2026:CGHC:22369

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Reserved on: 15/04/2026

Delivered on: 12/05/2026

Uploaded on: 12/05/2026

WPS No. 1686 of 2025

- Rajju Kumar Bhoi S/o Late Shri Sarju Prasad Aged About 58 Years R/o House No. 6, Shristi Park, Avanti Vihar, Telibandha, Raipur, District Raipur, C.G.

--- Petitioner(s)

versus

1. State Of Chhattisgarh Through The Secretary, Labour Department, Mantralaya, Atal Nagar, Nava Raipur, District Raipur, (C.G.)
2. The Labour Commissioner Indrawati Bhawan Atal Nagar, Naya Raipur, District - Raipur, C.G.
3. Chhattisgarh Public Service Commission, Through The Secretary, North Block Sector - 19, Atal Nagar, Naya Raipur, District Raipur (C.G.)
4. K.K. Dwivedi, Director Industrial Health And Safety Department, Indrawati Bhawan, Atal Nagar, Naya Raipur, District Raipur (C.G.)
5. Manish Shrivastava, Deputy Director Industrial Health And Safety Department, Chakradhar Nagar, Raigarh, C.G.
6. Toshan Kumar Sahu, Deputy Director Industrial Health And Safety Department, Labour Commissioner Office Floor No. 2, Indrawati Bhawan, Atal Nagar, Naya Raipur, District Raipur (C.G.)
7. Dinesh Prasad Marskole, Deputy Director Industrial Health And Safety Department, 100 Wardhaman Nagar Rajnandgaon, District - Rajnandgaon, C.G.

--- Respondent(s)

For Petitioner	:	Mr. Prateek Sharma, Advocate
For Respondents No. 1 & 2- State	:	Mr. Aditya Tiwari, Panel Lawyer
For Respondent No. 3	:	Dr. Sudeep Agrawal, Advocate
For Respondent No. 4	:	Mr. Abhipreet Bajpai, Advocate on behalf of Mr. Dharmesh Shrivastava, Advocate

For Respondent No. 5	:	Mr. Jitendra Pali, Advocate
For Respondents No. 6 & 7	:	Mr. Ravi Kumar Bhagat, Advocate

C.A.V. Order

***Per* Parth Prateem Sahu, Judge**

1. Petitioner by way of this writ petition has challenged the order of promotion of Respondent No. 4 vide impugned order Annexure P-1 dated 24.02.2025 on the ground that the Departmental Promotion Committee (for short "DPC") has not followed the provisions for promotion as provided under Chhattisgarh Labour (Gazette) Service Rules, 2013 (for short "Service Rules, 2013") and the Chhattisgarh Civil Services (Promotion) Rules, 2003 (for short "CCS (Promotion) Rules, 2003.

2. Learned counsel for petitioner submits that petitioner was initially appointed on the post of Assistant Director vide order dated 30.06.2001, he thereafter was promoted on the post of Deputy Director, Industrial Health and Safety vide order dated 23.01.2014 w.e.f. 13.06.2013 and since then he is discharging his duties with dedication, honesty and up to the satisfaction of higher authorities. Service of petitioner is governed with the Service Rules, 2013 and for purpose of promotion CCS (Promotion) Rules, 2003 has also been made applicable. Respondents-authorities have constituted DPC to consider the eligible candidates for promotion on the post of Director. Based on the recommendation made by DPC, Respondent No. 4 has been promoted to the post of Director, his promotion is made without following due procedure as provided under the Service Rules, 2013 and the CCS (Promotion) Rules, 2003. Referring to Rule 14(5) to

