

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION (AT) NO.225 OF 2021

Between:

P.Amarnath

... Petitioner(s)

Versus

The General Superintendent, PW Workshop Division,
Sithanagaram, Tadepalli and others

...Respondents

* * * * *

DATE OF ORDER PRONOUNCED : 10.09.2026

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE K. SREENIVASA REDDY

1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment/Order? Yes/No
2. Whether the copy of Order may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Judgment/Order? Yes/No

JUSTICE K.SREENIVASA REDDY

*** HONOURABLE SRI JUSTICE K.SREENIVASA REDDY**

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Between:

P.Amarnath

... Petitioner(s)

Versus

The General Superintendent, PW Workshop Division,
Sithanagaram, Tadepalli and Others

...Respondents

! Counsel for the Petitioner(s) : Sri Deva Kumar Salikiti

**^ Counsel for the Respondents : 1. Government Pleader for
Services II.**

< Gist:

> Head Note:

? Cases referred:

1. (1999) 8 Supreme Court Cases 449.
2. 2003 (5) ALD 697 (DB).
3. Bihar State Electricity Board and others v. Dharamdeo Das in
Civil Appeal No.6977 of 2015, dated 23.07.2024 on the file of
the Hon'ble Supreme Court : 2024 INSC 549.

This Court made the following:

Date on which Order/Judgment was reserved : 15.07.2026
Date on which Order/Judgment was pronounced : 10.09.2026
Date on which Order/Judgment was uploaded on the website of the High Court : 10.09.2026

APHC010226992021



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3327]
(Special Original Jurisdiction)**

THURSDAY, THE 10th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

WRIT PETITION TRANSFERED FROM APAT NO: 225/2021

Between:

P.AMARNATH, A

...PETITIONER

AND

- 1.THE GENERAL SUPERINTENDENT, P.W WORKSHOP DIVISION, SITHANAGARAM, TADEPALLI, GUNTUR DISTRICT.
- 2.THE SUPERINTENDING ENGINEER, IRRIGATION CIRCLE, GUNTUR, GUNTUR DISTRICT.
- 3.THE ENGINEERINCHIEF AM, WATER RESOURCES DEPARTMENT, ERRUMMANZIL, A.P. HYDERABAD.
- 4.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, WATER RESOURCES DEPARTMENT, ANDHRA PRADESH SECRETARIAT, HYDERABAD.

...RESPONDENT(S):

to declare the action of the Respondents 2, 3 and 4 for not granting promotion to the post of Superintendent from March, 2014 in spite of availability of clear vacancy at PW Workshop, Sithanagaram is illegal, arbitrary and in violation of Articles 14, 16 and 21 of the Constitution of India and consequently declare that the applicant is entitled for promotion as Superintendent with effect from March, 2014 in the clear existing vacancy with all attendant benefits

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to restore the W.P.(AT) No.225 of 2021 on the file of this Court for adjudication of the matter afresh by setting aside the orders passed in W.P.(AT) No.225 of 2021 dt.7.12.2022 in the interest of justice and to pass

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 89 days in filing the petition for setting aside the orders passed in W.P.(AT) No.225/2021 on 7.12.2021 in the interest of justice and to pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave to these respondents in W.P(AT).No.225 of 2021 to file counter affidavit in the above Writ Petition and pass

Counsel for the Petitioner:

1.DEVAKUMAR SALIKITI

Counsel for the Respondent(S):

1.GP FOR SERVICES II

The Court made the following:

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

WRIT PETITION (AT) NO.225 OF 2021

ORDER

Originally, the petitioner herein filed O.A.No.2827 of 2016 before the Andhra Pradesh Administrative Tribunal under Section 19 of the Administrative Tribunal Act, 1985. Since the Andhra Pradesh Administrative Tribunal was abolished in the year 2020, the aforesaid application pending therein, was transferred to this Court, and the same was renumbered as Writ Petition (AT) No.225 of 2021 and taken up by this Court for adjudication.

2. This Writ Petition (AT) is filed seeking the following relief:

“....to declare the action of the respondent Nos.2, 3 and 4 for not granting promotion to the post of the Superintendent from March, 2014 in spite of availability of clear vacancy at PW Workshop, Sithanagaram, as illegal, arbitrary and in violation of Articles 14, 16 and 21 of the Constitution of India, and consequently, declare that the applicant is entitled for promotion as Superintendent with effect from March, 2014 in the clear existing vacancy with all attendant benefits, and to pass such other order or orders ...”

