

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-9266 of 2021 (O&M)
Date of decision : 24.11.2023

MOHIT KHANNA

...Petitioner

Versus

THE CHANDIGARH HOUSING BOARD, SECTOR 9-D,
CHANDIGARH THROUGH ITS SECRETARY AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Dharam Vir Sharma, Senior Advocate
assisted by Mr. Chinmay Pratap, Advocate
and Ms. Pooja Yadav, Advocate
for the petitioner.

Ms. Madhu Dayal, Advocate
for respondents No.1 and 2.

Mr. Ravinder Rana, Advocate
for respondents No.4 and 5.

HARSH BUNGER, J.

1. Petitioner (Mohit Khanna) has filed the instant writ petition under Article 226 of the Constitution of India, *inter alia*, seeking issuance of a writ in the nature of *certiorari/mandamus*, for quashing the impugned Office Order No.64 dated 22.04.2021 (Annexure P-24) passed by respondent No.2 (Chairman, Chandigarh Housing Board) qua respondent No.5, with a further prayer for directing respondents No.1 and 2 to consider the promotion of respondent No.4 (Sanjeev Kumar) from source (i) meant for Diploma Holders against the vacancy which had arisen on 22.07.2013 and to consider the petitioner against the vacancy of source (ii) lying vacant since 13.10.2017, or in the alternative, to follow the roster duly approved vide

Annexure P-4 for making the promotions as Sub-Divisional Engineers (Public Health) as was being done before 22.04.2021 by making the promotions against roster points No.3, 5 and 6 as Sub-Divisional Engineers (Public Health), against which the vacancies fell due.

2. Briefly, the Chandigarh Housing Board (in short 'the Board') was established under the Haryana Housing Board Act, 1971 (as extended to the Union Territory, Chandigarh) and in exercise of powers conferred under Section 11, thereof, the Administrator, U.T. Chandigarh had framed the Chandigarh Housing Board (Officers and Servants) Service Regulations, 2003 (in short '2003 Regulations'). It is stated that the conditions of service of the employees of the Board are governed by the 2003 Regulations.

3. Regulation 2(d) of 2003 Regulations define 'appointing authority' to mean authority competent to make appointments and includes the authority to whom the power to make appointments may be delegated by the Board under these Regulations. Further, Regulation 5 deals with appointment by promotion to Group 'A', 'B' and 'C' posts, which reads as under :-

***"5. Promotion.** – Appointment by promotion to the Group 'A', 'B' and 'C' posts shall be made by the recommendation of the Departmental Promotion Committee constituted by the Chandigarh Administration from time to time as per criteria and method prescribed in the schedule annexed with these regulations."*

4. It appears that the promotion from the post of Junior Engineer/Assistant Engineer is to the post of Sub-Divisional Engineer and under the service rules, 50% appointments are to be made by way of direct appointment and 50% by way of promotion. It further appears that in the

promotion quota, the following percentage is provided under the Service Rules/Regulations (Annexure P-2):-

- | | | |
|-----------|-------------------------------|-------------------|
| 1. | <i>Diploma Holders</i> | <i>29%</i> |
| 2. | <i>Degree/AMIE</i> | <i>14%</i> |
| 3. | <i>Draftsmen</i> | <i>7%</i> |

5. The petitioner holds Diploma in Civil Engineering and was appointed as a Section Officer by the Board, vide Memo dated 04.12.1992 (Annexure P-1) and the said post of Section Officer was re-designated as Junior Engineer. Petitioner states that a Junior Engineer, after 16 years of service, is designated as Assistant Engineer and the petitioner, having over 28 years of service, was designated as Assistant Engineer.

6. It is the case of the petitioner that the Board prepared a roster effective from 17.10.2003 for allocating the vacancies as per the percentage fixed for Diploma Holders/AMIE and Draftsmen. The said roster is stated to have been concurred by the Chandigarh Administration vide Office letter dated 26.08.2004 (Annexure P-4). As per the petitioner, the Board had prepared a seniority list of the Section Officers (PH) as on 20.09.2012 and thereafter, no fresh seniority list had been listed. In the said seniority list, the petitioner is stated to be at Serial no.8 and after retirement of two officers namely, S/Sh. Kirpal Singh and Rajeev Khanna, the name of the petitioner comes at Serial no.6, in order of seniority.

