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HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 663 of 2026

- 1 - State Of Chhattisgarh Through The Secretary, Department Of Home, Mahandi Bhawan, Mantralaya, Nava Raipur Atal Nagar, District Raipur Chhattisgarh..... (Respondent No. 1)
- 2 - The Secretary, General Administration Department, Mahanadi Bhawan, Atal Nagar Nava Raipur, District Raipur Chhattisgarh (Respondent No. 2)
- 3 - Director, Directorate Of Public Prosecution, Indrawati Bhawan, Atal Nagar Nawa Raipur Chhattisgarh (Respondent No. 4)

... Appellants

versus

- 1 - Aalok Ghosh, S/o Late Shri Kamal Krishna Ghosh, Aged About 46 Years Currently Working As Assistant Grade 03, Office Of Deputy Director, Public Prosecution, Surajpur, District Surajpur Chhattisgarh..... (Writ Petitioner)
- 2 - The Secretary Chhattisgarh Public Service Commission, North Block, Sector 19, Atal Nagar Nava Raipur, District Raipur, Chhattisgarh (Respondent No. 3)

... Respondents

(Cause-title taken from Case Information System)

For Appellants/State	:	Mr. Shashank Thakur, Additional Advocate General
For Respondent No.1	:	Mr. Harshmander Rastogi, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

11.08.2026

1. Heard Mr. Shashank Thakur, learned Additional Advocate General, appearing for the State/appellants and Mr. Harshmander Rastogi, learned counsel appearing for respondent No.1 on I.A. No.02, which is an application for condonation of delay of 35 days in preferring the appeal.
2. For the grounds assigned in the application (I.A. No.02), the same is allowed. Delay of 35 days in filing the writ appeal is hereby condoned.
3. The present intra Court appeal has been filed against the order dated 06.04.2026 passed by the learned Single Judge in Writ Petition (S) No.10635/2025 (*Aalok Ghosh v. State of Chhattisgarh and others*) whereby the writ petition filed by the writ petitioner-respondent No.1 herein before the learned Single Judge has been allowed.
4. Brief facts of the case projected before the learned Single Judge were that the writ petition was filed by the petitioner/respondent No.1 seeking, inter alia, a direction to the respondent authorities to consider and decide his representations dated 15.07.2025 and to grant him promotion to the post of Assistant District Public

Prosecutor/Assistant Public Prosecution Officer from the year 2018 with all consequential benefits. The petitioner had initially been appointed as Assistant Grade-III pursuant to the appointment order dated 15.10.2012 and had joined service on 25.10.2012. His service was governed by the Chhattisgarh Public Prosecution (Gazetted) Services Recruitment and Promotion Rules, 2008, under which 10% of the posts of Assistant Public Prosecution Officer were to be filled by promotion from amongst eligible Class-III employees possessing a degree in Law.

5. The petitioner's candidature had been considered by the Departmental Promotion Committee (DPC) in the years 2018 and 2019, but he was not recommended on the ground that he had not completed the requisite seven years of service and, in the subsequent DPC, that he was still on probation and had not been confirmed in service. The petitioner was thereafter confirmed in service by order dated 10.06.2024/18.06.2025. When the DPC met on 07.01.2026, the petitioner, having completed more than thirteen years of service from the date of his initial appointment, was again considered along with other Class-III employees; however, against his name, he was simply recorded as "non-suitable" without assigning any reason. Aggrieved thereby, the petitioner approached the learned Single Judge contending that his period of service was liable to be reckoned from the date of his initial appointment and that the DPC had erred in declaring him non-suitable without assigning reasons.