3. Brief facts of the case are that, the petitioner was initially appointed as Junior Assistant on 24.06.1993 in Priyadarshini Jurala Project, Gadwal of Mahabubnagar District, thereafter transferred to the Office of 1st respondent on 01.01.1995; that on 10.02.2009, the

petitioner was promoted to the post of Senior Assistant; that before bifurcation of the State of Andhra Pradesh, the PW Workshop, Sithanagaram and the RW & M Division, Kadapa continued under the control of the Superintending Engineer, M&W Circle, Red Hills, Hyderabad, and for the purpose of seniority and promotion, these two Units were treated differently, based on their respective seniority.

(b) Due to the demise of one R.Subba Rao, Superintendent, the said post was kept vacant from 06.03.2014, and the petitioner, being senior-most in the Unit of Sithanagaram, was placed as Full Additional Charge to the said post *vide* Order dated 07.03.2014 of R1; that the petitioner, for regular promotion, made a representation to 1st respondent on 19.04.2014 before bifurcation of the State of Andhra Pradesh, and the same was forwarded to the Superintendent Engineer, M&W Circle, Red Hills, Hyderabad, pursuant to which, on 18.06.2014, the Government issued a Memo, ordering that the General Superintendent, PW Workshop Division, Sithanagaram and RW & M Division, Kadapa were attached to the Irrigation Circle, Guntur, until further orders, and from then, the above two Divisions are being continued under 2nd respondent.

(c) On 01.08.2014, the petitioner made another representation for his regular promotion, and the same was forwarded to 2nd respondent on 02.08.2014, enclosing the tentative seniority list of Sithanagaram, PW Workshop; that on 08.09.2014, 2nd respondent addressed a letter to 3rd respondent for issuing necessary orders regarding service matters and promotions for maintaining separate seniority lists, which are being continued prior to attachment to the Circle; that on 10.03.2015, 3rd respondent addressed a letter to 4th respondent for issuing necessary instructions in this regard, for maintaining lien and seniority of Circle Scale Establishment after passing orders on adjusting the above two Divisions.

(d) On 21.10.2014, again 1st respondent addressed a letter to 3rd respondent for taking action on the issue of promotion of the petitioner based on the Division-Wise Seniority List; that on 30.06.2015, 2nd respondent addressed a letter to the earlier Superintending Engineer, M&W Circle for providing seniority list earlier maintained in Circle for Sithanagaram and Kadapa Divisions; that thereafter, the petitioner personally went to the office of the earlier Superintending Engineer, and handed over the seniority list to 2nd respondent; that on 15.09.2015, 2nd respondent addressed a letter to 3rd respondent enclosing separate seniority list for PW Workshop,

Sithanagaram and Kadapa, before bifurcation of the State of Andhra Pradesh, and submitted the list to 3rd respondent for taking action as per G.O.Rt.No.2759, G.A. Department, dated 01.08.2014, whereunder ban that was imposed for effecting promotions, was lifted in respect of Zonal Level Posts.

(e) On 06.04.2016, 3rd respondent informed 2nd respondent about allocation of Posts between the Andhra Pradesh State and the Telangana State, and directed 2nd respondent to maintain Cade Strength and Seniority, and accordingly, enclosed the particulars of the posts continued at Sithanagaram, which includes Superintendent; that *in spite* of the above correspondence, and lifting ban on promotions, 2nd respondent has not proceeded with promotions for the last more than two years, and the petitioner could not get promotion as Superintendent *in spite* of his seniority and availability of clear vacancy; that in respect of zonal posts, there is no question of allocation of the posts, and there is no issue pending in respect of allocation and even as per the orders of the Superintending Engineer, all the issues, in respect of allocation, have been settled, and the Seniority Lists of Division-wise of Sithanagaram and Kadapa were obtained from earlier Circle, and placed before the Engineer-in-Chief and thereafter, 3rd respondent directed promotions as per the

Government Orders lifting ban, but *in spite* of all this, the case of petitioner was not considered as on the date.

