



2026:CGHC:2526

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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Order Reserved on : 04.12.2025**

**Order Delivered on : 15.01.2026**

**WPS No. 3033 of 2023**

Amit Shandilya S/o Shri Mannu Lal Shandilya Aged About 41 Years Occupation Service, Working As Jail Superintendent, Central Jail, Jagdalpur, R/o Superintendent House, Jail Line, Jagdalpur, District Bastar Chhattisgarh.

**... Petitioner**

**versus**

**1** - State of Chhattisgarh Through Principal Secretary, Department of Home (Jail), Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur, Chhattisgarh.

**2** - Director General Jail Chhattisgarh, Sector-19, Nava Raipur, Atal Nagar, District Raipur, Chhattisgarh.

**3** - Chhattisgarh Public Service Commission through its Secretary, CGPSC, North Block, Sector-19, Nava Raipur, Atal Nagar, District Raipur, Chhattisgarh.

**4** - S.S. Tigga presently working as Deputy Inspector General Jail, Posted at Headquarters, Jail and Correctional Services Chhattisgarh, Nava Raipur, Atal Nagar District Raipur, Chhattisgarh.

**--- Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Prafull N. Bharat, Senior Advocate assisted by Ms. Sunita Jain, Advocate
For State/Respondents No.1 and 2	:	Mr. Sangharsh Pandey, Government Advocate
For Respondent No.3	:	Mr. Gary Mukhopadhyay, Advocate
For Respondent No.4	:	Mr. Siddhant Tiwari, Advocate

**Hon'ble Shri Amitendra Kishore Prasad, Judge**

**C A V Order**

1. Heard Mr. Prafull N. Bharat, learned Senior Advocate assisted by Ms. Sunita Jain, Advocate for the petitioner, Mr. Sangharsh Pandey, Government Advocate appearing for the State/respondents No.1 and 2, Mr. Gary Mukhopadhyay, Advocate for respondent No.3 as well as Mr. Siddhant Tiwari, Advocate for respondent No.4.
2. By filing the present petition, the petitioner has challenged the impugned order dated 09.03.2023 (Annexure P-1), whereby respondent No.4 has allegedly been illegally promoted to the post of Deputy Inspector General (DIG), Jail, despite being less meritorious than the petitioner and in complete violation of the "Merit-cum-Seniority" criteria prescribed under Rule 7(9) of the Chhattisgarh Public Services (Promotion) Rules, 2003; the petitioner has further assailed the communication dated 26.04.2023 (Annexure P-2), by which his representation dated 22.03.2023 was erroneously rejected by the Under Secretary, Department of Jail; and has also questioned the proceedings of the Departmental Promotion Committee (for short, 'DPC') held on 08.02.2023 on the ground that the same were conducted in contravention of Rule 7 of the Chhattisgarh Public Services (Promotion) Rules, 2003, particularly Clauses 7 and 9 thereof. The petitioner has prayed for following reliefs :-

*“10.1 Call for the entire records from the possession of respondents, for kind perusal of this Hon'ble Court.*

*10.2 This Hon'ble Court be pleased to quash the impugned order dated 09/03/2023 (Annexure P-1) and letter dated 26/04/2023 (Annexure P-2) issuing a writ in the nature of certiorari and direct the respondent authorities to promote the petitioner with all due seniority and other consequential benefits in place of respondent No.4.*

*10.3 This Hon'ble Court be pleased to direct the Respondents to reconsider the case of petitioner for promotion on the post of DIG Jail from the date of promotion of respondent No.4 and grant all consequential benefits.*

*10.4 This Hon'ble Court be pleased to pass such other orders as it may deem fit under the facts and circumstances of the case, in favour of the petitioner against the respondents. Cost of this litigation may also be awarded.*

*10.5 That, the Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction and quash the DPC conducted on 08.02.2023 (Annexure P/4).”*