submit that the requisite service in the feeder cadre for promotion of the Deputy Director to the post of Director is prescribed as 10 years and in support of his contention, he referred to Schedule 4 formulated under Rule 14 & 15 of the Service Rules of 2013. He also contended that according to his instruction, petitioner secured 18 marks while assessment of Annual Confidential Reports (ACRs) and the other candidates who had under the zone of consideration for promotion by the DPC have been awarded less marks than that of petitioner. He would submit that even if the requirement in the service rules for promotion ie., the candidate to be eligible for promotion has secured 'very good' grading in all the five years to obtain minimum 15 marks but for the purpose of promotion under merit-cum-seniority basis inter se merit is also to be considered by the DPC and the said procedure adopted is also to be mentioned in the proceedings. In the proceedings of DPC, there is no such mention but for that all the persons have secured 'very good' grading, the senior most person under the zone of consideration for promotion has been recommended for promotion and accordingly Annexure P-1 order of promotion has been issued by the State Government. The procedure adopted by the DPC is in contravention of provisions of Service Rules of 2013 and also CCS (Promotion) Rules, 2003. He contended that for assessing comparative merit, the DPC is under obligation to evaluate qualitative differences, overall performance indicators, consistency of service, noteworthy achievements etc. to assess merit of the officer/ employee in the zone of consideration of promotion, which was not done by the DPC and therefore the procedure adopted for promotion by the DPC, is not sustainable and it is to be quashed and consequently the order of

promotion is also required to be quashed. In support of his contention, he places reliance on the decision of co-ordinate Bench of this Court in **Amit Shandilya vs. State of Chhattisgarh and others** passed in WPS No. 3033 of 2023 order dated 15.01.2026 and the decision passed by Division Bench of this Court passed in WA No. 265 of 2026 (between *S.S. Tigga vs. State of Chhattisgarh and others*) wherein challenge made to the decision in WPS No. 3033 of 2023 was dismissed.

3. Learned counsel for the State submits that the proceedings of promotion has been conducted strictly in accordance with the provisions as provided under the Service Rules of 2013 and also CCS (Promotion) Rules, 2003. He contended that, DPC convened its meeting on 07.02.2025. In the proceedings of meeting, in para 12, the committee has fixed benchmark which is to the tune of the provisions as applicable to the facts of the case. He contended that the DPC has fixed criteria that overall consideration of the ACRs of five years should be 'very good' and the employees under the zone of consideration for promotion should not have been awarded Grade-D. In support of his contention, he referred to the proceedings of DPC. He contended that petitioner was also eligible for promotion, however, as on the date of promotion only one post was available to be filled up by way of promotion and following merit-cum-seniority basis, Respondent No. 4 has been promoted.

4. Dr. Sudeep Agrawal, learned counsel for Respondent No. 3 and Mr. Bajpai, learned counsel for Respondent No. 4 adopted the submission made by learned counsel for the State.

5. Mr. Jitendra Pali, learned counsel for Respondent No. 5 while supporting the contention of learned State counsel would submit that according to the provision applicable for promotion is that the candidate should have achieved 'very good' grade in assessment of five-years of ACRs. According to the proceeding of DPC, all the employees falling under the zone of consideration for promotion have been graded 'very good' and considering the entire documents placed before the DPC, Respondent No. 4 being senior has been promoted. He submits that in the reply of the State Government, marks awarded to the candidates in the zone of consideration for promotion based on the ACRs is with respect to awarding of grade only and that only cannot be considered to be the criteria for promotion when the promotion is to be made from Class-I post to Class-I post which is based on merit-cum-seniority. He also contended that the DPC has not disclosed all the entries made in the ACRs but for the gradation which is to be awarded based on the assessment and therefore petitioner is having no case on merit, it is to be dismissed.

6. Mr. Ravi Kumar Bhagat, learned counsel for Respondents No. 6 & 7 adopts the submission made by learned counsel for Respondent No. 5.

7. I have heard learned counsel for the respective parties and also perused the record.

8. Before proceeding further to deal with the submission made by learned counsel for the parties, in the facts of the case, I find it appropriate to glance upon the relevant rules applicable in the facts of the case.

9. Undisputedly, service of petitioner is governed by the Service Rules of 2013. Rules 14 of the Service Rules of 2013 talks of 'Appointment by

Promotion'. Rule 14(1) provides for committee is to be constituted for preliminary selection of the candidates. Rule 14(3) provides for every promotion will be in accordance with the provisions of CCS (Promotion) Rules, 2003. Service Rules of 2013 further provides for Conditions of Eligibility for promotion and it mentions that the period of service in the feeder cadre as mentioned in Column (3) of Schedule-4 and are coming within the criteria as prescribed under sub-rule (2) of Rule 14(6) of Service Rules of 2013. Perusal of Schedule-4 of Service Rules of 2013 provides for 'Requisite period of service for promotion in two sectors ie., (A) Labour; and (B) Industrial Health and Safety. Petitioner is aggrieved with the promotion made on the post of Director of Industrial Health and Safety department for promotion from the post of Deputy Director, Industrial Health and Safety to the post of Director, Industrial Health and Safety. The minimum service of experience in the feeder cadre ie., Deputy Director is prescribed as 10 years.

