



CGHC010248442024



2026:CGHC:30158-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 4313 of 2024**

Sunil Kumar Jangade S/o Late Shri Devi Prasad, Aged About 36 Years
R/o Village- Deori, Post- Karhi, District- Mungeli (C.G.), Present
Address- H-02, Jail Parisar, District Jail Mungeli, District-Mungeli (C.G.)

... Petitioner(s)**versus**

1. State of Chhattisgarh Through The Secretary, Home (Jail) Department, Mantralaya, Mahanadi Bhawan, Raipur (C.G.)
2. The Director General, Prisons And Correctional Services Chhattisgarh, Head Quarter-Prisons And Correctional Service Chhattisgarh, Raipur (C.G.)

...Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Rishi Rahul Soni, Advocate.
For Respondent/State	:	Mr. Prasun Bhaduri, Deputy Advocate General.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Order on Board****Per Ramesh Sinha, Chief Justice****16.07.2026**

1. Heard Mr. Rishi Rahul Soni, learned counsel for the petitioner.
Also heard Mr. Prasun Bhaduri, learned Deputy Advocate General,
appearing for the State/respondents.



2. The present petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking following reliefs :-

“10.1 The Hon’ble Court may kindly be pleased to call for the entire records pertaining to this case from possession of the respondents for it’s kind perusal;

10.2 The Hon’ble Court may kindly be pleased to issue a suitable writ/order/direction and declare the Chhattisgarh Jail Non-Gazetted (Class-III Ministerial and Non-Ministerial) Services Recruitment Rules, 2022 as unconstitutional to the extent there is no provision for promotion from the post of Driver;

10.3 The Hon’ble Court may kindly be pleased to issue a suitable writ/order/direction commanding the respondents to make suitable provision for promotion from the post of Driver in jail department; and

10.4 Any other relief, which this Hon’ble Court may deem fit and proper, may also be passed in favour of the petitioner.”

3. Learned counsel for the petitioner submits that the petitioner is a citizen of India and is entitled to the protection of all fundamental and constitutional rights guaranteed under the Constitution of India. The petitioner is presently serving as a Driver in the Jail Department and is posted at Sub Jail, Mungeli. He was appointed on the post of Vehicle Driver on 27.05.2008 and joined his duties on 12.06.2008. Since the



date of joining, the petitioner has been discharging his duties sincerely and has rendered more than sixteen years of unblemished service in the Jail Department. He further submits that the post of Driver was earlier governed by the Chhattisgarh Class-III (Ministerial and Non-Ministerial) Jail Services Recruitment Rules, 1974 (for short, 'Rules of 1974'). Subsequently, the State Government framed the Chhattisgarh Jail Non-Gazetted (Class-III Ministerial and Non-Ministerial) Services Rules, 2022 (for short, 'Rules of 2022'), which presently regulate the service conditions of the petitioner.

4. It is also submitted by the learned counsel for the petitioner that under the Rules of 2022, the post of Driver is included in the Class-III Non-Ministerial cadre. However, despite being a part of the said cadre, no promotional avenue whatsoever has been provided for Drivers. As a result, an employee appointed as Driver remains on the same post throughout his entire service career without any opportunity of career advancement, irrespective of his experience, efficiency and length of service. He submits that Schedule-II, Part-A of the Rules of 2022 provides that 50% of the posts of Assistant Jail Superintendent (Pay Matrix Level-6) are to be filled by promotion through a competitive examination. Out of the said promotional quota, 40% has been earmarked for Warder staff, 5% for Ministerial staff and 5% for Teacher staff. However, no promotional quota has been provided for Drivers.

5. It is further contended by the learned counsel, appearing for the petitioner that Teacher staff, like Drivers, belong to the non-ministerial



Class-III cadre. Despite both categories forming part of the same class of employees, promotional opportunities have been provided to Teacher staff while Drivers have been completely excluded from the promotional channel. Such exclusion has no rational basis and creates an unreasonable classification amongst similarly situated Class-III non-ministerial employees. He also contended that the complete denial of promotional opportunities to Drivers results in stagnation throughout their service career and deprives them of any opportunity of professional growth. Such a classification neither serves any administrative purpose nor has any nexus with the object sought to be achieved by the Rules. The impugned provision, therefore, creates an artificial distinction amongst employees belonging to the same service and the same class without there being any intelligible differentia.