- 3.** Brief facts of the case, in a nutshell are that, the petitioner was initially appointed in the year 2009 as Superintendent, District Jail, and has since been discharging his duties with utmost

sincerity; he was promoted in 2015 to the post of Superintendent, Central Jail, and is presently posted at Central Jail, Jagdalpur, District Bastar. Upon the superannuation of Dr. K.K. Gupta, the post of Deputy Inspector General ('DIG') Jail fell vacant, which is to be filled by promotion under the Chhattisgarh Jail (Gazetted) Service Recruitment Rules, 2008 (for short, 'Rules of 2008') and the Chhattisgarh Public Service (Promotion) Rules, 2003 (for short, 'Rules of 2003'). The DPC in its meeting dated 08.02.2023, applied the "Merit-cum-Seniority" criteria, requiring "Very Good" ACR grading for the preceding five years, and considered the petitioner along with respondent No.4 and one Yogesh Singh Kshatriya; however, only respondent No.4 was recommended. On obtaining the DPC minutes and the ACR tabulation chart under the RTI Act, the petitioner discovered that he possessed superior ACR gradings ("क+" signifying "Outstanding" and "क" signifying "Very Good") as compared to respondent No.4, thereby making him more meritorious. The petitioner has also placed on record his ACRs, including the modified upgraded gradings for the years 2018 and 2020. He submitted a detailed representation dated 22.03.2023 seeking reconsideration of his case, which was forwarded but ultimately rejected vide letter dated 26.04.2023 without proper consideration, on the erroneous ground that no vacancy was available despite the fact that respondent No.4 had already been promoted vide order dated 09.03.2023. As the promotion of respondent No.4 is contrary to Rules of 2003 and

Rules of 2008, and the petitioner, though more meritorious and eligible, has been illegally denied promotion, the present writ petition has been filed seeking appropriate reliefs.

4. Mr. Prafull N. Bharat, learned Senior Counsel, assisted by Ms. Sunita Jain, learned counsel for the petitioner, submits that the impugned orders dated 09.03.2023 (Annexure P-1) and 26.04.2023 (Annexure P-2) are arbitrary, erroneous, unconstitutional and bad in the eyes of law, having been issued in complete derogation of the procedure established by law and being violative of Articles 14, 16 and 21 of the Constitution of India. He submits that the petitioner, being demonstrably more meritorious than respondent No.4 as reflected from the certified ACR records, ought to have been promoted in accordance with the "Merit-cum-Seniority" criteria, but the respondents have vitiated the entire promotion process by relying solely on seniority, in complete violation of Rule 4(2) and Rule 7(9) of the Chhattisgarh Public Services (Promotion) Rules, 2003.
5. It is contended that the impugned promotion suffers from patent illegality and non-application of mind, as the DPC failed to undertake the mandatory comparative assessment of merit as required under Rule 7(9), which explicitly provides that public servants graded as "Outstanding" must be placed at the top of the select list, followed by those graded as "Very Good", with inter-se seniority maintained only within the same grading

category. The respondents, in their reply, have themselves admitted that respondent No.4 was promoted merely because his name stood at the top of the seniority list, which clearly establishes that the DPC did not conduct any comparative merit assessment. This admission alone is sufficient to vitiate the promotion.

6. Learned Senior Counsel further submits that the petitioner has secured three Outstanding gradings in the relevant five-year period, whereas Respondent No.4 has secured only two Outstanding gradings, making the petitioner objectively more meritorious. The false and contradictory statements made by the State in its reply that the petitioner was not awarded "Outstanding" stand demolished by the certified ACR chart (Annexure P-6) and the modified ACRs of 2018 and 2020
7. Reliance is placed upon the judgments rendered by the the Hon'ble Supreme Court in ***Ajit Singh and others (II) v. State of Punjab and others, (1999) 7 SCC 209*** and ***Ravikumar Dhansukhlal Maheta and another v. High Court of Gujarat, AIR 2024 SC 3256***, wherein it has been categorically held that under the "Merit-cum-Seniority" principle, merit is the primary consideration and seniority becomes relevant only when two candidates are of substantially equal merit; juniors with superior merit must be preferred over seniors. It is further submitted that the DPC acted contrary to Clause 7 of Rule 7 of the Rules of

2003, as it neither considered the ACRs of preceding years when certain ACRs were unavailable nor undertook the mandatory evaluation exercise. The petitioner, having 3 Outstanding entries as against only 2 of respondent No.4, was entitled to be placed above respondent No.4 in the select list.