10. As under the Service Rules of 2013, sub-rule (3) of Rule 14 provides for application of CCS (Promotion) Rules, 2003. Rule 4 of CCS (Promotion) Rules, 2003 provides for 'Determination of basis of Promotion' and for promotion from the post of Class-I to Class-I, the basis which is prescribed is merit-cum-seniority. Rule 7 of CCS (Promotion) Rules, 2003 envisages 'Promotion on the basis of merit-cum-seniority'. For considering the number of public servants for promotion the procedure as provided under Rule 7(1) of CCS (Promotion) Rules, 2003 is double the number of existing post to be filled up+4 (plus four). Rule 7(3) provides for names of only such public servants shall be considered for promotion to have completed

the requisite number of years of service in the feeder cadre/ part of service/ pay scale of post according to the Recruitment Rules for promotion and who are within the zone of consideration. Relevant rules of CCS (Promotion) Rules, 2003 are extracted below for ready reference:

> "**7. Promotion on the basis of merit-cum-seniority.**
>
> **(3)** The names of only such public servants shall be considered for promotion who have completed the requisite number of years of service in the feeder cadre/part of the service/pay scale of post according to the Recruitment Rules for promotion and who are within the zone of consideration. In addition to this, in view of inclusion, in the select list, the names of two public servants or 25 percent of the number of the public servants included in select list whichever is more, the names of the required number of the public servants who are in the zone of consideration shall be considered for each category to fill up the unforeseen vacancies occurring during the course of the aforesaid period.
>
> *Explanation*. - Manner of computation for eligibility for promotion. - Period of qualifying service on 1st January' of the relevant year in which Departmental Promotion Committee/Screening Committee is convened shall be counted from the calendar year in which the public servant has joined the feeding cadre/part of the service/pay scale of the post and not from the date of joining of the cadre/part of the service/pay scale of post.
>
> **(5)** The meeting of the Departmental Promotion/Screening Committee shall be held every year. It shall consider the suitability of the public servant for promotion separately with reference to the vacancies of each previous year starting with the earliest year onwards. The Departmental Promotion Committee/Screening Committee shall consider, the suitability of the public servants for promotion to fill up the unfilled vacancies of the earlier year or years separately and prepare the select list for the relevant year accordingly. Thereafter, the Departmental Promotion Committee/Screening Committee shall consider the suitability of the public servants for

promotion to fill up the existing and anticipated vacancies of the current year.

(6) The Departmental Promotion/Screening Committee shall assess the suitability of the public servants for promotion on the basis of their service record and with particular reference to the Annual Confidential Reports (ACRs) for 5 preceding years. However, in cases where the required qualifying service is more than 5 years, the Departmental Promotion/Screening Committee shall see the record with particular reference to the ACRs for the years equal to the required qualifying service.

(7) When one or more ACRs are not available for any reason for the relevant period, the Departmental Promotion/Screening Committee shall consider the ACRs of the years preceding the period in question.

(8) For the eligibility for promotion from Class I to higher pay scale of Class I posts, the benchmark grade shall be "Very Good".

(9) The Departmental Promotion/Screening Committee shall make a relative/comparative assessment of the merits of public servants who are within the zone of consideration and make an overall grading of the public servants' merit on the basis of their service records and place them in the categories as "Outstanding", "Very-Good", "Good", "Average" and "Poor" as the case may be. However, only those public servants who are graded as "Very Good" and above will be included in the select list, by placing the public servants graded as "Outstanding" on top followed by those graded as "Very-Good", subject to availability of vacancies, with the public servants with the same grading maintaining their inter-se seniority in the feeder cadre/part of the service/pay scales of post.