7. Petitioner claims that he, being a Diploma Holder and also having passed Sections A and B of the Institution Examinations in the year 2002, is required to be considered against the roster meant for diploma holders as well as for AMIEs/Degree Holders.

8. Petitioner states that one Shri Kirpal Singh, was working as Assistant Engineer (Public Health) and on 29.01.2015, a meeting of

Departmental Promotion Committee (DPC) was held wherein, name of Sh. Kirpal Singh was recommended for promotion as Sub-Divisional Engineer against roster point No.3 meant for Diploma Holders. However, for the want of Vigilance Clearance etc., Shri Kirpal Singh was not issued the promotion order. It is stated that another DPC's meeting for promotion to the post of Sub Divisional Engineer (Public Health) was fixed for 28.02.2018, however, the same was not held. It is further stated that another DPC was scheduled for 05.03.2018 for promotion as Sub Divisional Engineer (Public Health); however, no promotions were made. It is also stated that Sh. Kirpal Singh requested for promotion as Sub Divisional Engineer (Public Health); however, the same was declined vide letter dated 07.05.2018 (Annexure P-8) and the said order, declining promotion, was never challenged by Sh. Kirpal Singh. Another request for promotion made by said Kirpal Singh was rejected by the competent authority vide letter dated 30.08.2018 (Annexure P-9). It is averred that Sh. Kirpal Singh was to attain the age of superannuation on 31.08.2018 and an order of retirement was issued on 29.08.2018, endorsed on 30.08.2018 (Annexure P-10).

9. Petitioner claims that slot no.6 is meant for AMIE and the petitioner was to be considered for promotion as Sub Divisional Engineer, in the DPC scheduled for 14.09.2018. As per the petitioner, respondent No.5 (Abnesh Kumar Dadwal) is a Diploma Holder and he was working as Assistant Engineer. Petitioner alleges that in case, roster point No.3 would have been consumed, then he (Abnesh Kumar Dadwal) would have been considered for promotion as Sub Divisional Engineer, being a Diploma Holder.

10. Petitioner further claims that respondent No.5 (Abnesh Kumar Dadwal) is an influential person and in order to manipulate his promotion and to show the consumption of roster point No.3, he got a representation from Sh. Kirpal Singh on 30.08.2018, itself and the promotion order was issued on 31.08.2018 (Annexure P-11), despite the fact that the request for promotion by Kirpal Singh was rejected on 30.08.2018 and retirement order stood issued and even the validity of the recommendation of DPC held on 29.01.2015 stood elapsed. As per the petitioner, after issuance of the promotion order on 31.08.2018 of Sh. Kirpal Singh, *ex-post facto* approval was obtained for his promotion and on 07.09.2018, Sh. Kirpal Singh was convicted in a Criminal Case No.06 of 2012, which was evidently pending on the date of his promotion i.e. 31.08.2018, which was also the day of his retirement.

11. It appears that the petitioner filed **CWP-23106-2018** before this Court, challenging the promotion order No.88 dated 31.08.2018 of Sh. Kirpal Singh, wherein notice of motion was issued and the proceedings for promotion were ordered to be kept in abeyance. In the said writ petition, the Board filed its written statement and a perusal thereof, reveals that for the purposes of promotion, a roster is being followed and it was specifically mentioned therein that DPC was proposed to be held on 14.09.2018 for filling up of roster point No.6. According to the petitioner, respondent No.5 was able to manipulate that roster was not followed. The promotion order dated 31.08.2018 of Sh. Kirpal Singh was withdrawn vide Office Order No.07 dated 14.01.2021 (Annexure P-20) and thereafter, vide order dated 05.04.2021 (Annexure P-21), **CWP-23106-2018** filed by the petitioner was

disposed of with a direction to the Chandigarh Housing Board to consider the case of the petitioner for promotion in accordance with law.

12. Thereafter, the petitioner is stated to have submitted a detailed representation dated 12.04.2021 (Annexure P-22) stating that roster point No.6 was meant for AMIE/Degree Holders and there are four sanctioned promotional posts; therefore, request was made to consider the case of the petitioner against roster point No.6.