6. The learned Single Judge, by order dated 06.04.2026 passed in WPS No.10635/2025, allowed the writ petition and directed the respondents to convene a review DPC and reconsider the petitioner's candidature by counting his service from 25.10.2012, with a further direction to assign reasons if he was again found unsuitable.
7. Aggrieved thereby, the appellants/State has preferred the present writ appeal under Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006, questioning the legality, validity and correctness of the judgment and order passed by the learned Single Judge.
8. Learned counsel appearing for the appellants/State submits that the learned Single Judge has erred in law and on facts in directing the appellants to reckon the period of service of respondent No.1 from the date of his initial appointment for the purpose of determining his eligibility for promotion. It is contended that the respondent No.1 was appointed on probation and was confirmed only subsequently, and therefore, in terms of the applicable service conditions/rules, the requisite qualifying service for promotion was liable to be computed from the date on which he acquired the status of a confirmed employee in the feeder cadre. According to learned counsel, the learned Single Judge has proceeded on an erroneous assumption that confirmation automatically relates back to the date of initial appointment,

without examining the specific requirements governing promotion under the Chhattisgarh Public Prosecution (Gazetted) Services Recruitment and Promotion Rules, 2008.

- 9.** Learned counsel further submits that the learned Single Judge has also erred in interfering with the assessment made by the DPC, which, after considering the candidature of respondent No.1 along with other eligible employees, found him to be “non-suitable” for promotion. It is contended that the DPC is the competent body to assess the suitability of an employee for promotion and the Court, in exercise of its writ jurisdiction, ought not to substitute its own assessment for that of the DPC. It is further submitted that mere completion of the requisite period of service does not confer an indefeasible right to promotion, as promotion is subject to suitability and assessment by the competent DPC. The direction to convene a review DPC, therefore, amounts to interference with the administrative decision-making process. Accordingly, learned counsel prays that the order dated 06.04.2026 passed by the learned Single Judge in WPS No.10635/2025 be set aside and the writ petition filed by respondent No.1 be dismissed.
- 10.** Per contra, learned counsel appearing for respondent No.1 opposes the submissions advanced on behalf of the appellants/State and submits that the learned Single Judge has rightly appreciated the facts and the applicable legal position. It is contended that respondent No.1 was appointed against a

sanctioned vacant post of Assistant Grade-III pursuant to the regular appointment order dated 15.10.2012 and joined on 25.10.2012. His subsequent placement on probation and eventual confirmation in service cannot have the effect of obliterating the period during which he continuously rendered service in the feeder cadre. In the absence of any specific statutory rule providing that the qualifying service for promotion is to be reckoned only from the date of confirmation, the entire period of service from the date of initial appointment is liable to be taken into consideration. Learned counsel submits that the judgment of the learned Single Judge is fully supported by the decisions of the Hon'ble Supreme Court in ***G.P. Doval & Others v. Chief Secretary, Government of U.P. & Others, (1984) 4 SCC 329*** and ***L. Chandrakishore Singh v. State of Manipur, (1999) 8 SCC 287.***

11. Learned counsel further submits that the DPC convened on 07.01.2026, despite considering the candidature of respondent No.1, merely recorded him as “non-suitable” without assigning any reason, whereas specific reasons were recorded in respect of several other candidates. It is submitted that once respondent No.1 had completed the requisite period of service and there was admittedly no departmental enquiry or adverse material communicated to him, the cryptic recording of “non-suitable” could not constitute a lawful or meaningful assessment of his candidature. The learned Single Judge has not directed his

automatic promotion, but has only directed the appellants to convene a review DPC and reconsider his candidature in accordance with law, while requiring reasons to be assigned if he is again found unsuitable. Such a direction, according to learned counsel, is just, equitable and legally sustainable, and calls for no interference in the present intra-court appeal.