(11) The promotion to the higher cadre/part of the service/pay scale of post shall be made from these select lists according to the names appearing in the said select lists and according to the prescribed order shown in the roster. Only the public servants belonging to the same class for which the posts reserved shall fill up reserved posts.

(12) In order to determine the inter-se seniority of the public servants belonging to the three categories in the cadre/part of the service/pay scale of post to which the promotion is to be made, a combined select list of the above three categories

> of public servants shall be prepared according to the order of merit determined by the Departmental Promotion/Screening Committee."

11. In the reply, learned counsel for the State has enclosed the gradation list as on 01.04.2021 of Class-I employees. The proceedings of meeting dated 07.02.2025 convened by the DPC is also enclosed as Annexure R-2. In para-6, DPC mentions that the public servant who has completed 10 years of service on the post of Deputy Director only will be considered for promotion and the period of 10 years is to be computed as on 01.01.2023. Number of vacancy available for promotion, mentioned in para-8, is one and post vacant is shown to be from the year 2023. In para-11, it mentions that only one post in the cadre of Director to be filled up by promotion, (100% promotional post) and further mentions about fixing of minimum benchmark in para-12(A), which is extracted below for ready reference.

> "**12. पदोन्नति हेतु छ.ग. श्रम (राजपत्रित) सेवा भर्ती नियम 2013 एवं छ.ग. लोक सेवा पदोन्नति नियम 2003 के संदर्भ में वर्गीकरण–**
>
> **(अ) न्यूनतम कसौटी :-**
>
> समिति ने विचाराधीन पदोन्नति के लिये निम्नलिखित कसौटियां तय की-
>
> (1) संनिष्ठा संदेह से परे हो एवं सनिष्ठा प्रमाणित हो।
>
> (2) समिति ने तय किया कि 05 वर्षों के गोपनीय रिकार्ड का समग्र मूल्यांकन कम से कम बहुत अच्छा श्रेणी का हो तथा किसी भी वर्ष "घ" श्रेणी एवं प्रतिकूल टिप्पणी न हो। योग्यता-सह-वरिष्ठता के सिद्धांत पर होने वाली पदोन्नति के लिये आमतौर पर न्यूनतम कसोटी बहुत अच्छा (न्यूनतम 15 अंक) होना वाहिये।
>
> (3) उक्त 05 वर्षों में से अतिम वर्ष का गोपनीय प्रतिवेदन अनिवार्य रूप से उपलब्ध हो तथा वह कम से कम "बहुत अच्छा' श्रेणी का होना चाहिये।
>
> (4) उक्त 05 वर्षों में से किसी भी वर्ष का अचल सम्पत्ति विवरण अप्राप्त होने से प्रकरण परिभ्रमण में रखा जायेगा।

12. Para 12(B) is also relevant in the facts of the case, which is also extracted below for ready reference.

ब) पांच वर्षों के गोपनीय प्रतिवेदनों के आधार पर समिति द्वारा की गई अनुशंसा निम्नानुसार है :-

स.क्र.	अधिकारी का नाम	समिति की अनुशंसा
01	श्री के. के. द्विवेदी	उपयुक्त
02	श्री मनीष श्रीवास्तव	पद रिक्त न होने से अनुशंसा नहीं।
03	श्री तोषण कुमार साहू	पद रिक्त न होने से अनुशंसा नहीं।
04	श्री दिनेश प्रसाद मर्सकोले	पद रिक्त न होने से अनुशंसा नहीं।
05	श्री रज्जू कुमार भोई	पद रिक्त न होने से अनुशंसा नहीं।

टीप- माननीय उच्च न्यायालय में याचिका कमांक WP (PIL) No. 91/2019, WPS No. 9778/2019 एवं अन्य याचिकाओं में पारित आदेश दिनांक 18.04.2024 के परिपालन में डीपीसी की कार्यवाही की गई।

13. From bare perusal of the proceedings of meeting convened by DPC as referred above and extracted, it is clearly appearing that the committee has only considered the ACRs of the public servants of 5 years for considering them to be eligible for promotion. The overall grading of 05 year ACRs should be 'Very Good' and in none of the 05 years government servants have been graded 'D' and the benchmark is fixed as minimum 15 marks. It is further fixed that out of five years, ACRs of the last year should mandatorily be available and government servant should not be awarded less than Very Good. In Clause-B of para-12, the committee has placed names of government servants and Respondent No. 4 has been mentioned to be suitable and the other four though found to be suitable, they have not been promoted because of non-availability of vacant post.