13. It appears that on 22.04.2021, a meeting of DPC was held for considering promotions as Sub Divisional Engineers (PH) from the post of Assistant Engineers. Petitioner states that in the said meeting of DPC, the system of roster point was not followed and even the order of filling up the posts in the order in which the vacancy arose, was not followed. According to the petitioner, one vacancy, which had fallen vacant on 31.08.2012 was first filled in from source No.(i) while leaving the second vacancy and then vacancy out of source No.(ii) which had fallen vacant on 13.10.2017 was filled in and thereafter the second vacancy, which was created on 22.07.2013 and was to be filled in from source (i) was filled in to promote Shri Abnesh Kumar Dadwal, A.E. (respondent No.5), who otherwise could not have been promoted. Therefore, it is contended that the petitioner was denied the promotion.

14. With the afore-said submissions/pleadings, the petitioner has filed the instant writ petition before this Court.

15. The afore-said claim of the petitioner has been contested by respondents No.1 and 2 (Chandigarh Housing Board) by filing its written statement, wherein it has been *inter alia* stated that the petitioner is junior to all the three officers, who have been promoted vide order dated 22.04.2021

(Annexure P-24) and it is stated that the petitioner was at Serial No.6 of the seniority list while the three promoted officers were at Serial Nos.1, 2 and 3, respectively. The applicability of the 2003 Regulations is not disputed and it is submitted that the Recruitment Rules provide for specific percentage of each of the three feeder cadres, yet a 14 point roster was got approved from the Personnel Department, Chandigarh Administration. It is stated that after the approval, one promotion to the post of Sub-Divisional Engineer (PH) was made on the basis of the said roster in 2004; however, during the year 2019, at the time of promotion to the post of SDE (Civil) having identical Recruitment Rules as that of the post of SDE (PH), the matter was examined in consultation with the Personnel Department, Chandigarh Administration and it was decided that since the notified Recruitment Rules provide for specific percentage for each of the feeder cadre, no roster can be applied and the prescribed percentage for each feeder is to be maintained. It is stated that the Personnel Department, Chandigarh Administration vide its letter dated 18.09.2020 advised as follows :-

“The advice already conveyed by UO No.RR(100)-1H-(9)-2020/7246, dated 21/07/2020 is hereby reiterated vide which it has been informed that the recruitment to any post shall be made as per notified recruitment rules. However, in this particular case, A.D. had been making appointments by following the roster in respect to the post of SDE (PH) approved by this department at that time. Any deviation is made at this time, may lead to litigation. Therefore, A.D. is advised to incorporate the 14 point roster in the notified regulations 2003 of Chandigarh Housing Board.”

It is stated that in view of the afore-said advice, it has been decided to strictly go as per the notified Recruitment Rules, which provides

for percentage system as is being done in the Engineering Department of U.T. Administration, where no roster is followed.

16. Respondents no.1 and 2 have maintained that in view of the afore-said decision, DPC for promotion to the post of SDE (PH) was held on 22.04.2021. It is stated that against the three vacancies available; as per the seniority list of Junior Engineers/Assistant Engineers and Draftsmen dated 14.09.2020 and as per the 2003 Regulations, ten officials falling within the zone of consideration, were considered for promotion and on the basis of recommendations of the DPC, promotion order dated 22.04.2021 (Annexure P-24), promoting respondents No.3 to 5 as SDE (PH) has been issued and they have joined as such. It is submitted that the writ petition is based on unfounded, false and baseless allegations as the action of the Board is strictly as per the law. On merits, the allegations made by the petitioner in the writ petition have been controverted and it has been *inter alia* stated that roster point No.3 had not been consumed by Sh. Kirpal Singh as the promotion order issued to him on 31.08.2018 has been withdrawn on 14.01.2021. It is also stated that the name of petitioner had been considered by the DPC held on 22.04.2021 but could not be promoted being junior. Accordingly, prayer for dismissal of the writ petition has been made.

17. Respondent no.4 (Sanjeev Kumar) has filed a short reply, wherein he has *inter alia* stated that he was initially appointed as Section Officer [now designated as Junior Engineer (Public Health)] in the Chandigarh Housing Board on 23.03.1989 against direct quota vacancy and he completed his AMIE Section 'A' and Section 'B' in the year 1987 i.e. before joining the Board. It is stated that on the basis of his service record and being AMIE qualified, he had been assigned the additional charge of the

post of SDE (Quality Control Lab) on 28.10.2016 and thereafter, as SDE (Enforcement) in the year 2017. It is next stated that on 03.06.2020, his name stood at Serial No.2 in the joint seniority list and he has rendered more than 31 years of service. Respondent no.4 stated that throughout his service, he always claimed service benefits under the quota meant for cadre of AMIE/Degree Holders and in case, he had been promoted to the post of SDE from the source meant for Diploma Holder, then his further claim for promotion to the post of Executive Engineer would be affected. Accordingly, respondent No.4 prayed for dismissal of the writ petition.