12. We have heard learned counsel appearing for the parties at length and carefully considered their rival submissions. We have also perused the record of the case, including the impugned order dated 06.04.2026 passed in Writ Petition (S) No.10635/2025.
13. the principal issue that arises for consideration is whether the learned Single Judge was justified in allowing the writ petition filed by respondent No.1 and directing the appellants to convene a review Departmental Promotion Committee and reconsider his candidature for promotion to the post of Assistant Public Prosecution Officer by reckoning his qualifying service from the date of his initial appointment as Assistant Grade-III on 25.10.2012. The ancillary issue is whether, upon his subsequent confirmation in service, the period of service rendered by respondent No.1 during probation could be counted for determining the requisite qualifying service in the feeder cadre, in the absence of any specific rule providing otherwise, and whether the learned Single Judge was justified in interfering with the decision of the DPC dated 07.01.2026, which had recorded

respondent No.1 as “non-suitable” for promotion without assigning any reason. The further question is whether the directions issued by the learned Single Judge, in the light of the applicable Chhattisgarh Public Prosecution (Gazetted) Services Recruitment and Promotion Rules, 2008 and the judgments relied upon in **G.P. Doval** (supra) and **L. Chandrakishore Singh** (supra), call for interference in the present intra-court appeal.

14. After appreciating the submissions of learned counsel for the parties therein as also the materials on record, the learned Single Judge has passed the impugned order in following terms:-

“5. Claim of petitioner is that petitioner has been appointed on the regular post vide order dated 15.10.2012 on probation. Annexure P-19 filed along with writ petition, which is the proceedings recorded by the competent authority for considering name of Class-III employee for their promotion on the post of Assistant Public Prosecution Officer, wherein name of petitioner could not be considered mentioning that on 01.01.2018, petitioner has not completed 7 years of service. The relaxation is sought for his posting in the schedule area and further observed that probation period has not been completed and petitioner has not been confirmed in service. The documents enclosed at Page No.86 which is part of Annexure P-19 is the proceedings of promotion initiated by DPC on 30.01.2019. Name of petitioner though considered in this DPC proceedings also, however, it is mentioned that on

01.01.2019, though petitioner has completed requisite period of service in feeder cadre of 7 years, however, petitioner has not been confirmed and still working as probationer. The documents filed along with writ petition Annexure P-16 would show that Directorate have passed an order on 10.06.2024 confirming petitioner on the post of Assistant Grade-III and directed the end of probation period. From the aforementioned facts of the case, it is appearing that petitioner is permanent employee appointed on probation on vacant post of Assistant Grade-III. Once petitioner has been confirmed in service, his period of service is to be reckoned for the purpose of computing the length of service in the feeder cadre from the date of his initial appointment i.e. Class-III post. The next DPC was initiated on 07.01.2026 on the said date petitioner has completed more than 13 years of service as Assistant Grade-III employee. DPC in its meeting dated 07.01.2026 has considered the name of 13 Class-III employees including petitioner, who has been named at Sr.No.8. In front of his name, it is only mentioned that petitioner was found to be non-suitable for promotion, no reason has been assigned as to why he has been found to be non-suitable. Though specific reasons has been assigned for the most of the candidates considered for their promotion by DPC.

6. Order of confirmation of petitioner after completion of probation period passed by the competent authority dated 18.06.2025 is filed by respondents along with reply as Annexure R-1. In

the said order of confirmation, there is no mention that what will be the status of period of service, which petitioner rendered pursuant to his appointment on 15.10.2012 and joining of service on 25.10.2012 till 18.06.2025, which is an order of competent authority confirming the petitioner in service after completion of probation.

7. Respondents in their reply have also not mentioned any provision of law or referred any rule or regulation in support of their contention to state that in view of such rule or provision under the law, length of service of employee is to be counted from date of his confirmation in service and not from the date of initial appointment. In absence of any specific rule, provision or regulation, upon confirmation of employee it shall relate back to the date on which the petitioner was appointed.