(f) There is a clear existing vacancy of Superintendent at Sithanagaram Division, and in the said post many persons were promoted and retired, and the last person passed away in the month of March, 2014, and since there is a clear vacancy at PW Workshop Division, Sithanagaram, in view of lifting ban on promotions, the same has to be filled, and thereby, the petitioner, being the senior most, entitled for the said post. Hence, the Writ Petition (AT).

4. Counter-affidavit was filed by respondent No.2, and also on behalf of other respondents, denying the contents of the Writ Petition (AT), *inter alia* contending that the Government issued Orders in para No.7(A) of G.O.Rt.No.2147, G.A.(DPC-1) Dept., dated 16.05.2014 that a general ban on all promotions in the State at all levels is imposed, till the process of allocation of employees to the successor State of Telangana and the Andhra Pradesh are completed; that *vide* G.O.Rt.No.566, G.A.(DPC) Dept., dated 10.03.2016, the Government issued orders relaxing the ban imposed on promotions, appointments, transfers etc. to the Departments, where final allocation of employees of State/Multi Zonal Cadres have

been completed by the Government of India; that clarification orders regarding the cadre strength of Circle Scale employees of P.W. Workshops Division, Sithanagaram was received from the Engineer-in-Chief (Admn. Wing) *vide* Memo No.RC/ENC/I(2)/ 14081430/2014, dated 06.06.2016. In view of the circumstances, the delay caused in considering the representation of the petitioner for promotion to the post of the Superintendent is only administrative delay due to State bifurcation, and for want of clarification orders from the higher authorities regarding service matters, cadre strength etc. in respect of P.W. Workshops Division, Sithanagaram, as it was attached to the Irrigation Circle, Guntur, temporarily, until further orders. In respect of the facts of the present case, to settle the grievance of Notional Promotion from the date of arising vacancy, the Hon'ble Supreme Court held that it is no longer *res integra* that a promotion is effective from the date it is granted, but not from the date when a vacancy occurs on the subject post or when the post itself is created. Hence, it is prayed to dismiss the Writ Petition (AT).

5. Earlier, this Court, *vide* Order dated 07.12.2022, passed the following Order:

Since long time, nobody represented nor appeared on behalf of the petitioner. It seems that the petitioner is not interested in prosecuting the case.

Accordingly, the Writ Petition is dismissed in default and for non-prosecution as well. There shall be no order as to costs.

6. Subsequently, petitioner filed I.A.No.1 of 2023 seeking to set-aside the Order passed in W.P.(AT) No.225 of 2021 dt.07.12.2022, and to restore the same for adjudication of the matter, afresh. This Court vide Order dated 28.11.2024 passed the following Order in I.A.No.1 of 2023:

This application is filed seeking restoration of the petition, which was dismissed for non-prosecution on 07.12.2022.

By taking into consideration all the averments made in the counter-affidavit, which shows that, the petitioner was promoted to the post of Superintendent of the existing vacancy in P.W. Workshop Division, Sithanagaram, vide proceedings No.SE/NTPA/EC-4/992 M, dated 08.08.2016, issued by 2nd respondent herein, this application is allowed subject to payment of costs of 20,000/- (Rupees Twenty Thousand only) in favour of the High Court Clerk's Association, Amaravati, within a period of two (02) weeks from today.

If the costs are not paid within the time stipulated, this application stands dismissed.

Pursuant to compliance of the conditional order, dated 28.11.2024 by the petitioner, the dismissal order dated 07.12.2022

was set-aside, and the Writ Petition (AT) No.225 of 2021 was restored to file for adjudication, afresh.

7. Sri Deva Kumar Salikiti, learned counsel for the petitioner would contend that a clear vacancy arose of the post of the Superintendent in the month of March, 2014 on account of demise of one R.Subba Rao on 06.03.2014, and the petitioner, being the senior-most employee in the relevant Unit, and was fully qualified and eligible for promotion, he was placed full additional charge of the said post *vide* Proceedings No.EC-1/E-4/2013-2014/199S, dated 07.03.2014, and that itself goes to show that the respondents considered the petitioner that he is suitable to discharge such duties, therefore, there is no question of lack of eligibility or qualification on the part of petitioner, and the petitioner continuously made his representations to consider his eligibility and though much correspondence was made, his representation was not considered. He further contends that the petitioner was eventually promoted against the very vacancy in P.W.Workshop Division, Sithanagaram *vide* Proceedings No.SE/NTPA/AB/EC-4/992M, dated 08.08.2016, and the State bifurcation and consequential changes caused delay, and for the said reason, the petitioner could not be put to suffer, and as such, the petitioner has legitimate right to seek notional promotion

from the date on which he was placed full additional charge to the post of the Superintendent, followed by consequential seniority and monetary benefits.

