petitioner is not entitled for the pay and allowances attached to the promotional post for the intervening period w.e.f. 21.01.2008 to 23.04.2012. Consequently, the impugned order/s are liable to be upheld.

14. I have heard learned counsel for the parties and have perused the record with their able assistance.

15. The facts are not in dispute that the petitioner initially joined Market Committee, Bhagta Bhaika, District Bathinda (respondent No.2) as a Clerk on 06.06.1987 and was thereafter placed in the pay scale of Junior Assistant on 12.08.1998. His service conditions are governed by the 1989 Rules. The next promotional post from the cadre of Clerk is to the post of Auction Recorder. However, Sh. Karamjit Singh, Auction Recorder, Market Committee, Nurmahal, was transferred to Market Committee, Bhagta



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Bhaika, vide order dated 12.01.2008. Since the said transfer adversely affected the promotional rights of the petitioner, he along with another employee challenged the same before this Court by filing CWP-19529-2008, which was dismissed as withdrawn, vide order dated 17.12.2009, with liberty to avail the remedy before the Revisional Authority. Pursuant thereto, the petitioner preferred a revision petition, which came to be allowed by the Revisional Authority vide order dated 01.04.2010 (Annexure P-1), *inter alia*, on the ground that no vacancy against the direct recruitment quota was available at the relevant time and that the transfer of Sh. Karamjit Singh to Market Committee, Bhagta Bhaika was bad in law. Aggrieved by the aforesaid order, Sh. Karamjit Singh filed CWP-7912-2010 before this Court, which was disposed of, vide order dated 01.08.2012 (Annexure P-2). This Court noticed, *inter alia*, that Sh. Karamjit Singh had been working as Auction Recorder in Market Committee, Bhagta Bhaika since 24.01.2008 and was due to retire on 31.12.2014 and that he had undertaken that he could be placed below the petitioner in the seniority list of Auction Recorders. The respondents were accordingly directed to reconsider the matter in the changed circumstances and pass a fresh order. In the meanwhile, the petitioner had been promoted to the post of Auction Recorder, vide order dated 24.04.2012 (Annexure P-3). Thereafter, in compliance with the order dated 01.08.2012 passed by this Court, the Chairman, Punjab Mandi Board, passed an order dated 12.04.2013 (Annexure P-5), whereby Sh. Karamjit Singh was adjusted against the promotional post of Auction Recorder in the reserved category w.e.f. 22.01.2008 to 22.07.2010 and thereafter against a vacancy falling under the direct recruitment quota w.e.f. 23.07.2010.



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16. It is also an admitted position that the petitioner became eligible for consideration for promotion to the post of Auction Recorder on 06.06.1990, upon completion of 3 years of service as a Clerk, subject to his seniority and suitability. He was admittedly promoted to the said post, vide order dated 24.04.2012 (Annexure P-3), which was subsequently antedated to 21.01.2008. Thus, the petitioner's entitlement to promotion w.e.f. 21.01.2008 stands crystallized. This position is further strengthened by the fact that in the proceedings arising out of the transfer of Sh. Karamjit Singh, it was accepted that the petitioner would rank senior to him in the cadre of Auction Recorders.

17. Thus, the question which arises for consideration in the present petition is as to whether the petitioner, having been granted promotion to the post of Auction Recorder with retrospective effect i.e. from 21.01.2008, can be denied the consequential monetary benefits for the period from 21.01.2008 to 23.04.2012 merely on the ground that he had not actually discharged the duties of the said post during that period.

18. The proposition that an employee would ordinarily be entitled to salary for the work actually performed is well settled. However, the applicability of the principle of “no work no pay” depends upon the facts and circumstances of each case. Where an employee has been wrongfully denied promotion and is kept away from the promotional post for no fault attributable to him, the mere fact that he did not actually discharge the duties of the higher post cannot, by itself, constitute a valid ground to deny the monetary benefits attached to the promotion.