8. Hon'ble Supreme Court in case of G.P. Doval & Others. Vs. Chief Secretary, Government of U.P. & Ors., reported in (1984) 4 SCC 329, while considering the issue of seniority and promotion raised by petitioner therein observed thus :-

“15. Now if there was no binding rule of seniority it is well-settled that length of continuous officiation prescribes a valid principle of seniority. The question is: from what date the service is to be reckoned? It was urged that any appointment of a stopgap nature or pending the selection by Public Service Commission cannot be taken into account for reckoning seniority. In other

*words, it was urged that to be in the cadre and to enjoy place in the seniority list, the service rendered in a substantive capacity can alone be taken into consideration. We find it difficult to accept this bald and wide submission. Each case will depend upon its facts and circumstances. If a stopgap appointment is made and the appointee appears before the Public Service Commission when the latter proceeds to select the candidates and is selected, we see no justification for ignoring his past service. At any rate, there is no justification for two persons selected in the same manner being differently treated. That becomes crystal clear from the place assigned in the seniority list to Petitioner 1 in relation to Respondent 7. In fact if once a person appointed in a stopgap arrangement is confirmed in his post by proper selection, his past service has to be given credit and he has to be assigned seniority accordingly unless a rule to the contrary is made. That has not been done in the case of all the petitioners. The error is apparent in the case of Petitioner 1 and Respondent 7. These errors can be multiplied but we consider it unnecessary to do so. In fact a fair rule of seniority should ordinarily take into account the past service if the stopgap arrangement is followed by confirmation. This view which we are taking is borne out by the decision of this Court in *Baleshwar Dass v. State of U.P.* [(1980) 4 SCC 226 : 1980 SCC (L&S) 531 : (1981) 1*

SCR 449 : 1981 UPSC 15 : (1981) 1 LLJ 140] wherein this Court observed that the principle which has received the sanction of this Court's pronouncement is that "officiating service in a post for all practical purposes of seniority is as good as service on a regular basis. It may be permissible, within limits for Government to ignore officiating service and count only regular service when claims of seniority come before it, provided the rules in that regard are clear and categorical and do not admit of any ambiguity and cruelly arbitrary cut-off of long years of service does not take place or there is functionally and qualitatively, substantial difference in the service rendered in the two types of posts'. It was said that service rules will have to be reasonable, fair and not grossly unjust if they are to survive the test of Articles 14 and 16. It is thus well-settled that where officiating appointment is followed by confirmation unless a contrary rule is shown, the service rendered as officiating appointment cannot be ignored for reckoning length of continuous officiation for determining the place in the seniority list. Admittedly, that has not been done and the seniority list is drawn up from the date on which the approval/selection was made by the Public Service Commission in respect of each member of the service, which is clearly violative of Article 16, and any seniority list drawn up on this invalid basis must be quashed."

9. Further Hon'ble Supreme Court in case of *L. Chandrakishore Singh v. State of Manipur*, reported in (1999) 8 SCC 287 observed thus :-

*“15. It is now well settled that even in cases of probation or officiating appointments which are followed by a confirmation unless a contrary rule is shown, the service rendered as officiating appointment or on probation cannot be ignored for reckoning the length of continuous officiating service for determining the place in the seniority list. Where the first appointment is made by not following the prescribed procedure and such appointee is approved later on, the approval would mean his confirmation by the authority and shall relate back to the date on which his appointment was made and the entire service will have to be computed in reckoning the seniority according to the length of continuous officiation. In this regard we fortify our view by the judgment of this Court in *G.P. Doval v. Chief Secy., Govt. of U.P.* [(1984) 4 SCC 329 : 1984 SCC (L&S) 767].”*

10. In the aforementioned facts of the case, when petitioner is appointed on sanctioned vacant post in regular recruitment proceedings on 15.10.2012 on probation, as soon as probation period is completed and employee is confirmed in service by passing order in this regard, for the purpose of considering the requisite period of service in feeder cadre it is to be considered from the first date of appointment and joining on the post in the

feeder cadre. Petitioner have joined the service on 25.10.2012, therefore, on the date of holding of DPC petitioner has completed more than 7 years of service. Observation made by the DPC so far as it relates to petitioner holding him to be non-suitable for promotion without assigning any reason in the opinion of this court is not sustainable and is erroneous.

11. For the foregoing discussions, this writ petition is allowed. Respondents are directed to convene review DPC within a period of two months from today and thereafter to reconsider the candidature of petitioner for his promotion on the post of Assistant Public Prosecution Officer considering the period of service of petitioner from 25.10.2012 till 07.01.2026 as a Class-III employee and to grant promotion if he is otherwise found suitable. If for any reason DPC concludes that the candidature of petitioner is not suitable for promotion, than reasons in this regard is to be assigned.”