6. Learned counsel for the petitioner would submit that in the neighbouring State of Madhya Pradesh, suitable amendments have been carried out in the corresponding Jail Service Rules whereby promotional opportunities have been extended to employees belonging to the Class-III Ministerial as well as Non-Ministerial cadre, including Drivers. The Rules in Madhya Pradesh reserve promotional quota for employees of the Class-III Ministerial and Non-Ministerial cadre for appointment to the post of Assistant Jail Superintendent. Thus, Drivers serving in the State of Madhya Pradesh have a legitimate avenue of promotion, whereas similarly situated Drivers serving in the State of Chhattisgarh have been completely deprived of such opportunity without any reasonable basis. He further submits that the action of the



respondents in excluding Drivers from the promotional channel is arbitrary, discriminatory and violative of Article 14 of the Constitution of India. The classification made under the Rules of 2022 does not satisfy the well-settled test of reasonable classification, as there is neither any intelligible differentia nor any rational nexus with the object sought to be achieved. The complete exclusion of one category of employees from promotional consideration while extending such benefit to other similarly situated categories amounts to hostile discrimination.

7. It is further stated by the learned counsel for the petitioner that denial of any promotional avenue throughout the service career adversely affects the dignity, efficiency, motivation and legitimate service expectations of the employees and thereby also infringes the guarantee of fair treatment in public employment protected under Article 21 of the Constitution of India. In support of the aforesaid submissions, learned counsel places reliance upon the judgment of the Hon'ble Supreme Court in the matter of ***Food Corporation of India & Others vs. Parashotam Das Bansal & Others***, reported in **(2008) 5 SCC 100**, particularly paragraph 14, wherein the Hon'ble Supreme Court has held that arbitrariness is antithetical to equality and where similarly situated employees are treated differently without any reasonable basis, such classification cannot withstand the test of Article 14 of the Constitution. The Hon'ble Supreme Court has further held that any distinction made amongst employees must be founded upon an intelligible differentia having a rational nexus with the object sought to be achieved.



8. Learned counsel for the petitioner further places reliance upon the judgment of the Hon'ble Supreme Court in the matter of ***State of Tripura & Others vs. K.K. Roy***, reported in **(2004) 9 SCC 65**, particularly paragraph 6, wherein the Hon'ble Supreme Court has held that although an employee does not possess a fundamental right to promotion, he certainly possesses a right to fair and equal consideration for promotion in accordance with the applicable service rules. The State cannot arbitrarily frame or enforce service rules so as to deprive an entire class of eligible employees of promotional opportunities by creating an unreasonable and discriminatory classification.

9. Learned counsel for the petitioner respectfully submits that the petitioner is not claiming promotion as a matter of right. The grievance of the petitioner is confined to the fact that while other similarly situated Class-III employees, including Teacher staff, have been provided promotional avenues under the Rules of 2022, the cadre of Drivers has been completely excluded without any intelligible basis. Such exclusion is arbitrary, unreasonable and unconstitutional.

10. It is, therefore, respectfully submitted that the Rules of 2022, to the extent they do not provide any promotional avenue to the cadre of Drivers while granting such benefit to other similarly situated Class-III employees, are violative of Articles 14 and 21 of the Constitution of India and deserve to be declared unconstitutional to that extent. In the alternative, this Hon'ble Court may graciously be pleased to issue appropriate directions to the respondents to suitably amend the Rules



by providing an adequate promotional avenue to the cadre of Drivers for promotion to the post of Assistant Jail Superintendent or any other appropriate promotional post in accordance with law.