8. Ms. C.Indrani, learned Assistant Government Pleader for Services-II would contend that merely because a vacancy arose in the month of March, 2014, does not entitle the petitioner that he acquired legitimate right for promotion from that the date on which he was placed full additional charge. The petitioner, being the senior-most employee in the cadre of Senior Assistant, was placed full additional charge to the post of the Superintendent, but it does not entitle him to claim the consequential benefits retrospectively, when the date of his promotion was with effect from 08.08.2016. She further contends that the circumstances following the bifurcation of Andhra Pradesh were exceptional, and affected number of employees and their cadres, and when such is the situation, the petitioner cannot seek benefit for a period when the State itself was undergoing a statutory reorganization, and it is due to State bifurcation, there occurred administrative delay and other complications in regard to cadre strength, seniority-wise list and other aspects, for which, the respondents cannot be blamed that they acted arbitrarily and erroneously. Even due to G.O.Rt.No.2147, G.A.(DPC-I) Department,

dated 16.05.2014, general ban was prevailing and even assuming that the vacancy arose on 06.03.2014, the petitioner is not entitled to claim the promotional benefits with retrospective effect, when the Government imposed restrictions on promotion during such period. She further contends that the petitioner is not entitled for a blanket order granting promotional relief retrospectively, which involves legal rights of other employees.

9. Heard Sri Deva Kumar Salikiti, learned counsel for the petitioner, Ms. C.Indrani, learned Assistant Government Pleader for Services-II and the learned Government Pleader for Services-III representing the respondents. Perused the entire material available on record.

10. Now the point that arise for consideration is, whether the petitioner, who was promoted as Superintendent on 08.08.2016, is entitled to claim the retrospective promotion from the date on which he was placed full additional charge to the said post with effect from 07.03.2014, and if so, whether the petitioner is entitled to consequential monetary benefits?

11. A perusal of the material on record goes to show that due to sudden demise of one R.Subba Rao, Superintendent on

06.03.2014, *vide* Proceeding No.EC-1/E-4/2013-2014/199s, dated 07.03.2014 of 1st respondent, the petitioner, being a Senior Assistant and being senior-most employee, was placed full additional charge to the post of the Superintendent of P.W. Workshop Division, Sithanagaram with effect from 07.03.2014. Later, the petitioner made representations to 1st respondent on 19.04.2014 and 01.08.2014 seeking for regular promotion and while the same were forwarded to the respondent authority concerned, the Government of Andhra Pradesh issued G.O.Rt.No.2147, General Administration (DPC-I) Department, dated 16.05.2014, which is extracted hereunder:

“ORDER:

In Cir. Memo first and fifth rad above, orders have been issued, in respect of all Government Departments, that DPC will be held in cases:

- a. where there is a court direction to hold such DPC, or
- b. where any employee, who is likely to get promoted and is superannuating before 30.06.2014.

2. The above order was issued with a view to give effect to the provisions of Section 77 of A.P. Reorganization Act, 2014, which provides for provisional and final allotment of employees among the successor States of Telangana and Andhra Pradesh.

3. The “appointed day”, as defined in Section 2 (a) in A.P. Reorganization Act, 2014, in relation to Section 77 (1) of the Act, is the day immediately before which every person serving on substantive basis in connection with the affairs of existing State of Andhra Pradesh shall, on and from that day, provisionally continues to serve in connection with the affairs of the State of Andhra Pradesh unless he is

required, by general or specific order of the Central Government to serve provisionally in connection with the affairs of the State of Telangana.

4. "Appointed day" has been fixed as 02.06.2014, and Central/State Government have taken several actions to ensure that the provisions of A.P. Reorganization Act, 2014 is implemented and accordingly constituted various Committees on the issues relating to allocation of employees; distribution of assets etc and to speed up process of Reorganization of the existing State of Andhra Pradesh. Further, several guidelines have been issued from time to time with regard to management of files; digitization of files and action plan etc., vide references 3rd; 4th and 6th to 16th read above.