14. The Service Rules of 2013 is applicable to be facts of the case. Schedule 4(B) provides for the minimum service in the feeder cadre to be 10 years for promotion from the post of Deputy Director, Industrial Health and Safety to the post of Director, Industrial Health and Safety.

15. Sub-rule 6 of Rule 7 of the CCS (Promotion) Rules, 2003 provides for the Departmental Promotion/ Screening Committee shall assess suitability of the public servants for promotion on the basis of their service record and with particular reference to the Annual Confidential Reports for five preceding years and where the required qualifying service is more than 05 years, the DPC/ Screening Committee shall see the record with particular reference to the ACRs for the years equal to the required qualifying service.

16. In the case at hand, according to Schedule-4 of the Service Rules of 2013, the qualifying services is envisaged as 10 years for promotion to the post of Director but the DPC has not considered ACRs of the public servants under the zone of consideration of 10 years but have considered ACRs of only 05 years. This procedure adopted by the DPC is in contravention to the relevant rules and provisions applicable to the facts of the case for promotion of Deputy Director to the post of Director. On this ground alone, the proceedings of DPC is vitiated in the eye of law.

17. One more important aspect which the DPC has not considered while assessing suitability of government servant/ Deputy Director for their promotion on the post of Director is the procedure as provided under sub-rule 9 of Rule 7 of the CCS (Promotion) Rules, 2003; it normally provides that the DPC should make a relative/ comparative

assessment of the merits of public servants who are within the zone of consideration and make an overall grading of the public servants' merit on the basis of their service records and place them in the categories as "Outstanding", "Very Good", "Good", "Average" and "Poor" as the case may be.

18. From perusal of the aforementioned provision, which is also extracted I preceding paragraph would show that apart from grading awarded in the ACRs, it is for the DPC to again prepare relative/ comparative assessment while considering the candidature of the eligible candidates for promotion during meeting of DPC and to grade them as "Outstanding", "Very Good", "Good", "Average" and "Poor" as the case may be, upon making an overall grading. It further provides that upon grading to the eligible public servants for promotion, they are to be placed in descending order based on their merit. It also mentions that the public servant who has been graded to be "Outstanding" on the top maintaining their inter se seniority in the feeder cadre.

19. Where rules provide for procedure that the DPC shall award grading of eligible employees upon comparative/ relative assessment then it was mandatory for the DPC to further assess the merit of the employees found eligible for promotion. For this type of assessment several factors are required to be taken into consideration in micro analysis of the ACRs of relevant period.

20. Hon'ble Supreme Court in **Haryana State Electronics Development Corpn. Ltd. v. Seema Sharma**, reported in **(2009) 7 SCC 311** has discussed distinguishing feature between 'merit-cum-seniority' and 'seniority-cum-merit' and observed thus:

> **8.** The principle of merit-cum-seniority puts greater emphasis on merit and ability and where promotion is governed by this principle seniority plays a less significant role. However, seniority is to be given weightage when merit and ability more or less are equal among the candidates who are to be promoted.
>
> **9.** On the other hand, insofar as the principle of seniority-cum-merit is concerned it gives greater importance to seniority and promotion to a senior person cannot be denied unless the person concerned is found totally unfit on merit to discharge the duties of the higher post. The totality of the service of the employee has to be considered for promotion on the basis of seniority-cum-merit (see Jagathigowda, C.N. v. Cauvery Gramina Bank [(1996) 9 SCC 677 : 1996 SCC (L&S) 1310 : AIR 1996 SC 2733]).”