19. In *Union of India v. K.V. Jankiraman*, AIR 1991 (SC) 2010, the Hon'ble Supreme Court, while considering the question of consequential



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benefits arising out of retrospective promotion, recognized the distinction between a case where an employee himself is responsible for not working on the higher post and a case where he is kept away from such post for reasons attributable to the employer. It has been held as under:

“24. It was further contended on their behalf that the normal rule is "no work no pay". Hence a person cannot be allowed to draw the benefits of a post the duties of which he has not discharged. To allow him to do so is against the elementary rule that a person is to be paid only for the work he has done and not for the work he has not done. As against this, it was pointed out on behalf of the concerned employees, that on many occasions even frivolous proceedings are instituted at the instance of interested persons, sometimes with a specific object of denying the promotion due, and the employee concerned is made to suffer both mental agony and privations which are multiplied when he is also placed Under suspension. When, therefore, at the end of such sufferings, he comes out with a clean bill, he has to be restored to all the benefits from which he was kept away unjustly.

25. We are not much impressed by the contentions advanced on behalf of the authorities. The normal rule of "no work no pay" is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own reasons, although the work is offered to him. It is for this reason that F.R. 17(1) will also be inapplicable to such cases.”

20. While following the aforesaid judgment, a Division Bench of this Court in ***Vidya Parkash Harnal v. State of Haryana, 1995 (3) SCT 785***, held as under:

“6. In view of the aforesaid judgment and the law as developed in this democratic republic for about half a century now it is well settled that the rights conferred upon a civil servant are in no way concession or bounty. The civil servant cannot be equated with the



servants of private employers or personal property of any individual howsoever high he may be or be left at the mercy of a particular ruler in the country at a particular time. Consistency and security of tenure of the civil servants is the basis of the fabric upon which rests the present administrative set up of the country. The civil servants are entitled to various rights subject to specified obligations. If the service career of a civil servant is left to the whim or caprice or unguided discretion of a particular ruler at a specific time, same may result in deterioration of standards in the civil services jeopardising the whole system and resulting in crumbling down of the whole of the administrative institutional system in the country. The executive or the State or the Government of a particular time in this country have to be bound and governed by the rule of law as enshrined in the Constitution and interpreted by the Apex Court and various High Courts in the country. Security of service cannot be allowed to be endangered by or termed to be in the absolute discretion of the executive.

7. *Similarly, the argument that the petitioner was not entitled to the grant of emoluments on the principle of 'No work, no pay' is apparently mis-conceived and based upon wrong notions of law. If a civil servant is not offered the work to which he was legally entitled, he cannot be deprived of the wages for the post to which he subsequently is held entitled to. Permitting such a course to be adopted would be encouraging the imposition of double penalty, that is, firstly by declining the civil servant his right of promotion and secondly by depriving him of the emoluments to which he would have been entitled to upon promotion which subsequently is considered in his favour. Deprivation to work against the post to which a civil servant is entitled on promotion is always at the risk and responsibility of the State and cannot be made a basis for depriving such a civil servant of the emoluments to which he was entitled, had he been promoted in accordance with the rules at the time when he became eligible for such promotion. The Courts cannot ignore the magnitude of the sufferings and the pains to which a civil servant is subjected on account of deprivation of the monetary benefits particularly in this age of skyrocketing prices and non-availability of essential requirements of livelihood. The Court cannot*



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shut its eyes and forget the holocaust of economic deprivation to the petitioner and his dependants. Such a deprivation might have upset the career of the dependants, depriving the society of the services of such youth and budding dependants or children of the petitioner. The executive once being satisfied that a civil servant was entitled to the promotion with retrospective effect cannot deprive him of the benefits of salary accruing on account of such promotion from an early date without assigning valid, cogent and specific reasons. The order impugned in this case by which the petitioner/appellant was deprived of his right to claim back wages is admittedly non-speaking without assigning any justification or cogent and specific reasons.”