5. There have been several requests coming up before the Government for promoting certain employees to higher cadre, before the "appointed day". There had also been certain representations from Associations of employees to put a freeze to all the promotions and that the matter be left to the successor State Governments to deal with promotions of their employees after the "appointed day".

6. Government has also taken note of the guidelines, when the States of Madhya Pradesh, Uttar Pradesh and Bihar were bifurcated in the year 2000, according to which:

- i. all recruitments against vacancies in the interim i.e., till issue of final allocation orders may be kept in abeyance;
- ii. wherever panels have been drawn but not published, they may be kept in abeyance till reorganization of State is given effect to;
- iii. wherever panels have been recently published, selected candidates will be notified that their services in the existing State of Bihar/MP/UP may not be required beyond the "appointed day" and that they are liable to serve in the successor State of Jharkhand/Chhattisgarh/Uttaranchal after reorganization, as the case may be.

7. Government has considered the entire issue in totality, and hereby orders as follows:

a. A general ban on all promotions in the State at all levels is imposed, till the process of allocation of employees to the successor States of Telangana and Andhra Pradesh are completed.

b. A ban is also imposed on all (a) appointments; (b) transfers; (c) revision of seniority and (d) change in terms and conditions of employment.

8. However, the above restrictions can be waived for good and sufficient reasons, only when there are compelling public interests which warrant such waiver.

9. All the Departments of Secretariat/Heads of Departments/District Collectors shall take necessary action accordingly.”

A plain reading of the above G.O. goes to show that as there had been several requests came before the Government for promoting certain employees to higher cadre, before the “appointed day”, and also there had been certain representations from the Associations of employees to put a freeze to all the promotions and that the matter be left to the successor State Governments to deal with promotions of their employees, the Government of Andhra Pradesh, with a view to give effect to the provisions of Section 77 of the A.P. Reorganization Act, 2014, imposed a general ban on all promotions in the State at all levels, till the process of allocation of employees to the successor States of Telangana and Andhra Pradesh are completed, and a ban is also imposed on all appointments, transfers, revision of seniority, and change in terms

and conditions of employment. However, it was made clear that the above restrictions can be waived for good and sufficient reasons, only when there are compelling public interests which warrant such waiver.

12. Indisputably, the Government of Andhra Pradesh *vide* G.O.RT.No.566, General Administration (DPC) Department, dated 10.03.2016, after careful examination of the matter, relaxed the ban imposed in G.O.Rt.no.2147, General Administration (DPC.I) Department, dated 16.05.2014, on promotions, appointments (including compassionate appointments), transfers, revision of seniority and change in terms and conditions of employment to the Departments where final allocation of employees of State/Multi Zonal cadres have been completed by the Government of India subject to the general ban on transfers and other general restrictions that are in operation. Later, *vide* Proceedings No.SE/NTPA/AB/EC-4/992m, dated 08.08.2016, the petitioner was promoted to the post of Superintendent and posted to P.W. Workshops Division, Sithanagaram in the existing vacancy.

13. Learned counsel for the petitioner would contend that non-consideration of the case of the petitioner for promotion to the post of Superintendent, even though there is an existing vacancy,

infringes his right under Article 16 of the Constitution of India. He placed strong reliance on a decision rendered by the Hon'ble Supreme Court in **Dr. Sandhya Jain (MRS) v. Dr. Subhash Garg ad another**¹, wherein it was observed as under: (paragraph Nos.7 and 8)

“7. ... It has not been indicated in Schedule IV as to how the fifth post of Reader which is provided for in Schedule I would be filled up. In the absence of any provision in the Recruitment Rules framed under the proviso to Article 309 of the Constitution, indicating as to how the fifth post of Reader would be filled up, the decision of the Government in this regard assumes significance inasmuch as the Government can issue executive instructions for the purpose, which is not contrary to the statutory rules...”