21. Hon’ble Supreme Court in the case of **Ravikumar Dhansukhlal Maheta & Anr. vs. High Court of Gujarat & Ors.** reported in **(2024) 11 SCC 424** while considering the issue of promotion based on merit-cum-seniority principle has held that “merit” is defined as the quality of being good and deserving. In the context of employment, it is the sum total of various qualities which are relevant for fulfilling the requirements of the employment. There are multiple attributes of merit which must be taken into consideration such as character, integrity, and devotion to the assigned official duties. The manner in which the candidate discharges their final duties would also be a relevant factor. Further, past performance is a relevant factor to judge the merit of the candidate, particularly in promotional posts, since it would indicate the capability of the candidate to discharge their duties effectively. Merely because any person possesses higher qualifications or higher marks in an examination does not mean that they are meritorious than others. It further held that where promotion is on the basis of the principle of “merit-cum-seniority” a greater emphasis is placed on merit, whereas,

when the promotion is on the basis of the principle of "seniority-cum-merit", a greater emphasis is laid on seniority. One must be mindful that the terms "merit-cum-seniority" or "seniority-cum-merit" are not statutorily defined by the legislature. These principles are judicial connotations that have been evolved over a period of years through various decisions of Supreme Court and the High Courts whilst dealing with matters of promotion pertaining to different statutes and service conditions. Hon'ble Supreme Court has further held that Merit plays a predominant role in and seniority alone cannot be given primacy. Comparative assessment of merit is a crucial, though not a mandatory factor. Only where merit is equal in all respects can inter se seniority be considered. Meaning that a junior candidate can be promoted over the senior if the junior is more meritorious and held thus:

> "**103.** In Bhagwandas Tiwari [Bhagwandas Tiwari v. Dewas Shajapur Kshetriya Gramin Bank, (2006) 12 SCC 574 : (2007) 2 SCC (L&S) 125] this Court held that where for the purpose of promotion a high threshold of minimum required marks has been prescribed, the same would be an instance of "merit-cum-seniority", even in the absence of a comparative assessment of merit, thus clearly indicating that these postulations are not mandatory. As even without an element of comparative merit, the promotion could be based on "merit-cum-seniority", provided that merit is given prominence over seniority in the promotion process. Therefore, the only factor that sets apart "merit-cum-seniority" from "seniority-cum-merit" is whether emphasis is laid on merit or seniority. All other ancillary factors or postulations such as comparative merit or a minimum specified benchmark may or may not be material to these principles.
>
> **104.** The fluid nature of the principles of "merit-cum-seniority" and "seniority-cum-merit" is further evinced by the decision of this Court in K. Samantaray [K. Samantaray v. National Insurance

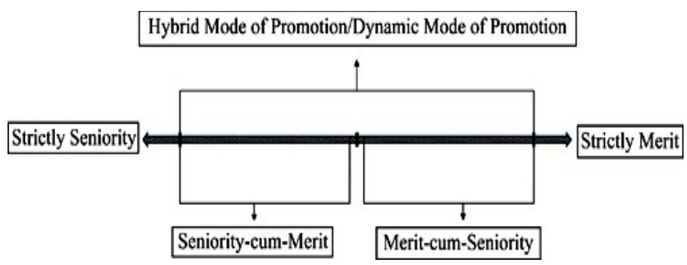
Co. Ltd., (2004) 9 SCC 286 : 2004 SCC (L&S) 864] wherein although the policy stipulated that promotion would be on the basis of “seniority-cum-merit”, yet this Court after going through the elaborate promotion policy held that a third mode of promotion known as the “Hybrid Mode of Promotion” has come to be recognised by this Court, wherein it is open for the employer to specify the area and parameter of weight required to be given to merit and seniority for the purpose of promotion. It was further held that it is always open for the employer or the selection body to decide and stipulate their own criteria for adjudging the claims on the principles of “seniority-cum-merit” or “merit-cum-seniority” depending upon the class, category and nature of post and the requirements of efficiency.

106. In such scenario, these principles serve as a beacon for the selection body which, in exercise of its delegated legislative powers, can formulate policies and lay down different criteria and conditions of assessment for the purposes of promotion. It does so by providing the selection body with the tools for formulating the promotion policy in the form of the aforementioned postulations or criteria which are permissible under these principles. Thereafter, the selection body can, as a conscious choice, decide the criteria it deems necessary or most suitable for the purpose of promotion keeping in mind the nature of the post, the requirements of service, etc. For instance, where the promotion is based on “merit-cum-seniority”, the selection body may opt for a comparative assessment of merit, more particularly, in cases where the promotions are competitive in nature or it may say that seniority should only be considered where merit is equal in all respects if the post is of such nature that it requires significant knowledge and ability.