18. Similarly, respondent No.5 (Abnesh Kumar Dadwal) also filed a short reply wherein he has *inter alia* stated that he was initially appointed as Section Officer [now designated as Junior Engineer (Public Health)] in the Chandigarh Housing Board on 11.05.1992 against direct quota vacancy against the post for Diploma Holder and re-designated as Assistant Engineer on completion of 16 years' service. It is stated that on the basis of his service record, he had been assigned the additional charge of the post of SDE (Public Health) in October, 2016. It is next stated that on 03.06.2020, his name stood at Serial No.3 in the joint seniority list and he has rendered more than 28 years of service. It is further submitted that if the claim of the petitioner is admitted then same would created ruckus in the seniority list and would also affect on the service or promotion of the employees of the feeding cadre. Accordingly, respondent No.5 prayed for dismissal of the writ petition.

19. I have heard learned counsel for the respective parties and have gone through the paper-book with their able assistance.

20. A perusal of the paper-book would manifest that respondents No.1 and 2 have placed on record a copy of the decision (Annexure R-1/1A) wherein the Chandigarh Housing Board has decided to strictly go as per the notified Recruitment Rules, which provide for percentage system as regards promotion to the post of SDE (PH). The relevant extract of the afore-said decision (Annexure R-1/1A) reads as under :-

“CHANDIGARH HOUSING BOARD

A Chandigarh Administration Undertaking

Subject :- Filling up the post of Sub Divisional Engineer (P.H) through promotion.

468. It is submitted that Chandigarh Housing Board (Officers and Servants) Service Regulations, 2003 came into force w.e.f. 17.10.2003 vide gazette notification No.HB(S)/EA-1/2003/5201. According to these Rules there were 04 sanctioned posts of Sub Divisional Engineer (P.H.). Out of 4 posts of SDE (PH), as per the decision taken by the Board in its 375th Board meeting held on 10.09.2012, 01 post of SDE (PH) was lapsed. Further, the Joint Secretary Housing, Chandigarh Administration vide Memo No.11/7/184-UTFI(2)-2013/6907 dated 22.07.2013 (Annexure-I), has created 02 numbers additional posts of Sub Divisional Engineer (P.H.). Further, as per orders dated 02.11.2017 (Annexure-II) of Worthy Chairman, CHB 01 post of SDE (PH) earmarked to C.E. (HQ) was allocated in the strength of Public Health. Hence, the total strength of sanctioned posts of Sub Divisional Engineer (P.H.) is 06 posts, which are lying vacant.

469. Recruitment Rules

As per Chandigarh Housing Board [Officers & Servant] Service Regulation 2003 notified on 17.10.2003 (Annexure-III) these posts of SDE (PH) are required to be filled by promotion failing which by deputation. Mode of selection process is selection cum seniority. The requisite qualification/experience for promotion to this posts as laid down in the said regulation 2003 is as under:

1) 50% by promotion failing which by deputation= 03 posts

2) 50% by direct recruitment posts = 03 posts

470 to 472 xxx xxx xxx

473. **Seniority List**

As per seniority list of Junior Engineer/Assistant Engineer and Draftsman issued vide letter No.1780 dated 14.09.2020 (**Annexure-V**) & as per provision in the said Regulation-2003, the following Junior Engineer/ Assistant Engineer/ Draftsman (P.H.) are under consideration zone for promotion to the post of Sub Divisional Engineer (P.H.) are as under:-

Sr. No.	Name of Official	Qualification	Date of Birth	Date of appointment as Junior Engineer	Date of completion of requisite service
1	Sh. Yash Pal Batra, AE	Diploma	27.01.1966	06.02.1989	05.02.1999
2	Sh. Sanjeev Kumar, AE	Diploma/AMIE	21.12.1965	23.03.1989	22.03.1994
3	Sh. Abnesh Kumar Dadwal, AE	Diploma	26.05.1970	11.05.1992	10.05.2002
4	Sh. Ashok Kumar Singla, AE	Diploma	10.07.1969	15.05.1992	15.05.2002
5	Sh. Vijay Kumar, A.E. (PH)	Diploma (SC)	28.08.1969	14.05.1992	14.05.2002
6	Sh. Mohit Khanna, A.E. (PH)	Diploma/AMIE	29.05.1973	18.12.1992	18.12.1997
7	Sh. Mohit Handa, A.E. (PH)	Diploma	08.03.1971	18.12.1992	18.12.2002
8	Sh. Rakesh Kumar Popli A.E. (PH)	Diploma	01.10.1967	18.12.1992	18.12.2002
9	Sh. Krishan Gopal, A.E. (PH)	Diploma	28.08.1967	29.06.2005	29.06.2015
10	Sh. Rajiv Kumar A.E. (PH)	Diploma	02.04.1967	29.06.2005	29.06.2015

474 to 476 xxx xxx xxx

477. **DPC Guidelines:**

As per Para 6.2.1 of DPC guidelines which is reproduced as under:-

Clause (b) “The DPC should assess the suitability of the officers for promotion on the basis of their service record and with particular reference to the CRs for 5 preceding years. Clause (C) Where one or more C.R.s have not been written for any reason during the relevant period, the DPC should consider the C.R.s of the years preceding the period in question and if in any case even these are not available, the D.P.C. should take the C.R.s of the lower grade into account to complete the number of C.R.s required to be considered as per (b) above”.

478. **ACR Gists:**

The Gists of the ACRs of the following officials are as under :-

ACR of Sh. Yash Pal Batra, A.E.

<i>Sr. No.</i>	<i>Period</i>	<i>Grading</i>	<i>Reported/ reviewed/ Accepted</i>	<i>Remarks</i>	<i>Evaluation</i>
1.	01.04.2015 to 31.03.2016	Outstanding	Reviewed	-	4
2.	01.04.2016 to 31.03.2017	Outstanding	Accepted	-	4
3.	01.04.2017 to 22.08.2017	-	-	NRC obtained	-
	23.08.2017 to 31.03.2018	Outstanding	Accepted		2
4.	01.04.2018 to 31.03.2019	Very Good	Accepted	-	3
5.	01.04.2019 to 31.03.2020	Outstanding	Accepted	-	4
TOTAL					17

ACR of Sh. Sanjeev Kumar, A.E.

<i>Sr. No.</i>	<i>Period</i>	<i>Grading</i>	<i>Reported/ reviewed/ Accepted</i>	<i>Remarks</i>	<i>Evaluation</i>
1.	01.04.2006 to 31.03.2007	Good	Accepted	-	2
2.	01.04.2007 to 31.03.2008	Good	Accepted	-	2
3.	01.04.2008 to 31.03.2009	Very Good	Reported	NRC obtained	-
4.	01.04.2009 to 31.03.2010	Good	Reported	NRC obtained	-
5.	01.04.2010 to 31.03.2011	Good	Accepted	-	2
6.	01.04.2011 to 29.02.2012	Good	Reported	NRC obtained	-
7.	01.04.2012 to 31.03.2013	Good	Reviewed	-	2
8.	01.04.2013 to 31.03.2014	Outstanding	Reported	NRC obtained	-
9.	01.04.2014 to 09.03.2015	Outstanding	Reported	NRC obtained	-
10.	01.04.2015 to 31.03.2016	Very Good	Reported	NRC obtained	-
11.	01.04.2016 to 31.03.2017	Very Good	Accepted		3
12.	01.04.2017 to 31.03.2018	Very Good	Reported	NRC obtained	-
13.	01.04.2018 to 31.03.2019	Average	Accepted		1
14.	01.04.2019 to 09.05.2019	-	-	Not available	-
	10.05.2019 to 21.11.2019	-	-	Suspension period	-
	25.11.2019 to 31.03.2020	Very Good	Accepted	-	1.5
TOTAL					13.5

Sh. Sanjeev Kumar, A.E. (PH) holding the additional charge of SDE (QC Lab), CHB was placed under suspension 10.05.2019 to 21.11.2019 under Rule 8 of Punjab Civil Services (Punishment & Appeal, 1970) for contemplated in the matter of refusal to sign the an Affidavit which resulted in failure of Chandigarh Housing Board to file it in the Court within the prescribed timeline. Later on the Competent authority, CHB has imposed the minor penalty to withhold increment of pay without cumulative effect for one year upon Sh. Sanjeev Kumar, A.E. (PH). Further, his suspension vide order No.130 dated 10.05.2019 was revoked and suspension period was to be

treated as leave of kind due. Since the pendency period is over therefore, he is clear from the vigilance angle.