8. ... there is no repugnancy and that being the position and in view of our conclusion that the fifth post of Reader could be filled up by a Lecturer of any discipline and in fact was being filled up by the State Government, we see no illegality in the impugned direction of the Tribunal, calling upon the State to consider the case of Dr. Garg when a vacancy was available and he had become eligible for being considered. It has been brought to our notice that said Dr. Garg has in the meantime being promoted as Reader but still his right to be considered at an earlier point of time when he was not considered erroneously, cannot be said to have been wiped off by the subsequent promotion. In the aforesaid premises, we are of the considered opinion that the Tribunal rightly issued the impugned directions. We see no error in the same, so as to be interfered with by this Court.”

¹ (1999) 8 Supreme Court Cases 449.

14. Learned counsel for petitioner also placed reliance in a judgment rendered by the High Court of Judicature at Hyderabad in **State of A.P. and another v. C.Srinivasulu Reddy**², wherein it was held as under: (paragraph No.7)

“7. ... But as we pointed out earlier that the Government has passed a G.O. being G.O.Ms.No.354, dated 11.05.1990 itself stating therein that where a person's claim for promotion was not considered at the appropriate time, he would be entitled to notional promotion. Therefore, in our view, the Tribunal was not wrong in coming to the conclusion that the benefit of notional promotion in terms of the G.O.Ms.No.354, dated 11.05.1990 could not be denied to the respondent on the ground that no junior to him had been promoted. Whether a junior was promoted or not is not a consideration at all in terms of the G.O.Ms.No.354, dated 11.05.1990. The only consideration under this G.O. is that whether a person was not considered at the time he should have been considered for any reason whatsoever

15. This Court perused the aforesaid decisions relied upon by the learned counsel for the petitioner, and with due respect, this Court is of the opinion that the facts of the cases in **Dr. Sandhya Jain**¹ and **C.Srinivasulu Reddy**² are not applicable to the facts of the present case. In the aforesaid decisions, the point that involves is entitlement to consideration at the relevant point of time arose in the context of the applicable rules and executive instructions, including

² 2003 (5) ALD 697 (DB).

the specific Government Order providing for notional promotion where an employee's claim had not been considered at the appropriate time, and the said decisions cannot be construed as laying down an absolute proposition that an employee is entitled to retrospective promotion merely because a vacancy existed and he was otherwise eligible for consideration.

16. In the case on hand, it is due to bifurcation of the erstwhile State of Andhra Pradesh, the respondents were required to undertake the exercise relating to allocation of employees, cadre strength, maintenance of seniority-list and the administrative control of the concerned Divisions. Indeed, there was a general ban on promotions imposed by the Government, and subsequently, it was relaxed subject to conditions. It is not in dispute that the petitioner was later promoted as Superintendent and posted to P.W. Workshops Division, Sithanagaram in the vacant post. Though he contends that the said vacancy arisen in the month of March, 2014, and he was the senior-most eligible employee, mere availability of a vacancy does not confer an automatic right of promotion from the date on which such vacancy arose. In fact, the petitioner was placed full additional charge of the post of the Superintendent with effect from 07.03.2014 due to administrative convenience and he was promoted to the post of the

Superintendent with effect from 08.08.2016. Therefore, mere placing full additional charge to the post of the Superintendent, which is a higher-post, does not confer any legal right to claim such promotion retrospectively *i.e.* from 07.03.2014 from which date he was placed full additional charge to the post of the Superintendent.

17. Learned Assistant Government Pleader for Services-II would contend that though there is an existing vacancy by 07.03.2014, the plea of petitioner to entitle fix his date of promotion to the post of Superintendent on 07.03.2014 instead of 08.08.2016, is not tenable, as there was a general ban on all promotions in view of State bifurcation, under the provisions of the Andhra Pradesh Reorganization Act, 2014. She placed strong reliance on the proposition of law laid down by the Hon'ble Apex Court in **Bihar State Electricity Board and others v. Dharamdeo Das**³, wherein it was held as under: (paragraph Nos.28 to 30)

"28. We do not find any error in the stand taken by the appellant-Board in terms of its Resolution dated 9th June, 2005, whereby the respondent's plea for shifting his date of promotion to the post of Joint Secretary from 5th March, 2003 to 29th July, 1997 was rejected for the reason that there was no vacant post of Joint Secretary during the period between 29th July, 1997 to 5th March, 2003 on account of the fact that after the bifurcation of the erstwhile State of Bihar into the present State of Bihar and Jharkhand, vide Resolution dated 6/8th December, 2003 the

³ Civil Appeal No.6977 of 2015, dated 23.07.2024 : 2024 INSC 549.

appellant-Board had taken a calibrated decision to slash the number of sanctioned posts of Joint Secretary from six to three at the headquarters at Patna. The subsequently issued Office Order dated 24th December, 2003 gave effect to such an intention and declared that from out of the reduced posts of Joint Secretary, one would be manned by an Officer of suitable rank from the Bihar Administrative Service, one from the Ministerial Officer of the Board Secretariat Cadre and the third from the Engineering Cadre.