11. *Per contra*, learned State counsel submitted that the present writ petition is wholly misconceived, devoid of merit and does not disclose any constitutional or legal infirmity in the Rules of 2022 warranting interference by this Hon'ble Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. He further submitted that the petitioner is presently working as a Driver in the Jail Department. He was appointed on the post of Vehicle Driver on 27.05.2008 and joined his duties on 12.06.2008. The service conditions governing the petitioner were earlier regulated by the Rules of 1974. Subsequently, in exercise of powers conferred under the proviso to Article 309 of the Constitution of India, the State Government framed the Rules of 2022, which now regulate recruitment and service conditions of the concerned cadres in the Jail Department.

12. Learned State counsel would submit that the sole grievance of the petitioner is that under the Rules of 2022 no promotional avenue has been provided to the cadre of Drivers, whereas promotional opportunities are available to certain other categories of employees. On the strength of the amendments made by the State of Madhya Pradesh in its corresponding Rules, the petitioner seeks a direction for creation of a promotional channel in the State of Chhattisgarh. He respectfully submitted that such a claim is wholly untenable in law. The service rules



applicable in one State cannot constitute the basis for challenging the validity of statutory rules framed by another State. The State of Chhattisgarh is competent to frame its own service rules keeping in view its administrative requirements, cadre structure, functional needs and policy considerations. Merely because another State has adopted a different policy does not render the Rules framed by the State of Chhattisgarh arbitrary or unconstitutional.

13. Learned State counsel further contended that the Rules of 2022 are statutory rules framed in exercise of powers under the proviso to Article 309 of the Constitution of India. The legislative competence of the rule-making authority has not been questioned by the petitioner. Equally, there is no challenge that the Rules travel beyond the scope of the enabling provision or are inconsistent with any parent legislation. The challenge is founded only on the ground that the petitioner has no promotional avenue. Such a grievance, by itself, does not furnish a valid constitutional ground to invalidate statutory service rules. He also contended that there is a strong presumption in favour of the constitutionality of every statutory enactment and subordinate legislation. The burden lies heavily upon the person challenging the validity of the Rules to establish that they are manifestly arbitrary, discriminatory or violative of any constitutional provision. Unless the petitioner discharges such burden by demonstrating a clear infraction of constitutional guarantees, no interference with statutory rules is warranted.



14. Learned State counsel submits that it is a settled principle of service jurisprudence that an employee has no vested or fundamental right to promotion. The only right recognised in law is the right to be considered for promotion wherever a promotional post and promotional channel exist under the applicable service rules. The Constitution does not mandate that every cadre must necessarily have a promotional avenue or that promotional channels must be created for every category of employees. He further submitted that a distinction has consistently been drawn by the Hon'ble Supreme Court between a right to be considered for promotion and a mere chance of promotion. While the former may constitute a condition of service where promotional posts exist, the latter does not amount to a vested or enforceable legal right. In this regard, learned State counsel places reliance upon the judgment of the Hon'ble Supreme Court in ***State of Maharashtra v. Chandrakant Anant Kulkarni***, reported in ***(1981) 4 SCC 130***, wherein it has been authoritatively held that mere chances of promotion are not conditions of service and reduction or abolition of promotional chances does not amount to alteration of service conditions. Therefore, the petitioner's grievance regarding absence of promotional opportunities cannot furnish a ground for declaring the statutory Rules unconstitutional.

15. It is further stated by the learned State counsel that the power conferred upon the State under the proviso to Article 309 of the Constitution necessarily includes the power to frame, amend, modify or repeal service rules from time to time in accordance with administrative



exigencies and public interest. Alteration of service conditions by amendment of statutory rules is a recognised legislative function and does not, by itself, infringe Articles 14 or 21 of the Constitution. He also stated that fixation of cadre strength, creation or abolition of posts, determination of promotional hierarchy, prescription of qualifications, method of recruitment and promotional avenues are matters falling exclusively within the domain of policy of the employer. Such decisions involve administrative and financial considerations and ordinarily do not warrant judicial review unless shown to be patently arbitrary, mala fide or violative of constitutional or statutory provisions. Courts do not sit in appeal over policy decisions of the Government nor can they direct creation of promotional posts or restructuring of service cadres.