8. Learned Senior Counsel therefore submits that the entire decision-making process is vitiated, arbitrary, mechanical, and reflective of an attempt to favour respondent No.4, the “blue-eyed boy” of the authorities. The impugned orders are in clear violation of Rules of 2003 and Rules of 2008, the principles of natural justice, and the settled principles of service jurisprudence. It is urged that the petitioner, being more meritorious and eligible, is entitled to be promoted in place of Respondent No.4, and accordingly, the impugned promotion order as well as DPC proceedings deserve to be quashed.
9. On the other hand, Mr. Sangharsh Pandey, learned State counsel appearing for respondents No.1 and 2, opposed the submissions advanced by learned Senior Counsel for the petitioner and submits that all the allegations levelled by the petitioner against the answering State authorities are categorically, unequivocally and specifically denied. He submits that the sole grievance of the petitioner that he is more meritorious than respondent No.4, is wholly misconceived and baseless, as the DPC, in its meeting held on 08.02.2023, duly considered the cases of all eligible

officers in accordance with the prevailing rules. It is contended that for promotion to the post of DIG Jail, the prescribed criteria was "Suitability-cum-Seniority", and the seniority list as on 01.04.2021, along with the requirement of obtaining "Very Good" entries in the preceding five years' ACRs, formed the basis for consideration.

- 10.** Learned State counsel submits that respondent No.4, being the seniormost eligible officer in the zone of consideration, and having the requisite benchmark of "Very Good" ACR gradings, was rightly recommended by the DPC. The petitioner, whose name stood at third position in the seniority list, could not be considered ahead of Respondent No.4 in view of the applicable criteria. It is further submitted that Rule 7(9) of the Rules of 2003, though providing for comparative assessment of merit, applies only after an officer secures the prescribed benchmark. The petitioner was not awarded "Outstanding" in the preceding five years' ACRs as claimed, and therefore, the DPC, while maintaining the seniority position among eligible officers, rightly recommended respondent No.4. He submits that the promotion order dated 09.03.2023 has been passed strictly in accordance with law and on the basis of the DPC recommendation. There is no arbitrariness, illegality or infirmity in the decision-making process, and the petitioner's contentions are devoid of substance and liable to be rejected. Accordingly, learned State counsel prays for dismissal of the writ petition.

- 11.** Mr. Gary Mukhopadhyay, learned counsel appearing for respondent No.3, submits that the writ petition is wholly frivolous, bereft of substance, and constitutes a gross abuse of the process of judicial review, as no legal or fundamental right of the petitioner has been infringed so as to warrant interference by this Court. He further submits that the Departmental Promotion Committee held its meeting on 08.02.2023 for considering promotion from the post of Assistant Inspector General of Prisons/Superintendent, Central Jail to the post of Deputy Inspector General of Prisons, wherein the names of three officers, including the petitioner, were taken up for consideration against one solitary vacant post. He submits that the applicable criteria for the said promotion was “Merit-cum-Seniority”, with an eligibility requirement that the officer must have secured “Very Good” remarks in the preceding five years’ Annual Confidential Reports.
- 12.** Mr. Mukhopadhyay submits that the DPC undertook an assessment of the ACR gradings for the years 2017 to 2021 and found that all three candidates had secured the minimum benchmark of “Very Good” (15 marks), making them eligible for consideration. Their immovable property returns for the corresponding years were also duly examined. However, upon comparative scrutiny of ACR gradings, the DPC noted that none of the candidates possessed any “A+” (Outstanding) remark in the five-year period under consideration, leaving no discernible basis for determining inter se merit. In such circumstances, he

that the DPC, in accordance with established procedure, applied the seniority criterion to identify the most suitable candidate. respondent No.4, Shri S.S. Tigga, being the seniormost officer, his name appearing at Serial No.1 of the seniority list was found eligible and suitable, and therefore recommended for promotion. The petitioner, whose name stands at Serial No.3 in the seniority list, could not be recommended, particularly when there was only one post available. Accordingly, learned counsel for respondent No.3 submits that the DPC proceedings were conducted strictly in accordance with rules, without any arbitrariness or mala fides, and prays for dismissal of the writ petition.

