
(2026) 01 JH CK 1950
In the Jharkhand High Court
Case No : Writ Petition (S) No.93 Of 2023

Ajay Prakash Dwivedi

APPELLANT

Vs

State Of Jharkhand, Through The Chief Secretary,

RESPONDENT

Date of Decision : 28-01-2026

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2026) 01 JH CK 1950

Hon'ble Judges : Ananda Sen, J

Bench : Single Bench

Advocate : Pravin Kr. Pandey, Anshuman Kumar

Final Decision : Dismissed

Judgement

Ananda Sen, J

1. By filing this writ petition, the petitioner has prayed for the following reliefs:-

"(i) The petitioner prays for issuance of writ in the nature of Mandamus or any other appropriate writ/writs, order/orders, direction/directions to the concern respondents for considering his promotion from Grade-IV to Grade-VII with effect from 29.06.2013 with all consequential benefits as the junior to the petitioner has been promoted in Grade-VII scale with effect from 29.06.2013 vide letter no.1025.

(ii) The petitioner prays for issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Certiorari for quashing the part of Annexure-2 vide Memo No.2016 dated 25.11.2013 passed by the respondent No.5 in which the respondent has promoted the petitioner to Grade-IV from the date of his joining whereas the petitioner has entitled for the promotion in Grade-IV with effect from 26.02.2007 whereby and whereunder the juniors to the petitioner have already been promoted in Grade-IV with effect from 26.02.2007 along with consequential benefits."

2. Heard learned counsel representing the petitioner and learned counsel representing the respondents.

3. It is the case of the petitioner that junior to the petitioner has been promoted in Grade-VII scale but the petitioner has been left out.

4. From the pleadings at para-16, 17 and 18 of this writ petition, it is evident that the petitioner was superseded wayback in the year 2007 and 2013.

5. On query, learned counsel representing the petitioner submits that the petitioner has not challenged his supersession and has only filed this writ petition in the year 2023.

6. The Hon'ble Supreme Court in the case of P.S. Sadasivaswamy Vs. State of Tamil Nadu reported in (1975) 1 SCC 152, has held that if supersession is not challenged within six months to one year, the same should not be entertained by the High Court. It is necessary to quote relevant part of para-2 of the said judgment, which is as follows:-

"2..... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion: It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal."

7. Further Grade-VII scale is not an upgradation of a pay scale. It is promotion to the post of a Headmaster.

8. Admittedly, the petitioner has now superannuated.

9. Further, so far as the claim of retrospective promotion is concerned, since the petitioner has superannuated, he cannot assume the post of Headmaster.

10. The Hon'ble Supreme Court in the case of State of Bihar & Ors. Vs. Akhouri Sachindra Nath & Ors. reported in (1991) Suppl. (1) SCC 334, has held that retrospective seniority cannot be given to an employee from a date when the employee was not even borne in the cadre, nor can seniority be given with retrospective effect as that might adversely affect others.

10.1. Further, the Hon'ble Supreme Court in its very recent judgment in the case

of Government of West Bengal & Ors. Vs. Dr. Amal Satpathi & Ors. reported in (2024) SCC OnLine SC 3512, has held that 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.

11. In view of the aforesaid facts and circumstances of this case, no relief can be granted to the petitioner.

12. With the aforesaid observations, this writ petition stands dismissed.