29. *In the instant case, records reveal that there was no vacancy to the post of Under Secretary in the appellant-Board on the said post being reduced from six to three. This step was taken by the Board due to administrative exigencies. We do not find any infirmity in the said decision. Even otherwise, assuming that there was a vacancy to the subject posts, it would not have automatically created a valuable right in favour of the respondent for claiming retrospective promotion to the next higher post. It is only when an actual vacancy arose that the respondent was granted the benefit of accelerated promotion and that too on going through the prescribed process.*

30. *Given the above legal position, in our view, the Division Bench of the High Court ought to have refrained from interfering with the findings returned by the learned Single Judge who has rightly held that merely because the respondent had completed the Kal Awadhi for promotion from the post of Under Secretary to Joint Secretary, would not necessarily entitle him for appointment from the date the post fell vacant. This is not a case where the respondent has been deprived of promotion to the next higher post, nor is it a case where the action of the Board was guided by any malafides or colourable exercise of power. As noted above, the action of the Board was purely guided by administrative exigencies. The Resolution of the Board dated 26th December, 1991 for fixing the Kal Awadhi was only directory in nature and cannot be treated as statutory for the respondent to have claimed an entitlement to promotion reckoned from 29th July, 1997, instead of 5th March, 2003. Such a view is in consonance with the settled legal position and cannot be faulted."*

A plain reading of the aforesaid decision goes to show that mere occurrence of vacancy in the promotional post does not, by itself, entitle an employee to claim promotion from the date on which the vacancy arose, for the reason that, promotion ordinarily takes effect from the date on which it is actually granted, unless the governing rules or a specific statutory or executive provision expressly provides for retrospective or notional promotion. Undoubtedly, the petitioner was placed full additional charge to the post of the Superintendent from 07.03.2014, and his representations to promote him to the vacant post of the Superintendent by considering his seniority was not taken up by the respondent authorities due to State bifurcation issues and also imposition of ban. However, in the G.O.Rt.No.2147, General Administration (DPC-I) Department, dated 16.05.2014 issued by the Government of Andhra Pradesh, it was mentioned that the restrictions *i.e.* with regard to general ban imposed on all promotions in the State at all levels till the process of allocation of employees to the successor States of Telangana and Andhra Pradesh are completed and a ban, imposed on all appointments, transfers, revision of seniority and change in terms and conditions of employment, can be waived for good and sufficient reasons, only when there are compelling public interests which warrant such waiver.

Even after the representations made by the petitioner, the respondent authorities did not consider the same by promoting to the post of Superintendent, and it can be inferred that they did not find any good and sufficient reason compelling public interests warranting them to waive the restriction.

18. The petitioner cannot, as a matter of right, claim retrospective or notional promotion from March, 2014 solely on the ground that the vacancy had arisen on that date. In the absence of any statutory provision or specific Government Order requiring retrospective fixation of the date of promotion in the circumstances of the present case, the claim for consequential monetary and service benefits from March, 2014 is also unsustainable.

19. In view of the aforesaid discussion, this Court is of the considered view that the petitioner is not entitled to the relief sought in the Writ Petition (AT). The petitioner has already been promoted to the post of the Superintendent, after lifting of ban. His further claim for antedating the promotion to March, 2014 and for consequential benefits from that date cannot be granted.

20. Accordingly, the Writ Petition (AT) No.225 of 2021 is dismissed. There shall be no order as to costs of the Writ Petition (AT).

As a sequel thereto, the miscellaneous applications, if any, pending in this Writ Petition (AT), shall stand closed.

JUSTICE K. SREENIVASA REDDY

10th September, 2026.

DNB

Note:

LR Copy to be marked.

B/o.
DNB