15. Having bestowed our anxious consideration to the rival submissions advanced on behalf of the appellants/State as well as respondent No.1, and having carefully scrutinized the entire material available on record, we are of the considered opinion that the learned Single Judge has proceeded on the basis of the admitted factual position that respondent No.1 was appointed against a sanctioned vacant post of Assistant Grade-III pursuant to the order dated 15.10.2012 and joined his services on 25.10.2012. It is also not in dispute that his appointment was not a

mere stop-gap, ad hoc or fortuitous arrangement, but was an appointment against a regular post, subject to completion of the prescribed period of probation. His subsequent confirmation in service by the competent authority, therefore, cannot, in the absence of any specific statutory provision to the contrary, have the effect of completely effacing the period during which he continuously discharged his duties in the very same feeder cadre.

16. The principal contention of the appellants that the qualifying service of respondent No.1 was liable to be reckoned only from the date of his confirmation cannot be accepted in the absence of any specific rule, regulation or statutory provision demonstrating such a consequence. The appellants, despite filing their return before the learned Single Judge, were unable to point out any provision under the Chhattisgarh Public Prosecution (Gazetted) Services Recruitment and Promotion Rules, 2008, or any other applicable service rule, which expressly mandates that the requisite period of service in the feeder cadre is to be counted only from the date of confirmation and that the service rendered during probation, where such probation is subsequently successfully completed and followed by confirmation, is liable to be excluded. In service jurisprudence, probation is ordinarily a period of assessment of suitability of an employee appointed to a post; it does not, by itself, convert a regular appointment against a sanctioned post into an appointment having no continuity unless the governing service rules expressly provide otherwise.

17. In the present case, respondent No.1 was appointed in the year 2012 and continued in service thereafter. He was not discharged from service on account of failure to satisfactorily complete probation; rather, upon completion of the probationary period, the competent authority proceeded to confirm him in service. Such subsequent confirmation assumes significance because it establishes that the initial appointment was ultimately accepted and continued by the employer. Once the appointment has culminated in confirmation and there is no statutory provision excluding the preceding period for the purpose of reckoning qualifying service, the period during which respondent No.1 continuously served in the feeder cadre cannot be treated as non-existent for determining his eligibility for consideration for promotion.
18. The judgments relied upon by the learned Single Judge, namely, **G.P. Doval** (supra) and **L. Chandrakishore Singh** (supra), lend substantial support to the aforesaid conclusion. The principle emerging from the said decisions is that where an appointment is followed by confirmation, the service rendered prior to confirmation cannot ordinarily be ignored for reckoning continuous service, unless a contrary rule expressly provides for such exclusion. The underlying rationale is that once the employee is ultimately confirmed in the post and the appointment is found to have been validly continued, the past service rendered in the same post cannot be arbitrarily discarded, particularly when the

consequence would be to deprive the employee of accrued consideration for promotion after several years of continuous service. The appellants have not been able to demonstrate any rule which would take the present case outside the principle laid down in the aforesaid judgments.

- 19.** It is equally significant that the candidature of respondent No.1 had earlier been considered by the DPC in the years 2018 and 2019. In the year 2018, his candidature was not recommended principally on the ground that he had not completed the requisite seven years of service, whereas in the year 2019, though he had completed the requisite period of service in the feeder cadre, his candidature was not recommended on the ground that he was still undergoing probation and had not been confirmed. The subsequent order of confirmation passed by the competent authority removed the latter impediment. Consequently, when the DPC met on 07.01.2026, the earlier grounds which had prevented consideration of respondent No.1 in the previous years could no longer operate against him. By then, reckoning his service from 25.10.2012, he had admittedly completed substantially more than the requisite seven years of service in the feeder cadre.
- 20.** We are also unable to accept the submission of the appellants that the learned Single Judge has substituted his own assessment for that of the DPC. It is trite that the suitability of an employee for promotion is primarily within the domain of the competent