21. Another Division Bench of this Court in ***State of Punjab & others Vs. Gian Singh, 2012 (1) SCT 723***, held as under:

*“1. The instant appeal under Clause X of the Letters Patent is directed against the judgment dated 18.08.2010 rendered by the learned Single Judge. The learned Single Judge has rejected the contention of the appellant-State of Punjab that the writ petitioner-respondent was rightly declined the arrear of salary once he was given promotion from a retrospective date. It has been found by the learned Single Judge that the writ petitioner-respondent was entitled to be given promotion as Senior Assistant from 19.03.1982 but he was actually promoted vide order 10.08.1992 (P-7) w.e.f. 19.03.1982 notionally. The stipulation contained in the order providing that he would not be entitled to any arrear of pay as assistant from the date of promotion to the date he actually joins at his new place of posting because he did not actually work as such has been set aside by the learned Single Judge. In support of his view, the learned Single Judge has placed reliance on the judgments rendered by Hon'ble the Supreme Court in the cases of **Union of India v. K.V. Jankiraman 1991(3) S.C.T 317 : 1991(4) S.C.C. 109; Vidya Parkash Harnal v. State of Haryana 1995(3) S.C.T. 785 ; State of Haryana v. Bani Singh Yadav 2005(1) S.C.T. 355 : 2005(2) S.L.R. 622 and State of Kerala v. E.K. Bhaskaran Pillai 2007(2) S.C.T. 757 : 2007(6) S.C.C. 524: [2007 (3)SLR 705(SC)]**.*



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2. Mr. Suvir Sehgal, learned State counsel has argued that in the case of **State of Haryana and others v. O.P. Gupta and others 1996(2) S.C.T 294 : (1996) 7 SCC 533**, the principle of no work no pay was made available and notional promotion given to an employee without arrears of pay was upheld. The view of Hon'ble the Supreme Court in O.P. Gupta's case (*supra*) would not come to the rescue of the appellant-State because whenever there is serious dispute concerning seniority then principle of no work no pay may be applied on the ground that the employer was not aware which of the employees deserve to be promoted. In other words, such an employee cannot be available for performing the duty whereas in the present case the order of promotion appears to have been lost and he could succeed in getting his promotion only in pursuance of the direction issued by the learned Single Judge. Accordingly, we find that the present case is not covered by the judgment rendered by Hon'ble the Supreme Court in O.P. Gupta's case (*supra*) because there was no dispute concerning seniority and the writ petitioner respondent was ready and available to discharge the duty of his office. Accordingly, the appeal is devoid of any merit and is thus, liable to be dismissed.”

22. In **Sardar Singh v. State of Haryana and others, 2015 (1) SCT 710**, this Court again considered the very issue of denial of arrears on the ground of “no work, no pay” and held as under:

“10. Applying the aforesaid principle to the facts of the present case, it would be seen that the petitioner has been agitating his claim for promotion to the post of Road Inspector against roster point meant for Scheduled Caste category as per reservation policy. In this regard, the petitioner had to approach this Court on two earlier occasions by filing Civil Writ Petition No.2377 of 2006 as also Civil Writ Petition No.2320 of 2011. It is only on account of intervention by this Court by issuance of directions to the respondent-authorities/employer that his claim for promotion to the post of Road Inspector w.e.f. 15.3.2005 gained impetus and was finally accepted by passing an order dated 9.11.2011, Annexure P4. In the light of such order, petitioner has been granted anti-dated promotion to the



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post of Road Inspector w.e.f. 15.3.2005 and has also been accorded benefit of seniority from such date. Passing of the order dated 9.11.2011, Annexure P4, is towards acceptance of the claim of the petitioner as regards the post of Road Inspector w.e.f. 15.3.2005 as per roster point. It is not a case where the petitioner had declined to discharge duties against the promotional post or that the delay in acceptance of such claim was attributable to him. It would not be open for the employer, on the one hand, not to grant promotion to an employee with effect from the date the same is due and thereafter having admitted such claim, to turn around and deny to the employee the consequential benefits as regards payment of arrears of salary. The principle of 'no work no pay' would not be attracted to the facts of the present case."

