



2026:AHC:33340-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 19729 of 2025

Mohd Saleem

.....Petitioner(s)

Versus

Union of India and another

.....Respondent(s)

Counsel for Petitioner(s)	:	Mohd. Sarwar Khan
Counsel for Respondent(s)	:	A.S.G.I., Krishna Deo Rai

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard Mohd. Sarwar Khan, learned counsel for the petitioner and Shri Krishna Deo Rai, learned counsel for the respondents.
3. This writ petition has been filed challenging the order dated 14.08.2025 whereby the Central Administrative Tribunal, Allahabad Bench, Allahabad ('the Tribunal') has dismissed the Original Application ('O.A.') No. 1048 of 2021 filed by the petitioner, wherein a direction was sought to respondent no. 2 to re-fix the last drawn salary of the petitioner on the basis of promotion as Senior Technician (PED) in Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4200/-.
4. As per the case of the petitioner, he was appointed as Electric Technician on 19.08.1978 and, after attaining age of superannuation, he retired on 31.03.2013 in the pay scale of Rs. 5200-20200 with Grade Pay of Rs. 2800/-. In the O.A., it was pleaded that the name of the petitioner was included in the promotion list of 2012 for higher pay scale, i.e. Rs. 9300-34800 with Grade Pay of Rs. 4200/-, but his promotion was delayed by the authorities and, therefore, he could not get increment in salary and pensionary benefits. It was further pleaded that after retirement of the petitioner, a provisional promotion list was prepared by the Department on 21.06.2013 wherein his name found mention but the list was not implemented and when the representations submitted by the petitioner received no response, the 'O.A.' was filed.

5. The respondents opposed the claim of the petitioner by filing counter affidavit before the Tribunal taking a stand that the 'O.A.' was not maintainable and was liable to be dismissed not only as barred by limitation but also being devoid of merits for the reason that the petitioner had retired on 31.03.2013 prior to the issuance of promotion order dated 21.06.2013 and, hence, was not eligible to be promoted and, therefore, no financial benefits *qua* the promotional post could be extended to him after retirement. Further stand was that all other eligible employees were finally promoted on 29.06.2013 and in the concerned list, a clear indication was made against the name of the applicant regarding his retirement. It was further stated that the 'O.A.' filed after seven years from the date of retirement, was highly belated and was liable to be dismissed on this ground alone.

6. The Tribunal, after considering the case of the parties, came to the conclusion that in the provisional promotion list issued on 21.06.2013, name of the petitioner was mentioned at Sl. No. 5 and, thereafter, a final promotion list was issued on 29.06.2013 wherein his name was not included as he was already superannuated on 31.03.2013. Placing reliance upon the decisions of the Hon'ble Supreme Court in **Chennai Metropolitan Water Supply and Sewerage Board and others Vs. T.T Murali Babu: 2014 (4) SCC 108** and **Government of West Bengal and others Vs. Dr. Amal Satpathi and others: 2024 SCC Online SC 3512**, the Tribunal dismissed the 'O.A.' recording a finding that promotion cannot be granted with retrospective effect post-retirement unless there is a clear administrative or legal fault conclusively establishing the action as *mala fide*.

7. Learned counsel for the petitioner has made submissions that the action of the respondents in not promoting the petitioner during his service tenure was *per se* illegal and arbitrary, inasmuch as in the promotion list issued in the year 2012, his name was there at Sl. No. 5 but the respondents deliberately finalized the process of promotion only after his retirement so as to promote persons junior to him and, therefore, the Tribunal was not justified in dismissing the 'O.A.'.

8. Further submission has been made that the petitioner had moved a separate application before the Tribunal with a prayer to summon the promotion order prepared by the department in the year 2012, however, no

order was passed on the said application and, therefore, the same has caused prejudice to his case. Submission is that had the said application been allowed by the Tribunal, the promotion list prepared in the year 2012 would have been on record of the Tribunal so as to establish the case of the petitioner that not granting promotion to the petitioner during his service tenure, prolonging the decision all over and finalizing the same after his retirement was a *mala fide* exercise on the part of the respondents.

9. Per contra, learned counsel for the respondents has made submissions that no promotion list was prepared in the year 2012 and, after completion of requisite exercise, a provisional promotion list was prepared for the first time only on 21.06.2013, by which time, the petitioner had already retired on 31.03.2013 and final office order granting promotion to the suitable candidates was issued on 29.06.2013. Submission is that since no promotion took place during the service tenure of the petitioner, he cannot claim any relief based upon his anticipated promotion and, therefore, no interference is warranted in the order passed by the Tribunal.