Departmental Promotion Committee and ordinarily the constitutional court does not sit as an appellate authority over the assessment of suitability made by such committee. However, that principle does not confer immunity upon the decision of a DPC from judicial review altogether. Where the decision-making process suffers from arbitrariness, non-application of mind, failure to consider relevant material or absence of reasons in circumstances where reasons are necessary to demonstrate a genuine assessment, the constitutional court is competent to examine the decision-making process and issue appropriate directions.

- 21.** In the present case, the learned Single Judge has not directed the appellants to promote respondent No.1 as a matter of right. Rather, the direction is expressly limited to convening a review DPC and reconsidering his candidature in accordance with law. Even the direction regarding recording of reasons operates only in the event the DPC, upon such reconsideration, again arrives at the conclusion that respondent No.1 is not suitable for promotion. Thus, the learned Single Judge has consciously preserved the jurisdiction and discretion of the DPC to undertake the assessment of suitability. What has been interdicted is not the assessment itself but an unexplained and cryptic recording of “non-suitable”, particularly when the record indicates that in respect of several other candidates considered in the same DPC, reasons were recorded for arriving at the conclusion regarding

their suitability or otherwise.

- 22.** The expression “non-suitable”, by itself, is merely a conclusion and not a disclosure of the process by which such conclusion has been reached. The purpose of requiring a competent authority to undertake a consideration for promotion is not merely to mechanically record a conclusion but to make an objective assessment in accordance with the governing service rules and the material relevant to such assessment. If a candidate otherwise fulfils the prescribed eligibility conditions and his candidature is considered by the DPC, the decision-making process must demonstrate that his candidature has received meaningful and bona fide consideration. This is particularly so where the employee has already been denied promotion on earlier occasions for specific reasons which have subsequently ceased to exist. A bald recording of “non-suitable”, without anything more, does not enable the Court to ascertain whether the relevant eligibility criteria and service record were properly considered or whether the candidate was rejected for some other undisclosed reason.
- 23.** The contention that respondent No.1 has no vested right to promotion is undoubtedly correct as a general proposition. Mere eligibility or completion of the qualifying service does not confer an indefeasible right upon an employee to demand promotion, and the employee remains subject to assessment of suitability by

the competent DPC. However, the aforesaid principle does not mean that an eligible employee can be denied fair and meaningful consideration. There is a distinction between a right to promotion and a right to be considered for promotion in accordance with the applicable rules and by following a fair, reasonable and non-arbitrary procedure. The learned Single Judge has protected only the latter right and has not conferred upon respondent No.1 any automatic right to promotion.

- 24.** The further submission of the appellants that the learned Single Judge ought not to have interfered with the decision of the DPC is, therefore, of no assistance to them. The impugned direction does not amount to substitution of the Court's opinion for that of the DPC. The learned Single Judge has merely required the competent authority to reconsider the candidature of respondent No.1 by taking into account the period of service actually rendered by him in the feeder cadre from 25.10.2012 and to undertake a fresh assessment of his suitability. Such a direction is consistent with the limited scope of judicial review, particularly where the original decision is found to have proceeded on an erroneous understanding of the qualifying service and where the final conclusion of "non-suitable" is unsupported by any disclosed reason.
- 25.** We are also mindful of the submission that the DPC is an expert body and its assessment ordinarily deserves due deference.

There can be no quarrel with the said proposition. However, deference to an expert body cannot mean abdication of judicial review where the very eligibility of the employee has been considered on an erroneous premise or where the decision-making process is demonstrably deficient. The role of the Court is not to determine whether respondent No.1 is suitable for promotion, but only to ensure that his candidature is considered by the competent authority in accordance with the governing rules, upon taking into account the legally relevant period of service and by adopting a fair and non-arbitrary procedure. The learned Single Judge has remained well within these parameters.