107. However, at the same time, this flexibility should not be understood as a complete autonomy. While the statutory rules or, in the absence of the same, the promotion policy formulated must be followed, they must at the same time have some nexus or bearing with the nature of the post and the

requirements of service. For instance, where the promotion is based on “merit-cum-seniority” and the nature of promotion allows for superseding a senior, the selection body whilst formulating the promotion policy cannot simpliciter as a matter of choice refuse to provide for assessment of comparative merit, as the promotion herein is by its nature an accelerated form of promotion and as such comparative assessment becomes crucial.

108. The principle of “merit-cum-seniority” and “seniority-cum-merit” are a flexible and a fluid concept akin to broad principles within which the actual promotion policy may be formulated. They are not strict rules or requirements and by no means can supplant or take the place of statutory rules or policies that have been formulated, if any. These principles are dynamic in nature very much like a spectrum and their application and ambit depends upon the rules, the policy, the nature of the post and the requirements of service. The sketch below illustrates the broad spectrum in which these principles operate:



109. Thus, the principles applicable to promotion such as the principle of “merit-cum-seniority” and “seniority-cum-merit” can best be described as two ends of a spectrum. They are broad categories or frameworks for promotion and do represent the actual modalities by which promotions are to take place. It is the rules and the promotion policy, along with the intention of the legislature or the selection board, as the case may be, that supplements these principles and delineates the actual modality of how promotion is to take place. Through these rules and promotion policy, the legislature or the selection body specifies the area and the parameters or the weightage which is to be given to the aspect of “merit” and “seniority” on the said spectrum.

> **110.** No doubt while construing the rule of "seniority-cum-merit" or "merit-cum-seniority", some of the observations of the decided cases are not uniform. In State of Mysore v. C.R. Sheshadri [State of Mysore v. C.R. Sheshadri, (1974) 4 SCC 308 : 1974 SCC (L&S) 264 : AIR 1974 SC 460] , Krishna Iyer, J., held that if the criterion for promotion is one of "seniority-cum-merit", comparative merit may have to be assessed, if length of service is equal or an outstanding junior is available for promotion."

22. In the case at hand, from perusal of proceeding of DPC, it is apt clear that firstly the DPC has not considered ACRs of the period prescribed for qualifying service ie., 10 years but have considered ACRs of the eligible government servants of only 05 years and they have contravene the provisions under the Service Rules of 2013 and the CCS (Promotion) Rules, 2003. Further perusal of proceeding of DPC would show that though according to the rules as mentioned above, promotion is to be made on "merit-cum-seniority" basis, however, there is no determination of the comparative merit of the eligible candidates so as to arrive at a conclusion that person recommended by the DPC is meritorious candidate and placing them in descending order according to their merit. In the procedure of promotion as prescribed based on merit-cum-seniority, merit has to be given predominance upon seniority. Role of seniority would come into play only when two persons have placed on equal merit, otherwise even though meritorious, government servant may be below in seniority has to be recommended for promotion.

23. The DPC in the opinion of this Court has erred in not considering ACRs of 10 years which is qualifying service for promotion on the post of Director from the post of Deputy Director and have not assessed merit

of the eligible government servant comparatively/relatively and therefore the proceedings of DPC is vitiated in the eye of law. Consequently, promotion made based on the erroneous recommendation made by the DPC is also not sustainable in the eye of law.

24. For the foregoing reasons, writ petition is allowed and the order of promotion Annexure P-1 dated 24.02.2025 which is under challenge in this writ petition is hereby quashed. Respondents-authorities are directed to constitute review DPC of the meeting of DPC dated 07.02.2025 to consider the candidature of the eligible employees for their promotion on the post of Director, in accordance with the Rules of 2013 and CCS (Promotion) Rules, 2003. Let this exercise of holding review DPC and making recommendation and issuance of order of promotion based on new recommendation shall be completed within a period of 03 months from the date of receipt of order.

Sd/-

(Parth Prateem Sahu)
Judge

pwn

PAWAN KUMAR JHA
Digitally signed by PAWAN KUMAR JHA
Date: 2026.05.12 19:29:54 +0530