- 13.** Mr. Siddhant Tiwari, learned counsel appearing for respondent No. 4, submits that the grievance raised by the petitioner is wholly misconceived and unfounded. He submits that the petitioner has sought to contend that he is allegedly more meritorious than respondent No. 4, and therefore the DPC ought to have considered and recommended his name for promotion to the post of DIG, Jail. It is urged that the petitioner has claimed to have secured better ACR gradings than respondent No. 4; however, such assertions are misleading and contrary to the record. He further submits that the contentions so advanced by the petitioner are devoid of any substance and deserve outright rejection. He submits that the DPC meeting was duly convened on 08.02.2023 for considering promotions from the post of Assistant Inspector General of Prison/Superintendent, Central Jail to the post of DIG,

Jail. The criteria prescribed for such promotion was "Suitability-cum-Seniority", and the seniority position as reflected in the list dated 01.04.2021 formed the basis of consideration. The prescribed benchmark was that the candidate must have secured "Very Good" remarks in the ACRs of the preceding five years. In the seniority list, respondent No. 4 stood at Serial No. 1, whereas the petitioner was placed at Serial No. 3. Accordingly, the DPC, upon due evaluation, recommended respondent No. 4 for promotion, and on the basis of such recommendation, the competent authority issued the promotion order dated 09.03.2023 in his favour.

- 14.** It is next submitted that Rule 7(9) of the Rules of 2003 mandates that the DPC shall undertake a comparative assessment of eligible officers within the zone of consideration and shall classify them under categories such as "Outstanding", "Very Good", "Average", or "Poor", based on their service records. Only officers graded "Very Good" and above are eligible to be included in the select list, with those graded "Outstanding" being placed above those graded "Very Good", while maintaining inter se seniority within the same grade. He further submits that the petitioner did not possess any "Outstanding" grading in ACRs of the relevant five-year period, and therefore, the DPC rightly proceeded on the basis of seniority, all candidates having only "Very Good" gradings. Since respondent No. 4 was the senior-most eligible officer, he was correctly recommended and subsequently

promoted. There is no illegality, arbitrariness, or infirmity in the process, and the petition is wholly meritless and liable to be dismissed.

- 15.** I have heard learned counsel appearing for the parties at length, carefully considered their respective submissions, and perused the entire material placed on record with due circumspection. The arguments advanced on behalf of the petitioner as well as the respondents have been examined in the light of the statutory provisions governing the field, the applicable service rules, and the documents forming part of the pleadings.
- 16.** Firstly, this Court deems it appropriate to advert to the Chhattisgarh Public Services (Promotion) Rules, 2003, and in particular Rule 7, which governs promotion on the basis of *merit-cum-seniority*. For proper appreciation of the controversy, sub-rule (6), (7) and (9) of Rule 7, which lays down the manner in which the Departmental Promotion Committee is required to assess the comparative merit of candidates, is reproduced hereunder:—

***“7. Promotion on the basis of merit-cum-seniority-***

*(6) The Departmental Promotion/screening committee shall assess the suitability of the public servants for promotion on the bases 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 require 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.*

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*(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", "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 the post."*

17. From perusal of the order dated 09.03.2023 (Annexure P-1), it transpires that the State Government has promoted Shri S.S. Tigga, Assistant Inspector General of Jails, Headquarters, Jail and Correctional Services, Chhattisgarh, Naya Raipur, Atal Nagar (presently posted as Jail Superintendent, Central Jail, Durg) to the post of Deputy Inspector General of Jails in the pay scale of ₹79,900–2,11,700 (Pay Matrix Level-14), with effect from the date he assumes charge. By the said order, he has been posted at the Headquarters, Jail and Correctional Services, Chhattisgarh, Naya Raipur, Atal Nagar.
18. It transpires from the record that a DPC was convened on 08.02.2023, wherein it was noted that the promotion from the post of Assistant Inspector General of Prisons/Superintendent, Central Jail to the post of Deputy Inspector General of Prisons was to be made on the principle of “suitability-cum-seniority” in accordance with the Rules of 2008 read with the Rules of 2003. The DPC adopted the final seniority list as on 01.04.2021 and fixed “Very Good” grading in the preceding five years’ ACRs as the minimum benchmark. Upon assessment of ACRs, integrity, qualifying service, and other parameters, it was found that only one vacancy was available for the relevant year. Since all eligible officers possessed “Very Good” entries but none had an “Outstanding/A+” grading to enable comparative merit assessment, the Committee, applying the principle of seniority, recommended the name of Shri S.S. Tigga, who stood at Serial

No. 1 in the seniority list, as suitable for promotion. The names of the remaining two officers, including the petitioner, were not recommended as the post was already filled.