10. We have considered the submissions made and have perused the material available on record.

11. It stands reflected from record that a provisional select list for the post of Senior Technician (PED) was published on 21.06.2013. The said list contained names of 10 (ten) persons including the petitioner, whose name stood articulated at Sl. No. 5 with a clear indication that he had retired on 31.03.2013. Another similarly situated person, namely, Amanatullah was also there in the said list with identical indication regarding his retirement having occurred on 30.04.2013. After eight (8) days from issuance of provisional select list, final promotion order was issued on 29.06.2013 promoting 8 (eight) persons excluding names of the petitioner and Amanatullah who had already retired, respectively in March and April, 2013.

12. The case of the petitioner before the Tribunal as well as before this Court is that another list was published in the year 2012 also in which his name was there at Sl. No. 5, however, despite repeated queries made by the Court, learned counsel for the petitioner could not place any document either forming part of the record of Tribunal or of these writ proceedings whereby

any alleged promotional list was published in the year 2012 also. In fact, answer to the query raised was that since it is for the Department to bring on record the said list, the petitioner cannot produce the same and, therefore, he had filed an application before the Tribunal requesting summoning of the said list issued in the year 2012 but non-consideration of his application would render the order impugned unsustainable. He also prayed this Court to summon the list published in the year 2012.

13. We do not find any force in the submissions made by learned counsel for the petitioner for the simple reason that it was his own case that his name was included in the promotion list of 2012. Even if any such list had actually come in existence, though it is neither here nor there, it was for the petitioner to establish the said fact. Neither the Tribunal nor this Court can enter into a roving and fishing inquiry as to whether or not any such promotion list was published in the year 2012.

14. Apparently, the order dated 21.06.2013 is the first document on record mentioning that as a result of suitability held on the basis of ACRs for the last three years, the staff of Technical-1 (PED) in Pay Band of Rs. 5200-20200 with Grade Pay of Rs. 2800/- have been found suitable and placed on the provisional select list for the post of Senior Technician (PED) in the Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4200/-. After the tabulated depiction, it is also indicated that mere placement on select list is no guarantee for promotion which is subject to continuous satisfactory working during the currency of the select list promotion and will be subject to departmental clearance.

15. Admittedly, final promotion order was issued 29.06.2013 and, therefore, we do not find any reason to assume that prior to issuance of provisional select list dated 21.06.2013, any other list had ever been issued in the year 2012.

16. As far as the application moved by the petitioner before the Tribunal requesting summoning of promotion order/list prepared in the year 2012, there is nothing on record to indicate as to whether the petitioner had ever pressed the said application before the Tribunal nor the order sheet of the Tribunal has been annexed so as to make it clear whether any separate order was passed on the said application. Rather, a perusal of final order dated

14.08.2025 passed by the Tribunal indicates that all misc. applications pending in the 'O.A.' were also disposed of while finally dismissing the 'O.A.'.

17. In any case, whether or not the application was pressed or separately decided either way, the application is found without any substance, inasmuch as it was for the petitioner to establish by leading positive evidence that any such list was published and since the respondents had denied publication of any such list in the year 2012, the matter ends then and there without any necessity to summon the record or the alleged list of 2012. It is well settled that a party has to stand at the strength of its own case and it cannot expect the Court to accept a vague statement made by a party either in pleadings or by means of any application, so as to require the court to initiate a fishing and roving inquiry to find out correctness of the vague statement.

18. We also find from record that the first application that was moved by the petitioner before the Department was dated 19.08.2014 indicating that some process of promotion had been initiated in the year 2012 but its result was declared after retirement of the petitioner. The said application has been annexed as Annexure-5 to the writ petition and the same was Annexure-4 to the 'O.A.' enclosed therewith was a copy of the promotion order, result thereof and certificate of retirement which were the same documents dated 21.06.2013 and 29.06.2013 and not any other document of 2012.

19. Therefore, even if the statement contained in the first application moved by the petitioner on 19.08.2014 is accepted on its face value, process of promotion, even if initiated in the year 2012, (though there is no evidence to that effect) would be of no help to the petitioner as the Department may initiate any exercise *qua* promotion but it is only when the final promotion list is issued, promotion comes into effect. Admittedly, not only the provisional promotion list but also the final promotion order were issued after retirement of the petitioner and, therefore, the petitioner has no case at all.

20. We are also satisfied that the Tribunal has rightly found the 'O.A.' being barred by laches as the same was filed by the petitioner seven years after his retirement and the decision of the Tribunal based upon the merits of the case

also does not suffer from any illegality. In the case of **Dr. Amal Satpathi (supra)**, it has been clearly laid down that promotion becomes effective upon assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation. The Hon'ble Supreme Court, in that case also, denied grant of financial benefits associated to the promotional post of Chief Scientific Officer retrospectively as the concerned employee had already superannuated prior to issuance of the promotional order and had not served in that capacity.

21. In view of the above discussion, we are not inclined to interfere with the order passed by the Tribunal.

22. The writ petition has no substance, the same is, therefore, **dismissed**.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

February 13, 2026

AKShukla/-