

(2025) 04 GAU CK 0382
In the Gauhati High Court
Case No : WP(C) Of 4724 Of 2022

Mintu Borkataky

APPELLANT

Vs

Oil India Limited And 10 Ors

RESPONDENT

Date of Decision : 03-04-2025

Acts Referred:

Constitution Of India, 1950 — Article 14, 16

Citation : (2025) 04 GAU CK 0382

Hon'ble Judges : Suman Shyam, J

Bench : Single Bench

Advocate : P D Nair, G Alam, A Chetry, H Rohman, S C Keyal, K Baishya, A Halim

Final Decision : Dismissed

Judgement

Suman Shyam, J

1. Heard Mr. P. D. Nair, learned counsel appearing for the writ petitioner. Also heard Mr. M. K. Choudhury, learned senior counsel assisted by Mr. K. Kalita, learned counsel appearing for the respondent Nos.1 to 6. Ms. N. Kakati, learned counsel is present on behalf of respondent Nos.7 to 10.

2. The writ petitioner herein is an employee of the Oil India Limited. Presently he is working in a Grade-D category post and is due for retirement on attaining the age of superannuation in the month of April, 2025. Earlier the petitioner was promoted from Grade-C to Grade-D with effect from 01.01.2022 by following the Promotion Policy of 2016. The grievance of the petitioner is that his promotion from Grade-C to Grade-D ought to have been given effect from 01.01.2021 instead of 01.01.2022. Due to erroneous application of the Promotion Policy of 2016, the petitioner has been denied of the benefit of promotion to Grade-D for a period of one year. Hence, this writ petition.

3. The Oil India Limited follows a promotion policy based on performance management system and selectivity ratio of 70 : 30. As per the Promotion Policy of 2016, 70% of the executives eligible for promotion in the relevant year were

to be promoted on merit basis by giving effect to their promotion from 01.01.2021 whereas, the remaining 30% would be promoted by giving effect to their promotions with effect from 01.01.2022. The executives in Grade-C who have completed 5 years of service would be eligible for promotion to Grade-D. The case of the petitioner, in a nutshell, is that although as per the performance appraisal, he had the requisite merit position to be promoted to Grade-D with effect from 01.01.2021 as a part of the executives coming within the 70% category, yet, due to erroneous interpretation of the concession rules applicable to SCs and STs for filling up promotional posts, he had been wrongly displaced by SC/ST candidates i.e. the private respondents herein as a result of which, the effect of the promotion given to the writ petitioner got delayed by a year.

4. Mr. Nair, learned counsel for the petitioner submits that in the subsequent promotion policy of the year 2021, the respondents have made the necessary correction and clarified that the concession given to SC and ST candidates would be in addition to the selectivity ratio. Had the said criteria been applied in case of the writ petitioner under the Policy of 2016, then he would have stolen a march ahead of the SC/ST candidates and in that event, his promotion could have been reckoned with effect from 01.01.2021. Mr. Nair has further submitted that the petitioner had raised his grievance before the authorities but the same has been rejected at different layers as a result of which, the writ petitioner has been compelled to approach this Court by filing the instant writ petition.

5. Opposing the arguments made by the petitioner's counsel, Mr. M. K. Choudhury, learned senior counsel appearing for the respondents has argued that the petitioner's promotion was governed by the Promotion Policy of 2016 which is not under challenge. There is nothing on record to show that the said promotion policy has been erroneously applied in his case. Under such circumstances and considering the fact that the petitioner has also failed to challenge the successive orders passed on 18.05.2021 and 11.11.2021 whereby, his representations were rejected by the authorities by furnishing proper reasons, no relief can be granted to the writ petitioner

in this case.

6. I have considered the arguments made at the Bar and have also gone through the materials available on record.

7. As has been noted herein above, the writ petitioner has already got his promotion to Grade-D. Therefore, if he succeeds in the writ petition, the only relief that the writ petitioner would be entitled to, would be in the form of pecuniary benefit. Be that as it may, the effective part of the concession to be given to candidates belonging to SC/ST for promotion in the Oil India Limited as per the Policy of 2016 is as follows :-

"Concessions to SCs and STs in posts filled by promotion by selection will be regulated by DPE OM F.No.6/11/2004-DPE (SC/ST Cell) dated 31.01.2014 will also consist of a SC/ST member."

8. In paragraph 13 of the counter-affidavit filed by the respondent Nos.1 to 6 the reason as to why the writ petitioner was promoted with effect from 01.01.2022 has been laid down. Paragraph 13 of the counter-affidavit is reproduced herein below for ready reference :-

"13. That the deponent begs to state that the petitioner had completed requisite span of 5 years of service in Grade-C on 31.12.2020 and accordingly, was eligible for promotion w.e.f. 01.01.2021. However, as per the Clause-2.2(a) and Clause-2.3(b) of the aforementioned Policy, only 70% of eligible Executives of the same Grade are entitled for promotion to Grade-D in the current promotion cycle as per merit and the remaining 30% eligible executives are promoted to Grade-D from the 1st January of the following years, subject to meeting all eligible conditions. Thus, 70% of the executive's span is 5 years, whereas 30% of the remaining executive's span is 6 years as per the Policy. In the instant case, although the petitioner's total score as per selection criteria was 90.20, he came under the 30% slab as he was displaced by the SC/ST candidate from the merit list on account of applicable concession policy for the SC/ST candidates, formulated by the Ministry of Heavy Industries & Public Enterprise, Govt. of India vide OM No.6/11/2004-DPE(SC/ST Cell) dated 31.01.2014 (Annexure-24 to the writ petition). Accordingly, the petitioner was promoted vide Order dated 08.01.2022 w.e.f. 01.01.2022 instead of w.e.f. 01.01.2021. It is pertinent to mention herein that the petitioner scored 90.20 out of 100, which was calculated based on the Performance Management System and Promotion Policy-2016, i.e. weightage on APAR and Qualification score. The petitioner accepted the promotion order dated 08.01.2022 to Grade-D w.e.f. 01.01.2022, as per the existing terms and conditions, without any objection vide acceptance dated 17.01.2022 (Annexure-9 to the Writ Petition)."

9. It is correct that in the subsequent policy document issued in the year 2021, it was mentioned that such concession would be in addition to the selectivity ratio. However, no such criterion was mentioned in the Policy of 2016. Under the circumstances, the writ petitioner cannot claim any benefit of the Policy Document of 2021 since his promotion was admittedly given under the Policy of 2016.

10. Apart from the above, the writ petitioner has not been able to demonstrate that the criteria or the selection mechanism applied in his case while promoting the petitioner from Grade-C to Grade-D was in any manner, contrary to the norms applicable for promotion of the employees of the Oil India Limited or the same was in any manner violative of the right of the petitioner guaranteed under Articles 14 and 16 of the Constitution of India. The authorities of Oil India Limited are best situated to apply the selectivity ratio in terms of their promotion policy. Unless a clear case of violation of fundamental rights guaranteed under Articles 14 and 16 is made out by an employee, the writ court would not interfere with the decision of the authorities to give effect to the promotion of the petitioner from a particular date. After going through the materials on record,

this Court is of the opinion that no case has been made out by the writ petitioner warranting interference of this Court in the matter.

11. For the reasons stated herein above, this writ petition is held to be devoid of any merit. The writ petition is accordingly dismissed.

The parties to bear their own cost.