19. In ***Ajit Singh*** (supra), the Hon'ble Supreme Court, while examining an analogous issue relating to the interpretation and application of the principle of "merit-cum-seniority", has comprehensively clarified the methodology for assessing comparative merit. The Court observed that when the applicable service rule places merit as the dominant or governing criterion for promotion, the role of seniority becomes only secondary or residual. Seniority, in such a situation, operates merely as a tiebreaker where candidates are otherwise found to be approximately equal in merit. The Supreme Court further emphasized that seniority cannot be permitted to eclipse, override, or dilute the statutory requirement of evaluating *relative merit*. If the rule mandates selection on merit, the competent authority must undertake a meaningful comparative assessment of the qualifications, performance, service record, achievements, and overall suitability of the eligible candidates. A mere mechanical reliance on length of service would defeat the very object of the rule. The Hon'ble Apex Court underscored that the principle of merit-cum-seniority contemplates a two-step approach: (i) First, determine and rank candidates strictly on their merit, assessed through objective and relevant parameters; and (ii) Only thereafter, if two or more candidates are found to be of

equal or nearly equal merit, their seniority may be considered to decide inter se placement. Thus, the ruling makes it clear that whenever merit is prescribed as the primary yardstick, it must receive predominant consideration, and seniority cannot assume importance at the cost of the rule's foundational requirement of merit-based evaluation. The decision therefore fortifies the principle that promotional advancement in such cases cannot be treated as a matter of seniority alone but must be rooted in an honest appraisal of comparative merit.

20. Likewise, in ***Ravikumar Dhansukhlal Maheta*** (supra), the Hon'ble Supreme Court once again examined the contours of the principle of "merit-cum-seniority" and held that merit must always have predominance over seniority when the rule so mandates. The Court observed that the selection committee is required to assign due weightage to the comparative merit of candidates based on their service profile, ACR gradings, achievements, vigilance clearance, and other relevant service parameters. Seniority is to be considered only when officers are found to be of broadly equal merit. The Court categorically held that where the rule prescribes merit-cum-seniority, the most meritorious officer has to be placed above others irrespective of their position in the seniority list; only when two or more officers are found to have equal merit, seniority may then tilt the balance. Any deviation from this principle would vitiate the promotion process by observing as follows :-

“91. In *Bhagwandas Tiwari & Ors. v. Dewas Shajapur Kshetriya Gramin Bank & Ors.* reported in (2006) 12 SCC 574, this Court observed that although the requirement of minimum marks for assessing merit can be prescribed for the purpose of promotion on the basis of 'Seniority-cum-Merit', yet where a very high requirement of minimum marks has been prescribed, the same would amount to laying greater emphasis on merit and thereby departing from the principle of 'Seniority-cum-Merit' and shifting towards to the principle of 'Merit-cum- Seniority' where merit and ability play a predominant role. The relevant observations read as under:-

"11. The principle of "merit-cum-seniority" lays greater emphasis on merit and ability and seniority plays a less significant role. Seniority is to be given weight only when merit and ability are approximately equal.

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20. There is no basis, in the instant case, for the stand that for assessing merit a minimum number of marks has been prescribed. The contention that minimum marks were 45 out of 60, means that an employee is to secure 75% of marks. Such a high percentage cannot be a measure for prescribing minimum marks to assess merit. It obviously would be a case of shifting the focus to merit-cum-seniority principle. In para 37 of Sivaiah case this Court noted that minimum marks

*prescribed for assessing merit do not depart from the seniority-cum-merit principle. But the factual position is different here. There is no mention that 45 marks out of 60 relate to the prescription of minimum marks for assessing the merit. In Jalal Uddin case it was noted that in seniority-cum-merit greater emphasis is on seniority though it is not the determinative factor. In the case of merit-cum-seniority, merit becomes a determinative factor. In fact, the position noted by this Court in paras 19, 20, 24 and 25 of Sivaiah case dealt with almost identical fact situation, apart from para 16 of the judgment."*

*(Emphasis supplied)*

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*93.1 This Court held that the principle of 'Seniority-cum-Merit' postulates only one requirement i.e., once the minimum required merit is assessed, thereafter the promotion must be strictly in accordance with the seniority of the candidates having the requisite merit. How the minimum merit ought to be assessed is immaterial.*

*93.2 As such, prescribing of an additional requirement of minimum marks in any one component of assessment such as interview in addition to the requirement of aggregate minimum marks in the overall assessment process was permissible under the principle of 'Seniority-cum-Merit' provided that the*

*ultimate promotion is taking place as per seniority. The relevant observations read as under: -*

*“13. [...] As the promotion to the post of Junior Management Scale II shall be made on the basis of seniority-cum-merit, the only requirement would be that after it is found that the candidates have possessed the minimum necessary merit, namely, minimum 40% qualifying marks in the written test and minimum 12 marks each out of 20 marks each in interview and the performance appraisal reports respectively, thereafter the candidates are required to be promoted in the order of seniority, irrespective of anyone among them having obtained more marks.”*

*(Emphasis supplied)”*

*94. What can be discerned from the aforementioned decisions is that this Court over the years has consistently 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.*

*95. One must be mindful that the terms ‘Merit-cum-Seniority’ or ‘Seniority-cum-Merit’ are not statutorily defined by the legislature.*

*96. These principles are judicial connotations that have been evolved over a period of years*

*through various decisions of this Court and the High Courts whilst dealing with matters of promotion pertaining to different statutes and service conditions.*

*97. This Court in B.V. Sivaiah (supra), Rajendra Kumar Srivastava (supra), Shriram Tomar (supra), Sujata Kohli (supra) and a catena of other decisions has held that the principles of 'Merit-cum-Seniority' and 'Seniority-cum-Merit' are conceptually different. Whilst explaining the difference between these two principles, this Court has only gone to the extent of laying down what these principles postulate for the purpose of promotion. In other words, this Court has only gone so far as to lay down what is permissible within the four corners of these principles and by no stretch of imagination has this Court in any manner held that such postulations are stricto-sensu required to be complied with.*

*98. The various decisions of this Court have only developed upon the principles of 'Merit-cum-Seniority' and 'Seniority-cum-Merit' by explaining the criteria that may be postulated within the framework of these principles for the purpose of promotion. The scope of the aforesaid principles is summarized below: -*

*1) The principle of 'Seniority-cum-Merit' postulates that: -*

*i. Minimum requirement of merit and suitability which is necessary for the higher post can be prescribed for the purpose of promotion.*

*ii. Comparative Assessment amongst the candidates is not required.*

*iii. Seniority of a candidate is not a determinative factor for promotion but has a predominant role.*

*iv. Upon fulfilling the minimum qualifications, promotions must be based on inter-se seniority.*

*II) The principle of 'Merit-cum-Seniority' postulates that: -*

*i. Merit plays a predominant role in and seniority alone cannot be given primacy.*

*ii. Comparative Assessment of Merit is a crucial, though not a mandatory, factor.*

*iii. 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.*

*99. The underlying reason why the afore-stated postulations ought not be understood as mandatory stems from the very fact that they are not a result of a legislative creation, but rather one of judicial interpretation whilst dealing with different promotion policies,*

*different service conditions, the varied nature and requirement of posts and more importantly different sets of rules. Since, these postulations have been laid down in different context and varied facts, it would be preposterous to say that such postulations will apply uniformly to all services and matters of promotion including the judicial services.*

*100. The principles of 'Merit-cum-Seniority' and 'Seniority-cum-Merit' should by no means be regarded as rigid or inflexible in nature, otherwise, these judicial connotations would effectively assume the character of statutory stipulation laid down through various judicial pronouncements and would become applicable to all types of services, posts and promotions. This would lead to the transgression by the judiciary into the realms of policy making.*

*101. This Court in Lt. Gen. Rajendra Singh Kadyan (supra) whilst explaining the intricacies between the principles of 'Merit-cum-Seniority' and 'Seniority-cum-Merit' made a pertinent observation that selection for promotion is based on different criteria depending upon the nature of the post and requirements of service, and that such criteria could be said to fall into three categories which include 'Merit-cum-Seniority' and 'Seniority-cum-Merit'.*

*102. In Palure Bhaskar Rao (supra) and Kavita Kamboj (supra) this Court equated the*

*principle of 'Merit-cum-Seniority' and 'Seniority-cum-Merit' as modes or methods of promotion. However, modes of promotion should not be conflated with modalities of promotion. The expressions 'Merit-cum-Seniority' and 'Seniority-cum-Merit' in service jurisprudence are nothing but principles which are used to broadly categorize policies pertaining to promotions. They only lay down the broad framework within which specific policies of promotion can be elaborately laid down.*

*103. In Bhagwandas Tiwari (supra) 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 (supra) 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 recognized 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.*

*105. What can be discerned from the aforesaid is that, wherever the expression 'Merit-cum-Seniority' or 'Seniority-cum-Merit' has been supplemented by an elaborate promotion policy or statutory rules clearly indicating the parameters on which promotions are to be made, the mode of promotion assumes the character of a Hybrid or Dynamic Mode of Promotion as held in K. Samantaray (supra).*

*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.*

*107. 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 respect if the post is of such nature that it requires significant knowledge and ability.*

*108. 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.*

*109. 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.*

*110. 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.*

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*130. We have discussed in detail in the foregoing paragraphs that the concepts of ‘Merit-cum-Seniority’ or ‘Seniority-cum-Merit’ are flexible in nature and do not prescribe any fixed or strait-jacket definitions. These definitions take character and substance from the context in which they are employed. Their full import and nuances only become visible when they are exposed to the guiding light of the overall promotional policy of the organisation. The concept of promotions in the District Judiciary is a peculiar one, and one that must be analysed in its own unique context. Unlike most cases on promotions decided by this Court where the interpretation or incorrect implementation of the promotion policy contained in a statute have been in question, the present case of promotions to the Higher Judicial Service is one in which the statutory framework itself was created after the decision in *All India Judges’ Association (3) (supra)*. Thus, any dispute arising out of the respective rules of*

*promotions of different States/Union Territories as devised by their respective High Courts must be construed in the context of various decisions which have ultimately shaped such rules.*

*131. How 'Merit-cum-Seniority' will apply to promotions within an organization will ultimately depend on the statutory rules, if any, or the promotional policy of such an organisation. We have discussed in detail in the preceding paragraphs that the objective of this Court in All India Judges' Association (3) (supra) was to create a new category for accelerated promotions and to introduce a test to ascertain the suitability of candidates in the regular promotional category. While the newly created category was strictly based on merit, the due weightage on seniority in the regular promotional category was not diluted in any manner except for the introduction of the suitability test. We are aware that in a number of decisions of this Court, the term 'merit' has been infused with a competitive and comparative character, however, we are of the opinion that whether the term 'merit' includes a comparative element can only be ascertained from the context in which it is employed and not in isolation from it. Merit only indicates an assessment of qualities which are relevant for the post. It is not synonymous to scores in the competitive examination. Competitive examinations are merely one of the many ways in which the*

*merit of the candidate is determined. This Court in All India Judges' Association (3) (supra) notes that merit must be determined based on a limited competitive examination with respect to the 25% (now 10%) of the seats which are to be filled by merit. Thus, this Court clarifies that merit in the context of the 25% (now 10%) of the seats must be determined through the competitive examination while for the 50% (now 65%) of the seats must be determined based on an assessment of specific suitability parameters. Whether the idea of a 'minimum threshold merit' would be antithetical to the concept of 'Merit-cum-Seniority' would again depend on the context and the manner in which the minimum threshold is applied.*

*132. The term 'Merit-cum-Seniority' in context of 2005 Rules implies that both merit and seniority would be considered in the promotion of a candidate, with merit being determined on the basis of a suitability test. The exact modalities of how merit and seniority are to be apportioned is a legislative function and is to be performed keeping in mind the unique requirements and circumstances of the organization. In the present case, the merit of a candidate is assessed by means of a suitability test, as prescribed under paragraph 27 of the decision in All India Judges' Association (3) (supra).*

133. *The contours of the words ‘Merit-cum-Seniority’ are drawn by this Court in the lines immediately following these words. The phrase “for this purpose”, as it appears in paragraph 27 of the aforesaid decision, acts as a bridge between the words – “Merit-cum-Seniority” – their substance. For the purpose of 65% promotional quota, this Court, in the said paragraph, has defined “merit” as the possession of a minimum standard, or suitability. This Court deliberately did not impart any competitive or comparative character to the term and such intention should be kept in mind while interpreting the term ‘Merit-cum-Seniority’ for the purpose of the 65% promotional quota.*

134. *The suitability test assesses multiple aspects of a candidate’s merit like knowledge of law, quality of judgments, ACRs, etc. along with the efficiency of the candidate exhibited during the tenure already served. The suitability test is devised in such a manner that all candidates who clear the test can be said to possess more or less the same level of merit. Once a list of all similarly meritorious candidates is prepared, seniority is applied to select the candidates for promotion. Although seniority is applied at the last stage of the selection process, yet merit still plays the predominant role as a candidate who does not possess the necessary suitability becomes ineligible for promotion irrespective of their seniority.”*

21. Reverting to the facts of the present case in the light of the aforementioned judgments rendered by the Hon'ble Supreme Court in ***Ajit Singh*** (supra) and ***Ravikumar Dhansukhlal Maheta*** (supra), it is quite vivid that the promotion to the post of Deputy Inspector General of Prisons was required to be made strictly in accordance with the principle of "merit-cum-seniority" as embodied under Rule 7 of the Rules of 2003. The said Rule, particularly sub-rule (9), not only obligates the Departmental Promotion Committee to conduct a *relative and comparative assessment of the merit* of all officers falling within the zone of consideration, but further mandates the categorisation of officers into "Outstanding", "Very Good", "Average" and "Poor" on the basis of their service records, annual confidential reports, integrity and overall performance.
22. However, upon meticulous examination of the proceedings of the DPC dated 08.02.2023, it becomes manifest that the Committee, instead of performing the comparative evaluation envisaged under the Rules, adopted an erroneous approach in treating all eligible candidates as indistinguishably equal merely because their ACR gradings fell within the "Very Good" category. The Committee thereafter straightaway proceeded to apply the criterion of seniority alone for determining suitability, thereby completely eclipsing the primacy of merit which lies at the heart of the principle of merit-cum-seniority.

23. This Court is constrained to observe that the DPC's reasoning that merit could not be assessed merely because none of the candidates possessed an "A+" or "Outstanding" grading is fundamentally flawed and contrary to the law declared by the Hon'ble Supreme Court.
24. As held in ***Ajit Singh*** (supra), the requirement of assessing relative merit does not vanish merely because two or more officers have similar gradings; even in such cases, the Committee must evaluate qualitative differences, overall performance indicators, consistency of service, noteworthy achievements, integrity inputs and any distinguishing material in the service dossiers.
25. Similarly, ***Ravikumar Dhansukhlal Maheta*** (supra) reiterates that seniority can be pressed into service *only when* candidates are found to be of equal merit after a complete and objective comparative assessment. Seniority cannot be made the sole or primary basis when the governing rule prescribes merit as the dominant factor.
26. In the instant case, the petitioner has specifically contended that he possesses better ACR gradings and superior overall service record as compared to respondent No.4, which assertion is not shown to be incorrect on record. Yet, the DPC neither evaluated such merit nor recorded any reason to indicate that the comparative merit of the candidates was incapable of

assessment. This omission, coupled with the mechanical application of seniority alone, renders the entire promotion process arbitrary, unreasonable and violative of Rule 7(9) of the Rules of 2003.

- 27.** In view of the aforesaid legal and factual position, this Court is of the considered opinion that the impugned promotion order dated 09.03.2023 (Annexure P-1), promoting respondent No.4 to the post of Deputy Inspector General of Prisons, cannot be sustained in law. Likewise, the communication dated 26.04.2023 (Annexure P-2), whereby the petitioner's representation was mechanically rejected, also deserves to be and is hereby quashed. The recommendations of the DPC dated 08.02.2023, to the extent they pertain to the promotion under challenge, are declared illegal, arbitrary and in clear contravention of the governing statutory rules.
- 28.** Consequently, the respondents are directed to reconvene the Departmental Promotion Committee afresh, and to undertake a comprehensive, comparative and merit-based assessment of all eligible officers falling within the zone of consideration, strictly in accordance with Rule 7 of the Rules of 2003 and the law laid down by the Hon'ble Supreme Court.
- 29.** The aforesaid exercise shall be completed expeditiously preferably within a period of four months from the date of receipt of certified copy of this order. The petitioner, if found more

meritorious in accordance with law, shall be accorded appropriate consequential benefits.

- 30.** With the above observations, findings and directions, the writ petition deserves to be and is hereby **allowed**. There shall be no order as to costs.

Sd/-

**(Amitendra Kishore Prasad)**  
**Judge**

Yogesh

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
04.12.2025	15.01.2026	-----	15.01.2026

**Head-Note**

Under the “merit-cum-seniority” principle, merit and ability are the dominant factors in promotion, while seniority is given consideration only when candidates are nearly equal in merit. The selection primarily depends on competence and performance rather than length of service.