16. It is further submitted by the learned State counsel that the petitioner has failed to establish any hostile discrimination under Article 14 of the Constitution. The mere fact that Teachers or other categories have been provided promotional avenues does not automatically render the Rules discriminatory. Different cadres constitute separate classes having distinct duties, responsibilities, qualifications and functional requirements. Unless it is demonstrated that the petitioner belongs to the same homogeneous class and has been subjected to hostile discrimination without any intelligible differentia or rational nexus, Article 14 has no application.

17. Equally, the reliance placed by the petitioner upon Article 21 of the Constitution is wholly misconceived. The absence of a promotional



avenue does not infringe the right to life or personal liberty guaranteed under Article 21. No legally protected right of the petitioner has been curtailed merely because the Rules do not provide promotional progression from the post of Driver. He further contended that the petitioner has also ignored the policy decision of the State Government whereby employees who do not have adequate promotional avenues are granted the benefit of Time Pay Scale on completion of the prescribed period of service. The petitioner himself has already been granted the benefit of the First Time Pay Scale upon completion of ten years of qualifying service. Thus, the State has consciously evolved an alternative service benefit so that employees serving in cadres having limited promotional avenues are not left without financial progression.

18. It is respectfully submitted by the learned State counsel that the petitioner seeks, in substance, a direction to the State Government to amend the statutory Rules and create a promotional avenue for the cadre of Drivers. Such a relief falls exclusively within the legislative and policy domain of the State Government and lies beyond the permissible scope of judicial review under Article 226 of the Constitution. The Hon'ble Court cannot rewrite statutory rules or compel the rule-making authority to frame Rules in a particular manner merely because a different policy may appear more beneficial to a particular class of employees.

19. In view of the aforesaid facts and settled legal position, it is respectfully submitted that the petitioner has failed to establish any



violation of Articles 14 or 21 of the Constitution of India or any other constitutional or statutory provision. The challenge to the validity of the Rules of 2022 is wholly devoid of merit. The writ petition, therefore, deserves to be dismissed.

20. We have heard learned counsel for the parties and perused the material available on record.

21. The principal challenge in the present writ petition is to the validity of the Rules of 2022 on the ground that while promotional avenues have been provided to certain categories of employees, namely Warders, Ministerial Staff and Teacher Staff, no such avenue has been provided to the cadre of Drivers. According to the petitioner, such exclusion is arbitrary and violative of Articles 14 and 21 of the Constitution of India.

22. It is well settled that framing of service rules, prescription of qualifications, determination of the method of recruitment, creation of promotional channels, restructuring of cadres and fixation of promotional hierarchy are matters of policy falling within the exclusive domain of the rule-making authority. The scope of judicial review over such policy decisions is extremely limited. Unless a statutory rule is shown to be manifestly arbitrary, discriminatory, violative of any constitutional provision or beyond the legislative competence of the rule-making authority, the Court would not interfere merely because another view or a better policy is possible.

23. In the present case, the Rules of 2022 have been framed by the State Government in exercise of powers conferred under the proviso to



Article 309 of the Constitution of India. The legislative competence of the State Government to frame the Rules has not been questioned. There is also no challenge that the Rules are inconsistent with any parent legislation or that the rule-making authority has exceeded the power conferred upon it. The entire challenge of the petitioner is confined to the absence of a promotional avenue for the cadre of Drivers.

24. It is equally well settled that no Government servant possesses a fundamental or vested right to promotion. The right recognised in law is only a right to be considered for promotion where the applicable service rules provide a promotional channel. The Constitution does not mandate that every cadre must necessarily have promotional avenues or that promotional posts must be created for every category of employees.

25. In *Chandrakant Anant Kulkarni* (supra), the Hon'ble Supreme Court has categorically held that mere chances of promotion are not conditions of service and that reduction or abolition of promotional chances does not amount to alteration of service conditions. Therefore, merely because the cadre of Drivers does not have a promotional avenue under the Rules of 2022 cannot, by itself, render the Rules unconstitutional.