- 26.** Another aspect which cannot be overlooked is that the appellants have not placed before this Court any material to establish that respondent No.1's service rendered from 25.10.2012 until his confirmation was interrupted, invalid, ad hoc, stop-gap or otherwise incapable of being counted for the purpose for which consideration was sought. Nor has any rule been shown which expressly excludes the probationary period after an employee is ultimately confirmed in service. In the absence of such a provision, acceptance of the appellants' interpretation would result in depriving respondent No.1 of the benefit of several years of continuous service solely because the formal order of confirmation was issued at a later point of time, even though he had continuously remained in the same feeder cadre. Such an interpretation cannot be accepted merely on the basis of an

administrative assertion unsupported by the governing rules.

- 27.** The chronology of events also supports the conclusion reached by the learned Single Judge. Respondent No.1 was appointed in 2012; his candidature was considered in 2018 and was not recommended for want of the requisite length of service; in 2019, the requisite period of service had been completed but he was still a probationer; thereafter he was confirmed in service; and when the DPC again considered his candidature on 07.01.2026, he had already rendered more than thirteen years of service from the date of his joining. The very grounds which had earlier stood in the way of his promotion were thus no longer available. In such circumstances, the DPC was required to undertake a proper and meaningful consideration of his candidature. Merely describing him as “non-suitable”, without disclosing the basis of such conclusion, cannot be regarded as sufficient compliance with the obligation to consider his candidature fairly.
- 28.** We may hasten to add that the present order shall not be construed as an expression of opinion by this Court regarding the ultimate suitability of respondent No.1 for promotion. Nor shall the review DPC be understood as being bound to recommend respondent No.1 for promotion. The DPC shall remain free to assess his candidature in accordance with the applicable Rules, the service record and all other relevant considerations. What is required is only that the period of service directed to be reckoned

by the learned Single Judge be taken into consideration and that the candidature be evaluated objectively and in accordance with law. If, upon such consideration, the DPC finds respondent No.1 unsuitable, it shall be open to the competent authority to arrive at such conclusion, provided the same is supported by relevant material and the reasons are appropriately recorded.

29. The direction issued by the learned Single Judge, therefore, strikes an appropriate balance between the rights of respondent No.1 and the administrative domain of the appellants. It neither commands automatic promotion nor interferes with the substantive assessment of suitability. It merely corrects the basis upon which the candidature is to be considered and ensures that the decision is taken by the competent authority in a fair and legally sustainable manner. We find no reason to hold that such a direction amounts to impermissible judicial interference in the functioning of the DPC.
30. On an overall consideration of the matter, we are satisfied that the learned Single Judge has correctly appreciated the factual and legal position. The conclusion that, upon subsequent confirmation, the service rendered by respondent No.1 from the date of his initial appointment in the feeder cadre could not be ignored in the absence of any contrary statutory provision is consistent with the principles laid down by the Hon'ble Supreme Court in **G.P. Doval** (supra) and **L. Chandrakishore Singh** (supra). The further

finding that the unexplained recording of “non-suitable” by the DPC dated 07.01.2026 was insufficient to sustain the decision against respondent No.1 is also founded upon a legitimate exercise of judicial review and does not suffer from any perversity or jurisdictional infirmity.

- 31.** Consequently, we find no merit in the present writ appeal. The order dated 06.04.2026 passed by the learned Single Judge in Writ Petition (S) No.10635/2025 is hereby affirmed. The appellants/respondent authorities shall comply with the directions contained in the said order within the time stipulated therein, subject, however, to the liberty of the competent DPC to independently assess the suitability of respondent No.1 in accordance with the applicable service rules and relevant material on record. It is made clear that the respondent No.1 shall not be entitled to claim automatic promotion merely by virtue of the order passed by the learned Single Judge or this order, and his promotion shall remain dependent upon his being found suitable by the competent DPC.
- 32.** Accordingly, the writ appeal, being devoid of merit, is **dismissed**. All pending interlocutory applications, if any, shall stand disposed of. There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice