



2026:AHC-LKO:19967-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 554 of 2024

Niraj Kumar Singh

.....Appellant(s)

Versus

Anand Kumar Mishra And 4 Others

.....Respondent(s)

Counsel for Appellant(s) : Hari Prasad Gupta, Bhanu Pratap Singh, Durgesh Kumar Verma, Sandeep Kumar Ojha
Counsel for Respondent(s) : Srideep Chatterjee, Amarjeet Singh Rakhra, C.S.C., Shubham Tripathi

A.F.R.

Judgment Reserved : 20.02.2026

Judgment Delivered : 19.03.2026

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE

HON'BLE JASPREET SINGH, J.

(Per : Jaspreet Singh, J.)

I.A. No.1 of 2024

1. The instant special appeal has been filed by Niraj Kumar Singh alongwith an application seeking leave of the Court to appeal and it is also accompanied by another application bearing I.A. No.1 of 2024 seeking condonation of delay as the office has reported the appeal to be barred by limitation by 63 days.

2. Shri Jaideep Narain Mathur, learned Senior Counsel assisted by Shri Srideep Chatterjee, learned counsel for the writ petitioner/respondent has raised a preliminary objection regarding maintainability of the instant appeal at the behest of the appellant Niraj Kumar Singh. This objection shall be considered a little later.

3. However, first it will be appropriate to consider the application seeking condonation of delay. The said application is accompanied by an affidavit, where in Paragraphs 11 to 18, the explanation for seeking condonation of delay has been furnished.

4. Explaining the delay, it was urged that once the order was passed by the learned Single Judge allowing the writ petition then it should have been the employer Institution i.e. King George's Medical University, Lucknow (hereinafter referred to 'KGMU', for short), who should have assailed the said order by filing an appeal. However, once the KGMU did not take any proactive step for filing the special appeal during the prescribed period of limitation, it is thereafter the appellant Niraj Kumar Singh prepared and got the instant appeal filed. In the aforesaid circumstances, the delay, as reported, was unintentional and *bonafide*. Hence, the delay in filing the appeal deserves to be condoned.

5. The aforesaid submissions have been controverted by the learned Senior Counsel for the writ petitioner/respondent and also the learned counsel for the KGMU stating that no proper explanation has been given to seek the condonation of delay especially when the appellant Niraj Kumar Singh does not have the *locus standi* to file the special appeal.

6. This Court has considered the submissions of the respective parties and finds that the crux of the submission of Shri Mathur, learned Senior Counsel for the writ-petitioner/respondent was primarily focused on the issue of *locus standi* of the appellant and the issue of delay is intricately connected and made dependent on the issue of *locus standi*.

7. This Court finds that the two issues are separate, hence, the issue of *locus standi* will be considered separately while dealing with the application seeking leave to appeal.

8. Insofar as the application for condonation of delay is concerned and looking into the explanation furnished for the delay, this Court is of the view that the delay has been sufficiently explained. Hence, the application seeking condonation of delay is allowed and the delay in filing the appeal shall stand condoned. Office shall allot a regular number to the special appeal.

Order on Application seeking leave to appeal by the third party/appellant dated 15.10.2024.

9. Shri Mathur, learned Senior Counsel for the writ petitioner/respondent

has raised an objection regarding maintainability and *locus standi* of the appellant/third party, namely, Niraj Kumar Singh to maintain this special appeal.

10. It was urged that the appellant is a complete stranger to the proceedings and he has no right to assail the judgment passed in favour of the writ-petitioner/respondent as he does not fall within the category of an 'aggrieved person'.

11. Learned Senior Counsel further urged that unless there is any legal injury, the appellant cannot be permitted to assail an order, which is *per-se* between the writ petitioner and his employer i.e. KGMU. It was also submitted that the nature of dispute is such, which is primarily between the employer and the employee and in this context, the appellant, who is also an employee cannot allege any grievance from the order entitling him to assail the impugned order. If at all, any challenge to the order had to be raised, it could have been made by an aggrieved person, who would be the employer, at best.

12. Learned Senior Counsel has further urged that the issue of *locus standi* is to be examined strictly in a writ petition where a writ in the nature of *certiorari* is sought. The prerogative writs are issued by the High Court in its extraordinary jurisdiction conferred in terms of Article 226 of the Constitution of India which is a purely discretionary jurisdiction. It can be invoked by the writ-petitioner, who establishes the violation of his fundamental or any other legal right at the behest of the State, as defined under Article 12 of the Constitution of India. Any dispute *inter-se* between two private individuals cannot be ventilated through a writ petition.

13. It was urged that in the instant case, the writ petitioner had challenged the order of dismissal of his service. The writ petition was allowed and dismissal order was set aside. Such an order restoring the services of the writ-petitioner, at best could be challenged by the employer, who could be an aggrieved person, but not the appellant, who himself is an employee of KGMU and none of his rights were affected by the order passed in favour of the writ petitioner.

14. Learned Senior Counsel for the writ-petitioner/respondent further submitted that if the issue of *locus standi* is diluted at the behest of a stranger, who, if permitted to assail the order then it would amount to opening up speculative front for inter-meddlers, who though not directly affected, but may misuse the process of law and it would give rise to a chaotic situation not only for the Courts of law, but also for the employer. It was thus urged that the application for leave to appeal should be rejected and consequently the appeal too must meet the same fate.

15. In support of his submissions, Shri Mathur, learned Senior Counsel relied upon the decisions of the **Apex Court in Chandra Gupta v. Secretary, Government of India, Ministry of Environment and Forest and others, (1995) 1 SCC 23** and **H. Anjanappa and others v. A. Prabhakar and others, 2025 SCC OnLine SC 183**. He further relied upon a Division Bench decisions of this Court in **Kesari Devi v. State of U.P. and others, 2005 SCC OnLine All 2371** and **Vijay Prakash Dixit v. State of U.P. and others, 2022 SCC OnLine All 1169**.

16. Shri Sanjay Bhasin, learned Senior Counsel duly assisted by Shri H.P. Gupta, learned counsel for the appellant Niraj Kumar Singh has refuted the submissions on behalf of the writ-petitioner/respondent and urged that the issue of *locus standi* and the concept of aggrieved party is to be seen in context with the facts of the case. These are not absolute propositions rather has to be seen on case to case basis. An order passed by a Court, if it impacts a person adversely, then such a party can invoke the remedy of appeal even though he may not have been a party to the original writ proceedings. It was urged that in the instant case, the facts are such which clearly establish that the appellant Niraj Kumar Singh does have a firm *locus standi* as he is an aggrieved person which entitles him to file the instant appeal.

17. Shri Bhasin urged that the appointment of the writ petitioner/respondent itself was against the statutory Rules. The appellant had made a complaint and in furtherance thereof, the proceedings were initiated by the KGMU. Certain orders were passed, by which, the writ-petitioner/respondent was dismissed from service and it came to be challenged by the writ-petitioner/respondent, in the first round, by means

of Writ-A No.9049 of 2020. The said writ petition was disposed of with certain directions and at that stage the appellant had been heard by the writ Court.

18. In furtherance of the orders passed by the writ Court dated 10.05.2022, the employer issued a fresh show cause notice to the writ petitioner/respondent and later by an order dated 06.06.2022, the services of the writ-petitioner/respondent was terminated.

19. This order dated 06.06.2022 was again challenged in Writ-A No.4805 of 2022, wherein the writ Court, by means of the order dated 04.08.2022 directed the employer KGMU to pass fresh orders. Once again, the termination order was passed by the employer on 02.12.2022 which again came to be challenged by the writ petition by means of Writ-A No.1414 of 2023. The writ Court once again taking note of the submissions of the parties concerned, allowed the writ petition by setting aside the termination order dated 02.12.2022 with a further direction to reinstate the writ-petitioner/respondent with all consequential benefits.

20. Shri Bhasin further urged that the core issue involved is regarding the validity of the appointment of the writ-petitioner/respondent in KGMU. The writ-petitioner/respondent and the appellant both are employees within the same cadre, except the appellant was a regular appointee while the writ-petitioner/respondent was granted appointment on compassionate grounds.

21. It was urged that where the writ-petitioner/respondent's appointment itself was against the statutory Rules, the appointment being void, hence, the writ petitioner could not be permitted to continue. Insofar as the facts of the matter between the parties are concerned, the same are not disputed. It is a clear case where the authorities had noted that the appointment of the writ-petitioner/respondent was against the statutory provisions, but the learned Single Judge while allowing the writ petition noticed that the initial defect in the appointment did not render the employment void rather it was merely an irregular appointment.

22. Shri Bhasin further urged that in this backdrop where the appointment of the writ-petitioner/respondent itself was bad and the seniority and the

chances of promotion of the appellant is affected. This will naturally bring the appellant within the definition of the word 'aggrieved party' and clothe him with the *locus standi* to assail the judgment, which ideally should have been done by the employer, but for the reasons best known not done, hence, the appellant had to take the step forward.

23. Shri Bhasin further urged that as far as the reliance placed by the learned Senior Counsel for the writ-petitioner/respondent on the decision of the Apex Court in **Chandra Gupta** (supra) is concerned, the same would not come to the aid of the writ-petitioner/respondent, as the Apex Court has clearly held that it had not decided the issue of *locus standi*. Once the issue itself was not decided by the Apex Court, then the same cannot be treated as a binding precedent. Moreover for the same reason, the reliance placed on the two Division Benches of this Court in **Kesari Devi** (supra) and **Vijay Prakash Dixit** (supra) who merely follow the decision of **Chandra Gupta** (supra) would also not help the writ-petitioner/respondent.

24. Shri Bhasin further submitted that the Apex Court decision of **H. Anjanappa** (supra) deals with the concept of proper and necessary parties, which is primarily in context of a civil litigation governed by the principles of the Code of Civil Procedure, hence, the same does not come to the aid of the writ-petitioner/respondent. Thus, neither in the facts nor on law, the writ-petitioner/respondent can oppose the right of the appellant to seek leave to appeal.

25. Shri Bhasin in support of his submissions has relied upon the decision of the Apex Court in **Prem Singh and Others v. Haryana State Electricity Board and others, (1996) 4 SCC 319** and on a decision of the Gauhati High Court in **Hav Rohmingliana and others v. State of Mizoram and others, 2005 SCC OnLine Gau 194**.

26. The Court has heard the learned counsel for the respective parties and also perused the record for the purposes of considering the application seeking leave to appeal moved by the appellant.

27. At the outset, certain undisputed facts that are relevant for considering the said application are being noticed as under:-

(a) Both the writ-petitioner/respondent and the present appellant Niraj Kumar Singh are employees of KGMU. It is also not disputed that the appellant was appointed on 07.11.2005 and his services were confirmed on 22.11.2008 whereas the writ-petitioner/respondent was initially appointed on 21.04.2004 and his service was confirmed on 27.07.2005 as Junior Clerks and later after the cadre re-structuring, were appointed as Head Assistant.

(b) A complaint was made regarding the validity of the appointment given to the writ-petitioner/respondent in the month of July, 2018 by an Advocate. The Departmental Authorities did not find favour with the said complaint.

(c) In April, 2020, another complaint was made to the State Government, in pursuance thereof, the State Government directed the Disciplinary Authority of KGMU to consider the issue of appointment of the writ-petitioner/respondent. This order of the State Government dated 02.06.2020 was made the subject matter of challenge in Writ-A No.9049 of 2020, which came to be disposed of by means of the judgment dated 10.05.2022. Though this order was challenged in Special Appeal No.239 of 2022, yet for want of actual follow up, the said special appeal remained pending without any effective orders.

(d) In the interregnum, in furtherance of the order passed by the writ Court dated 10.05.2022, a fresh show cause notice was issued to the writ-petitioner/respondent dated 13.05.2022 which led to passing of an order of dismissal of the writ-petitioner/respondent from service on 06.06.2022. This was challenged in Writ-A No.4805 of 2022 and the writ petition was allowed by the learned Single Judge vide its judgment dated 04.08.2022 with specific directions to pass fresh orders.

(e) Once again, in furtherance of the directions as per order dated 04.08.2022 passed in Writ-A No.4805 of 2022, the order

of dismissal was passed by means of the order dated 02.12.2022 which was made the subject matter of challenge raised by the writ-petitioner/respondent in Writ-A No.1414 of 2023. It is this writ petition which was allowed by means of the judgment and order dated 15.07.2024 which is now sought to be challenged by the appellant Niraj Kumar Singh, who seeks leave to appeal.

28. In light of the above-mentioned factual background, the question that arises is whether an order, which is passed between two contesting parties relating to an appointment in service, between employer and its employee, can it be challenged by a third party in appeal.

29. In order to answer the aforesaid question, in context with the facts as noticed hereinabove, it would reveal that permitting a challenge at the behest of the third party, necessarily would require this Court to examine whether the appellant as a third party has any locus to assail the order. It will also be required to be seen whether the appellant can be treated to be an aggrieved person especially noticing the nature of dispute between the parties.

30. The Court proposes to examine the question involved by considering as to how the *locus standi* of a person is adjudged in a litigation and who can be an aggrieved person.

31. As per **Black's Law Dictionary, Eighth Edition**, the word '*locus standi*' and 'aggrieved person' have been defined as under:-

'Locus standi' :- "The right to bring an action or to be heard in a given forum", and

'aggrieved person':- "Having legal rights that are adversely affected; having been harmed by an infringement of legal rights. "

32. It is well settled to be disputed that the writ issued by the High Courts are purely discretionary and are issued in favour of such a person whose fundamental or legal rights are violated at the behest of the State. In this background, it cannot be disputed that KGMU falls within the meaning of

the word 'State' as defined in Article 12 of the Constitution of India.

33. A dispute between the employer and the employee is *per-se* a private dispute between the two. The word 'private' has been used here in context with '*personam*' and in contradistinction to a litigation which may affect the rights of several persons or class of persons and in such cases any such person or from such class of person, can come forward to contest as a litigation.

34. Any decision of an employer which violates the right of any particular employee or employees can be assailed by such aggrieved employee or employees and not by any other employee or a third party altogether, who is not affected by such a decision.

35. The concept of '*locus standi*' in writ petitions is construed strictly so that the high prerogative writs are not misused at the behest of inter-meddlers. However, it is equally true that the concept of '*locus standi*' is diluted where it come to a public interest litigation and that too for a laudable cause and purpose relating to such sections of the society or underprivileged class who may not be denied or be deprived of access to justice. Such cause can be brought to the notice of the Court by a public spirited person, who himself may not be affected *per-se* with the cause he seeks to espouse.

36. It is to be noticed that a dispute between an employer and an employee, is primarily a private dispute between them and it has been kept out of the ambit of a public interest litigation.

37. It will be apposite to note certain decisions of the Apex Court to understand the concept of '*locus standi*' and 'aggrieved person'.

38. In **Jasbhai Motibhai Desai v. Roshan Kumar, (1976) 1 SCC 671** are quite apt and are being reproduced hereinafter:-

"13. This takes us to the further question: Who is an "aggrieved person" and what are the qualifications requisite for such a status? The expression "aggrieved person" denotes an elastic, and to an extent, an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. At best, its features can be described in a broad tentative manner. Its scope and meaning depends on diverse, variable

factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him. English courts have sometimes put a restricted and sometimes a wide construction on the expression "aggrieved person". However, some general tests have been devised to ascertain whether an applicant is eligible for this category so as to have the necessary locus standi or "standing" to invoke certiorari jurisdiction.

* * *

37. It will be seen that in the context of locus standi to apply for a writ of certiorari, an applicant may ordinarily fall in any of these categories: (i) "person aggrieved"; (ii) "stranger"; (iii) busybody or meddling interloper. Persons in the last category are easily distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They masquerade as crusaders for justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect. They indulge in the pastime of meddling with the judicial process either by force of habit or from improper motives. Often, they are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this category, may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such busybodies at the threshold.

38. The distinction between the first and second categories of applicants, though real, is not always well-demarcated. The first category has, as it were, two concentric zones; a solid central zone of certainty, and a grey outer circle of lessening certainty in a sliding centrifugal scale, with an outermost nebulous fringe of uncertainty. Applicants falling within the central zone are those whose legal rights have been infringed. Such applicants undoubtedly stand in the category of "persons aggrieved". In the grey outer circle the bounds which separate the first category from the second, intermix, interfuse and overlap increasingly in a centrifugal direction. All persons in this outer zone may not be "persons aggrieved".

39. To distinguish such applicants from "strangers", among them, some broad tests may be deduced from the conspectus made above. These tests are not absolute and ultimate. Their efficacy varies according to the circumstances of the case, including the statutory context in which the matter falls to be considered. These are: Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense, that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a

person
 against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something?

Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the statute, in the context of which the scope of the words "person aggrieved" is being considered, a social welfare measure designed to lay down ethical or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular individuals?"

39. In **Hari Bansh Lal v. Sahodar Prasad Mahto and others, (2010) 9 SCC 655**, the Apex Court clearly held that PILs are not maintainable in service matters except by way of writ of *quo-warranto*. The relevant observations made by the Apex Court in Para-34 is being noticed hereinafter:-

"34. From the discussion and analysis, the following principles emerge:

- (a) Except for a writ of quo warranto, PIL is not maintainable in service matters.
- (b) For issuance of a writ of quo warranto, the High Court has to satisfy that the appointment is contrary to the statutory rules.
- (c) Suitability or otherwise of a candidate for appointment to a post in government service is the function of the appointing authority and not of the court unless the appointment is contrary to statutory provisions/rules."

40. The Apex Court in **Ayaubkhan Noorkhan Pathan v. State of Maharashtra and others, (2013) 4 SCC 465** while considering the issue of *locus standi*, aggrieved person and the issue of legal injury held as under:-

"Person aggrieved

9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order,

etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide *State of Orissa v. Madan Gopal Rungta* [1951 SCC 1024 : AIR 1952 SC 12] , *Saghir Ahmad v. State of U.P.* [AIR 1954 SC 728] , *Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B.* [AIR 1962 SC 1044] , *Rajendra Singh v. State of M.P.* [(1996) 5 SCC 460 : AIR 1996 SC 2736] and *Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar* [(2009) 2 SCC 784] .]

10. A “legal right”, means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, “person aggrieved” does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose right or interest has been adversely affected or jeopardised. (Vide *Shanti Kumar R. Canji v. Home Insurance Co. of New York* [(1974) 2 SCC 387 : AIR 1974 SC 1719] and *State of Rajasthan v. Union of India* [(1977) 3 SCC 592 : AIR 1977 SC 1361] .)

* * *

14. This Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact, genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, “ordinarily meddlesome bystanders are not granted a visa”. Many societal pollutants create new

problems of non-redressed grievances, and the court should make an earnest endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it. (Vide P.S.R. Sadhanantham v. Arunachalam [(1980) 3 SCC 141 : 1980 SCC (Cri) 649 : AIR 1980 SC 856] , Dalip Singh v. State of U.P. [(2010) 2 SCC 114 : (2010) 1 SCC (Civ) 324] , State of Uttaranchal v. Balwant Singh Chaufal [(2010) 3 SCC 402 : (2010) 2 SCC (Cri) 81 : (2010) 1 SCC (L&S) 807] and Amar Singh v. Union of India [(2011) 7 SCC 69 : (2011) 3 SCC (Civ) 560] .)

15. Even as regards the filing of a public interest litigation, this Court has consistently held that such a course of action is not permissible so far as service matters are concerned. (Vide Duryodhan Sahu v. Jitendra Kumar Mishra [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : AIR 1999 SC 114] , Dattaraj Nathuji Thaware v. State of Maharashtra [(2005) 1 SCC 590 : AIR 2005 SC 540] and Neetu v. State of Punjab [(2007) 10 SCC 614 : AIR 2007 SC 758] .)"

41. Now in this background, it will be apposite to notice the Apex Court decision in **Chandra Gupta** (supra), wherein the issue involved was relating to expunction of adverse remarks and the consequent promotion, whether such promotion would date back to when it was due and how the seniority of the officer is to be reckoned. In this background, the Apex Court observed as under:-

"23. The said Rules do not provide for any opportunity of objection being given to any other officer against the Government decision for entering the remarks or expunging those remarks. Therefore, it should follow that no legal right or locus standi can be given to any person to challenge the expunction of an adverse entry.

* * *

25. What is required to be carefully noted is the Court was considering the effect of expungement of adverse remarks which was likely to prejudice the chances of promotion. It is well-settled in law that no employee has a right or vested right to chances of promotion as held by this Court in Ramchandra Shankar Deodhar v. State of Maharashtra [(1974) 1 SCC 317 : 1974 SCC (L&S) 137 : (1974) 2 SCR 216] : (SCC p. 329, para 15)

“It is now well settled by the decision of this Court in State of Mysore v. G.N. Purohit [1967 SLR 753 (SC)] that though a right to be considered for promotion is a condition of service, mere chances of promotion are not. A rule which merely affects chances of promotion cannot be regarded as varying a

condition of service. In Purohit case [1967 SLR 753 (SC)] the districtwise seniority of sanitary inspectors was changed to Statewise seniority, and as a result of this change the respondents went down in seniority and became very junior. This, it was urged, affected their chances of promotion which were protected under the proviso to Section 115, sub-section (7). This contention was negatived and Wanchoo, J., (as he then was), speaking on behalf of this Court observed:

‘It is said on behalf of the respondents that as their chances of promotion have been affected their conditions of service have been changed to their disadvantage. We see no force in this argument because chances of promotion are not conditions of service.’ ”

42. Then, the Apex Court went on to consider other cases relating to the adverse entries and promotion and then in Para-36, it noticed as under:-

"36. What requires to be carefully noted is eligibility for promotion is one thing while actual promotion is a different thing. Even in this ruling promotion in accordance with the rules alone was what was directed. Even assuming on the strength of this ruling the appellant is entitled to promotion on the date when he became eligible for promotion but for these adverse entries, a factual finding requires to be rendered on the following aspects:

1. Whether the adverse entries for 1980-81 and 1981-82 were actually communicated?
2. After expunction of adverse remarks whether there was a comparative estimate of the merits by the Departmental Promotion Committee?

These are matters pending adjudication in OA No. 617 of 1992. Therefore, we restrain from saying anything more as to the entitlement of seniority of the appellant over Respondents 3 to 5. That will depend upon the decision in OA No. 617 of 1992."

43. It would thus be seen that in this context where the issue was pending before the CAT in O.A. No.617 of 1992 and to protect the rights of contesting parties, the Apex Court in Para-39 observed as under:-

"39. We do not think we should entertain the civil appeal at this stage against interlocutory orders. We make it clear that by our general observations made above we have not decided about locus standi of

Respondents 3 to 5 in relation to the expunction of adverse remarks against the appellants ".

44. Moreover, what is relevant to note is that in **Chandra Gupta** (supra), the Apex Court had noticed general proposition relating to rights of a person to challenge orders relating to adverse entry and such general proposition and observations cannot be disputed as they are of universal application, however, the extent of applicability will depend on the facts of each case. It also unambiguously states that the affected party must clearly establish that the order has directly affected him. Mere chance or any chances will not be sufficient to clothe such a person with right to inter-meddle. It is this aspect which has been noticed by the Division Bench of this Court in **Vijay Prakash Dixit** (supra) and **Kesari Devi** (supra).

45. A similar issue also cropped up before the Rajasthan High Court, wherein one of us (Hon'ble Arun Bhansali, J.) had the occasion to consider a similar issue in **Kamli Ram Meena v. Ajmer Vidhut Vitaran Nigam Ltd., 2022 SCC OnLine Raj 2322** wherein, it was held as under:-

"33. In view of the above determination made by Hon'ble Supreme Court in the case of Chandra Gupta (supra), wherein, the aspect of locus standi only on the ground that the promotion of the petitioner would be affected/is affected was specifically negated, which alone is the basis expressed by the petitioner for the purpose of questioning the validity of the order passed by the Board of Directors setting aside the penalty imposed against the respondent no. 4, apparently, the petitioner has no locus standi to maintain the petition."

46. The Apex Court lately in **Rajasthan Public Service Commission v. Yati Jain, 2026 SCC OnLine SC 80** in Para-65 to 67 has propounded as under:-

"65. Taking a cue from the aforesaid precedents, to our mind, it is clear that a person aggrieved having locus standi to prefer an appeal would be one who is directly affected or impacted by a judgment, order or decision even though the same does not directly require him to do something, or, one, who being a party to a suit, is adversely affected by the decree. To file an appeal, such a person typically needs to show affectation of a legal right or interest, or that he is likely to suffer a legal wrong as a result of its impact. A mere interest or concern in the subject matter decided by the

original court would not be enough.

66. It is also relevant to consider whether the party seeking to appeal was a party to the proceedings before the original court. If he was and a decision is given jeopardising his interest, he would necessarily have a right of carrying such decision to be tested in an appeal. It is only in exceptional cases that a party-respondent may be told off at the gates by the appellate court on the ground of lack of affectation of right or interest.

67. Premised on the above discussion, as a general proposition, we summarise the conditions that need to be satisfied before a person is entitled to maintain an appeal. These are:

- 1) that the appealing party has been a party in the proceedings from which the appeal has arisen;
- 2) that the definitive and conclusive ruling of the High Court on the rights of the parties in dispute is the subject of the appeal; and
- 3) that he is a 'person aggrieved', that is, a party who has been adversely affected by the determination."

47. Considering the gravamen as expressed in the decisions considered aforesaid, this Court finds that the decisions cited by the learned Senior Counsel for the appellant in **Prem Singh** (supra) and **Hav Rohmingliana** (supra) cannot be drawn to the aid of the appellant.

48. Insofar as the decision of the Apex Court in **H. Anjanappa** (supra) is concerned, it has summarized the proposition in Paragraph-58 which relate to the issue of a proper and a necessary party and the said principles are primarily in context with a civil litigation and it may not be strictly applicable in respect of the matters emerging from service jurisprudence. Hence, it may not have much applicability to the instant case.

49. Having taken note of the aforesaid decisions and applying the principles to the instant case, it would reveal that it is not any mere order which by some chance has the potential to affect some right of a person in future, which will get him a right to inter-meddle. The legal injury complained of must be real and it must have some nexus and proximity in time with the issue at hand. It is no doubt true that in service jurisprudence, certain orders passed, may be capable of impacting the seniority or promotion of an entire cadre and such orders may confer

rights on the affected employees to assail it. However, the said concept cannot be stretched to such an extent that it may permit any or all employees to challenge any order even though it may have been passed against any one or more specific employees, who alone are directly impacted by such an order. It is for this very reason that the proximity of injury or impact of the order is to be seen while considering the issue of '*locus standi*' and to adjudge who can be an 'aggrieved person'.

50. In the instant case, even though the appellant and the writ-petitioner/respondent are in service of the same employer and primarily on the same post, but neither there is an issue between the two which may impact the seniority or the chances of promotion of each other on account of dismissal order passed against the writ petitioner which has been set aside by the learned Single Judge.

51. The difference in the seniority between the appellant and the writ-petitioner/respondent is vast. The writ-petitioner/respondent is at S.No.73 in the seniority list, whereas the appellant is at the S.No.118, as informed by the learned Senior Counsel for the parties. This illustratively is to put across the point that at such a difference of seniority, even if the employment of the writ-petitioner/respondent is held to be bad, yet it may not impact the seniority or any chance of promotion of the appellant due to the aforesaid vast difference.

52. Thus, the appellant could not successfully demonstrate any real injury or adverse impact which may have been caused to the appellant from the order passed by the learned Single Judge. Even, the learned Senior Counsel for the appellant could not dispute that there is no direct consequence of the order of the writ Court which may impact the appellant directly or indirectly both in terms of proximity in time and the injury, arising out of the order impugned.

53. The appellant was also not a party in the writ petition from which the impugned order arises. He may have been a complainant upon whose complaint, the proceedings may have been triggered, however, such a complainant can only be treated as an informant. Once the authorities have taken cognizance thereon and proceeded, his right to participate in proceedings between the employer and the employee cannot be stretched

to an extent as to confer right on such a complainant to file an appeal which is confined only to a person aggrieved. In absence of any real injury, the appellant cannot be treated to be an aggrieved person.

54. Thus, unless a person is impacted by direct adverse consequences which may either arise out of promotion or seniority or matters of like nature which may impact an employee or class of employees, till then, it may not allow any leverage to a particular employee or third party to assail an order passed affecting the another employee relating to his appointment and dismissal, which is per-se a matter purely between the employee and his employer.

55. In light of the aforesaid discussions, this Court is of the clear view that the present appellant cannot be treated as an aggrieved person to assail the order passed by the learned Single Judge, whereby the dismissal order passed against the writ-petitioner/respondent has been set aside. However, it is made clear that this Court has not expressed any opinion regarding the validity of the appointment of the writ-petitioner/respondent. In case, if the employer chooses to challenge the same then the instant order may not come in its way nor this order in any manner approves the appointment of the writ petitioner, either directly or indirectly, as it is not in issue before this Court at this stage. This Court has confined its discussions only to ascertain the locus of the appellant seeking leave to appeal.

56. For all the aforesaid reasons, the application seeking leave to appeal is dismissed and the instant special appeal is held to be not maintainable at the behest of the appellant Niraj Kumar Singh. In the facts and circumstances, there shall be no order as to costs.

(Jaspreet Singh,J.) (Arun Bhansali,CJ.)

March 19, 2026

Rakesh/-