23. Applying the aforesaid principles to the facts of the present case, this Court finds that it is not the case of the respondents that the petitioner was not ready and willing to assume the duties of the post of Auction Recorder w.e.f. 21.01.2008. It is also not their case that the petitioner had declined the promotional assignment or that he was not ready and willing to work on the promotional post during the intervening period. On the contrary, the petitioner was ultimately granted promotion w.e.f. 21.01.2008, thereby acknowledging his entitlement to the promotional post from that date.

24. The mere description of the promotion as "notional" cannot, in the facts of the present case, by itself determine the petitioner's entitlement to monetary benefits. Once the respondents have accepted that the petitioner was entitled to promotion w.e.f. 21.01.2008, the question whether he should also receive the pay and allowances attached to the promotional post has to be examined with reference to the reason for his not actually discharging the duties during the intervening period.



25. In the present case, the intervening period from 21.01.2008 to 23.04.2012 cannot be attributed to any unwillingness or default on the part of the petitioner. The controversy regarding the transfer/posting of Sh. Karamjit Singh and the consequential litigation was an administrative dispute, the consequences of which could not legitimately be fastened upon the petitioner. Indeed, the order dated 01.04.2010 (Annexure P-1) passed by the Revisional Authority, followed by the proceedings in CWP-7912-2010, ultimately resulted in a situation in which the petitioner's entitlement to the promotional post from the relevant date stood recognized.

26. The respondents, therefore, cannot approbate and reprobate by, on the one hand, granting the petitioner promotion w.e.f. 21.01.2008 and, on the other hand, denying him the monetary benefits attached to that very promotion merely on the ground that he did not actually work on the post during the period when the respondents themselves had not permitted him to occupy the promotional post. There is nothing on record to suggest that the petitioner had declined promotion and/or not willing to assume the duties of the promotional post. On the contrary, the material on record establishes that the petitioner had been asserting his right to promotion and had also challenged the transfer of Sh. Karamjit Singh, which had adversely affected his promotional rights. The said transfer of Sh. Karamjit Singh to Market Committee, Bhagta Bhaika, was subsequently held to be bad in law by the Revisional Authority and was set aside. The petitioner thereafter came to be promoted and his promotion was ultimately antedated to 21.01.2008. Thus, the very basis on which the petitioner had been denied promotion from the due date was ultimately rectified by the respondents themselves. The petitioner cannot be made to suffer on account of the wrongful action of the



respondents in bringing Sh. Karamjit Singh to Market Committee, Bhagta Bhaika (respondent No.2) as Auction Recorder, thereby jeopardising the petitioner's legitimate right to promotion to the said post from the due date. More so, the said act of the respondents has subsequently been found to be legally unsustainable. Having granted him promotion w.e.f. 21.01.2008, the respondents cannot, at the same time, deny him the pay and allowances attached to the promotional post for the intervening period solely on the ground that he had not actually discharged the duties thereof. In such circumstances, the ordinary rule of "no work, no pay" cannot be invoked to defeat a claim for monetary benefits flowing from a promotion which has subsequently been granted retrospectively. Therefore, the reliance placed by learned counsel for the respondents on the principle of "no work, no pay" cannot be accepted. The said principle is relevant in cases where an employee voluntarily abstains from work, declines the promotional assignment or where the delay in granting promotion is attributable to the employee. It cannot, however, be invoked to deprive an employee of the financial benefits of a promotional post where he was otherwise entitled to such promotion and was prevented from discharging the duties thereof for reasons not attributable to him.

27. Consequently, this Court is of the considered view that the petitioner is entitled to the pay and allowances attached to the post of Auction Recorder w.e.f. 21.01.2008 till 23.04.2012.

28. In view of the above discussion, the impugned order(s), to the extent the petitioner has been denied the pay and allowances attached to the post of Auction Recorder for the period from 21.01.2008 to 23.04.2012, are hereby quashed. The respondents are directed to calculate and release the



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arrears of pay and allowances to the petitioner flowing from his promotion as Auction Recorder w.e.f. 21.01.2008 till 23.04.2012, within a period of three months from the date of receipt of a certified copy of this order.

29. The writ petition is, accordingly, allowed in the aforesaid terms.

15.09.2026

Vimal

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No