ACR of Sh. Abnesh Kumar Dhadwal, A.E.

<i>Sr. No.</i>	<i>Period</i>	<i>Grading</i>	<i>Reported/ reviewed/ Accepted</i>	<i>Remarks</i>	<i>Evaluation</i>
1.	01.04.2015 to 31.03.2016	Outstanding	Accepted	-	4
2.	01.04.2016 to 31.03.2017	Outstanding	Accepted	-	4
3.	01.04.2017 to 31.03.2018	Outstanding	Accepted	-	4
4.	01.04.2018 to 31.03.2019	Very Good	Accepted	-	3
5.	01.04.2019 to 31.03.2020	Very Good	Accepted	-	3
TOTAL					18

ACR of Sh. Ashok Singla, A.E.

<i>Sr. No.</i>	<i>Period</i>	<i>Grading</i>	<i>Reported/ reviewed/ Accepted</i>	<i>Remarks</i>	<i>Evaluation</i>
1.	01.04.2015 to 31.03.2016	Outstanding	Accepted	-	4
2.	01.04.2016 to 31.03.2017	Outstanding	Accepted	-	4
3.	01.04.2017 to 31.03.2018	Outstanding	Accepted	-	3
4.	01.04.2018 to 31.03.2019	Very Good	Accepted	-	3
5.	01.04.2019 to 31.03.2020	Very Good	Accepted	-	3
TOTAL					17

ACR of Sh. Vijay Kumar, A.E.

<i>Sr. No.</i>	<i>Period</i>	<i>Grading</i>	<i>Reported/ reviewed/ Accepted</i>	<i>Remarks</i>	<i>Evaluation</i>
1.	01.04.2014 to 31.03.2015	Good	Reviewed	-	2
2.	01.04.2015 to 31.03.2016	Average	Reviewed	-	1
3.	01.04.2016 to 31.03.2017	Very Good	Accepted	-	3
4.	01.04.2017 to 13.10.2017	Very Good	Accepted	-	1.5
	14.10.2017 to 28.11.2017	-	-	less than 3 months	-
	29.11.2017 to 31.03.2018	Good	Accepted		1
5.	01.04.2018 to 03.07.2018	Good	Accepted	-	1
	04.07.2018 to 31.03.2019	Very Good	Accepted	-	1.5
6.	01.04.2019 to 31.07.2019	Good	Accepted	-	1
	01.08.2019 to 31.03.2020	Very Good	Accepted	-	1.5
TOTAL					13.5

A Show Cause Notice vide this office order No.899 dated 31.03.2016 was issued under Clause (a) of sub-rule 3 of Punjab civil Service (Premature Retirement) rule, 1975 to Sh. Vijay Kumar, A.E., CHB for premature retirement on 30.06.2016. Against the said SCN, Sh. Vijay Kumar, Assistant Engineer, CHB filed a Civil Writ petition in the Hon’ble Punjab & Haryana High Court ordered the status quo and now the case is listed on dated 30.07.2021.

ACR of Sh. Mohit Khanna, A.E.

Sr. No.	Period	Grading	Reported/ reviewed/ Accepted	Remarks	Evaluation
1.	01.04.2014 to 31.03.2015	Very Good	Reviewed	-	3
2.	01.04.2015 to 31.03.2016	Very Good	Reviewed	-	3
3.	01.04.2016 to 28.10.2016	N.A.	-	NRC obtained	1.5
	29.10.2016 to 20.02.2017	Very Good	Accepted		
4.	01.04.2017 to 31.03.2018	-	-	Suspension period	-
5.	01.04.2018 to 31.03.2019	Very Good	Accepted	-	3
6.	01.04.2019 to 09.05.2019	-	-	Less than 3 months	3
	10.05.2019 to 31.03.2020	Very Good	Accepted	-	
TOTAL					13.5

Sh. Mohit Khanna, A.E. (PH) was placed under suspension with effect from 21.02.2017 vide this office order No.14 dated 21.02.2017 under Rule 4(i) of Punjab Civil Services (Punishment & Appeal, 1970) read with rule 11 & 12 of the Chandigarh Housing Board (Officer and Servant) Service Regulation, 2003 due to administrative reasons. Later on the Competent Authority, CHB has imposed penalty of “Censure” upon Sh. Mohit Khanna, A.E. vide this office order No.40 dated 06.03.2018. Further, his suspension period from 21.02.2017 to 06.03.2018 treated as duty period for all intents and purposes. Since the pendency period is over therefore, he is clear from the vigilance angle.

ACR of Sh. Mohit Handa, A.E.

Sr. No.	Period	Grading	Reported/ reviewed/ Accepted	Remarks	Evaluation
1.	01.04.2015 to 31.03.2016	Outstanding	Reviewed	-	4
2.	01.04.2016 to 31.03.2017	Outstanding	Accepted	-	4
3.	01.04.2017 to 22.08.2017	N.A.	-	NRC obtained	-
	23.08.2017 to 31.03.2018	Outstanding	Accepted		
4.	01.04.2018 to 31.03.2019	Outstanding	Accepted		4
5.	01.04.2019 to 31.03.2020	Very Good	Accepted		3
TOTAL					17

ACR of Sh. Rajesh Kumar Popli, A.E.

Sr. No.	Period	Grading	Reported/ reviewed/ Accepted	Remarks	Evaluation
1.	01.04.2014 to 31.03.2015	Very Good	Reviewed	-	3
2.	01.04.2015 to 31.03.2016	Very Good	Reviewed	-	3
3.	01.04.2016 to 28.10.2016	-	-	NRC obtained	-
	29.10.2016 to 31.03.2017	Very Good	Accepted		
4.	01.04.2017 to 14.12.2017	Very Good	Accepted	-	2
	15.12.2017 to 30.01.2018	-	-	Less than 3 months	-
	31.01.2018 to 31.03.2018	-	-	--do--	-
5.	01.04.2018 to 31.03.2019	Very Good	Accepted	-	3
6.	01.04.2019 to 31.03.2020	Very Good	Accepted	-	3
TOTAL					15.5

ACR of Sh. Krishan Gopal, A.E.

<i>Sr. No.</i>	<i>Period</i>	<i>Grading</i>	<i>Reported/ reviewed/ Accepted</i>	<i>Remarks</i>	<i>Evaluation</i>
1.	01.04.2014 to 31.03.2015	Very Good	Reviewed	-	3
2.	01.04.2015 to 31.03.2016	Good	Reviewed	-	2
3.	01.04.2016 to 31.03.2017	Good	Accepted	-	2
4.	01.04.2017 to 22.08.2017	N.A.	-	NRC obtained	
	23.08.2017 to 31.03.2018	Very Good	Accepted		1.5
5.	01.04.2018 to 31.03.2019	Very Good	Accepted	-	3
6.	01.04.2019 to 31.03.2020	Very Good	Accepted	-	3
TOTAL					14.5

ACR of Sh. Rajeev Kumar, A.E.

<i>Sr. No.</i>	<i>Period</i>	<i>Grading</i>	<i>Reported/ reviewed/ Accepted</i>	<i>Remarks</i>	<i>Evaluation</i>
1.	01.04.2014 to 31.03.2015	Outstanding	Reviewed	-	4
2.	01.04.2015 to 31.03.2016	Outstanding	Reviewed	-	4
3.	01.04.2016 to 31.03.2017	N.A.	-	NRC obtained	
4.	01.04.2017 to 31.03.2018	Very Good	Accepted	-	3
5.	01.04.2018 to 03.07.2018	Outstanding	Accepted	-	2
	04.07.2018 to 31.03.2019	Very Good	Accepted	-	1.5
6.	01.04.2019 to 31.03.2020	Very Good	Accepted	-	3
TOTAL					17.5

479. On going through the Gist of ACR of the above officials, it has been found some period of ACRs are not reviewed/accepted by then Competent Authority for which as per the guidelines issued by the Department of Personnel, Chandigarh Administration vide letter No.22/5/23-IH(4)-2005/15556 dated 25.8.2005 alongwith circular instructions issued by the Govt. of Punjab vide letter No.15/23/92-IPPI/9158 Dated 28.5.1993, the necessary “No Report Certificate” for the Reported/ Not available ACR has been obtained.

480. The Chandigarh Administration, Department of Personnel instructions issued vide no. 34/ 23/ 94-IH (7)-2009/9380 dated 12.05.2009 in which reference has been invited to Pb. Govt. letter no. 4/6/2000-3PPI/13720 dated 6.09.2001, which inter-alia stipulate the numbering system of evaluation of the ACRs as under:-

Outstanding : 4 marks
Very good : 3 marks
Good : 2 marks
Average : 1 mark.

481. It has been further laid down that for promotion to posts falling in Group ‘A’ other than Head of Departments, the minimum bench mark will be Very Good with at least 12 marks. Amongst those meeting this criteria, there would be no super session.”

21. From the perusal of the above extracted decision

(Annexure R-1/1A), it is evident that in terms of Para 6.2.1 of DPC guidelines read with the Chandigarh Administration, Department of Personnel Instructions issued vide No.34/23/94-IH(7)-2009/9380 dated 12.05.2009 (as referred in para 480 in the above extracted decision), the assessment of each candidate is to be carried out on the basis of evaluation of the Confidential Reports (in short 'the CRs') for 5 preceding years and the minimum bench mark is 12 marks. Para 6.2.1 of the DPC guidelines clearly provides that in the case of non-rendition of the CRs for one or more years, then the DPC has to consider the confidential reports of the years preceding the period of five years and if in any case even these are not available then the DPC can even consider the confidential reports of the lower grade for evaluation/assessment of the candidate on the profile of 5 confidential reports.

22. Para 6.2.1 of the DPC guidelines does not in any manner enunciate the expansion of the reckonable period to the past CRs to the extent only to make the candidate achieve the minimum benchmark requirement of 12 marks.

23. From the above extracted decision (Annexure R-1/1A), it is apparent that in the case of respondent no. 4 (Sanjeev Kumar), the CRs of seven preceding years (by excluding the years where confidential reports have not been rendered in respect of respondent no. 4) have been considered to achieve the bench mark of 12 marks, to make the respondent No. 4 eligible for promotion by the said DPC. Whereas, if the Confidential Report's evaluation of respondent no. 4 based upon service records in preceding 5 years (by excluding the assessment years in which NRC is obtained) is seen; then the reckonable period (going backwards) would be

from the year 2019-2020 to the year 2010-2011, wherein five CRs were available and evaluated. By considering the five CRs backward, starting from 2019-20 upto 2010-11, the evaluation of respondent No.4 would come to 9.5 marks, which is clearly below the benchmark of 12 marks. Therefore, it appears that as regards respondent No.4, the evaluation for the period 2006-07 and 2007-08 have been included with the object to make respondent No.4 reach the benchmark of 12 marks, so as to make him eligible for promotion.

Similar position appears to be as regards Vijay Kumar as well.

24. Another factor which needs to be noticed here is that while taking note of the gist of the ACRs as regards respondent No.4, it is mentioned that the Chandigarh Housing Board has imposed the minor penalty to withhold increment of pay without cumulative effect for one year upon Sh. Sanjeev Kumar (respondent No.4); however, the period of afore-said one year is not forthcoming.

25. The afore-said factors would result in a cascading effect on the impugned promotion order dated 22.04.2021 (Annexure P-24), especially in view of the observation made above that the respondent no. 4 did not meet the benchmark of 12 marks in the reckonable preceding 5 CRs. Consequently, in my considered view, the assessment/evaluation of the candidates [Junior Engineer/Assistant Engineer/Draftsmen (PH)] coming within the zone of consideration for promotion to the post of Sub Divisional Engineer (PH), would require relook and reconsideration by the said DPC by way of conducting a review DPC.

Ordered accordingly.

26. In view of the above discussion and the directions for review

DPC, the impugned promotion order dated 22.04.2021 (Annexure P-24) is hereby set aside. Consequently, the respondents are directed to review the proceedings of the DPC which shall be conducted within a period of six months from the date of receipt / presentation of certified copy of this order.

27. The instant petition is accordingly disposed of in the afore-stated terms.

28. All pending application/s, if any, shall stand closed.

November 24, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No