26. The contention of the petitioner that Teacher Staff and Drivers belong to the same non-ministerial cadre and, therefore, must necessarily be treated alike also deserves to be rejected. Equality under



Article 14 is attracted only amongst persons who are similarly situated in all material respects. Merely because two posts fall within the broad category of Class-III Non-Ministerial service does not make them homogeneous for all purposes. The nature of duties, responsibilities, qualifications, functional requirements and administrative considerations governing the two cadres are distinct. The employer is competent to classify different cadres for the purpose of recruitment and promotion, provided such classification is founded upon administrative exigencies. In the absence of any material demonstrating hostile discrimination or manifest arbitrariness, this Court would not substitute its own opinion for that of the rule-making authority.

27. Equally untenable is the submission founded upon the amendments carried out by the State of Madhya Pradesh in its corresponding Jail Service Rules. Every State Government is competent to frame its own service rules having regard to its administrative requirements, cadre structure and policy considerations. Merely because the State of Madhya Pradesh has adopted a different promotional policy cannot furnish a ground to invalidate the statutory Rules framed by the State of Chhattisgarh. Comparative legislation or policy prevailing in another State cannot be the basis for declaring a statutory rule unconstitutional.

28. The petitioner has also failed to establish violation of Article 21 of the Constitution of India. Absence of a promotional avenue does not infringe the right to life or personal liberty. Service conditions are



governed by statutory rules and unless such rules are shown to be arbitrary or unconstitutional, no infringement of Article 21 can be said to arise.

29. It is also not in dispute that the State Government has framed a policy granting the benefit of Time Pay Scale to employees serving in cadres having limited or no promotional avenues and the petitioner has already been extended the benefit of the First Time Pay Scale on completion of the prescribed qualifying service. Though grant of Time Pay Scale may not be a substitute for promotion, it demonstrates that the State has consciously taken policy measures to alleviate financial stagnation in such cadres.

30. Learned counsel for the petitioner has placed reliance upon the decision of the Hon'ble Supreme Court in ***Food Corporation of India*** (supra). In the considered opinion of this Court, the said decision is clearly distinguishable on facts. The issue before the Hon'ble Supreme Court in the said case pertained to arbitrary discrimination amongst employees who were otherwise similarly situated in the matter of service benefits. The Hon'ble Supreme Court reiterated the settled principle that arbitrariness is different to equality. However, in the present case, the petitioner has failed to establish that the cadre of Drivers and the cadres of Warders, Ministerial Staff or Teacher Staff constitute one homogeneous class for the purpose of promotion. The petitioner has also failed to demonstrate that the classification adopted by the Rules of 2022 is manifestly arbitrary or lacks any rational basis.



Therefore, the ratio of the aforesaid judgment has no application to the facts of the present case.

31. The reliance placed upon **K.K. Roy** (supra), is equally misplaced. In the said case, the Hon'ble Supreme Court observed that an employee has a right to be considered for promotion in accordance with the applicable service rules. The said judgment does not lay down that every cadre must necessarily be provided with a promotional avenue or that the Court can direct the State to create promotional posts. The right recognised therein arises only where the statutory rules themselves provide a promotional channel. In the present case, the Rules of 2022 admittedly do not provide any promotional avenue for the cadre of Drivers. Therefore, the petitioner cannot invoke the said decision to seek creation of a promotional channel by judicial direction.

32. In substance, the petitioner seeks a direction to the State Government to amend the Rules of 2022 by creating a promotional avenue for Drivers. Such a direction would amount to requiring this Court to legislate or rewrite statutory rules, which is impermissible in exercise of powers under Article 226 of the Constitution. It is settled law that Courts cannot compel the rule-making authority to frame service rules in a particular manner or to adopt a particular policy merely because another policy may appear to be more beneficial.

33. For all the aforesaid reasons, this Court is of the considered opinion that the petitioner has failed to establish that the provisions of the Rules of 2022 are arbitrary, discriminatory or violative of Articles 14



or 21 of the Constitution of India. No case for interference under Article 226 of the Constitution is made out.

34. Accordingly, the writ petition, being devoid of merit, deserves to be and is hereby **dismissed**. There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice