



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

230-2

CWP-31184-2018
Date of decision : 19.07.2024

Raj KumarPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Sherry K. Singla, Advocate for
Mr. Pratap Singh, Advocate for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Mr. Kartik Bansal, Advocate for respondents No.3 & 4.

NAMIT KUMAR, J. (Oral)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of certiorari, quashing the order dated 20.02.2018 (Annexure P-10), passed by respondent No.2, whereby claim of the petitioner for promotion to the post of Junior Engineer (Civil) has been rejected.

2. In the written statement, filed on behalf of respondents No.1 and 2, it has been stated as under :-

“xx xx xx xx xx

3. *That the petitioner have no grievance to approach this Hon'ble Court, as none of his fundamental or statutory right has been violated. The petitioner is not eligible in terms of applicable Statutory Rules and infact he is presenting Rules and facts in convoluted form, so as to mislead this Hon'ble Court. The service conditions of the petitioner is governed by the Punjab Municipal Corporation Services (Recruitment and Conditions of Service) Rules, 1978. Rule 4 of the said Rules provides that the qualification necessary for direct recruitment and for*



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promotion to the posts in service shall be as per Appendix “B”. The Appendix “B” provide the below mention qualification as amended/substituted by Notification dated 31.01.1996 for promotional to the post of Junior Engineer (Civil) of Municipal Corporation from Feeder Cadre :-

Appendix B

<i>Sr. No.</i>	<i>Name of Post</i>	<i>Qualification for direct recruitment</i>	<i>Qualification for promotion</i>
<i>10</i>	<i>Punjab Service of Corporation Junior Engineers (1) Junior Engineer (Civil)</i>	<i>From amongst the candidates who possess a diploma in Civil Engineering of a recognized Institution</i>	<i>(i) Fifteen per cent form amongst the following categories of employees Corporations, under the Control of the Director, Local Government, Punjab who possess qualifications prescribed for direct recruitment for the post of Junior Engineer (Civil), and who have an experience of working as such for a period of eight years in the following ration, namely:- (a) ten per cent out of Work Supervisors; and (b) five per cent out of Surveyors/Work Mistries; (c) thirty-five per cent form amongst the following categories of employees working in the Municipal Corporations under the control of Director, Local Government, Punjab whoare Matriculates of equivalent and who have an experience of working on either of the above said posts for a minimum period of twelve years and who have passed departmental examination to be conducted by the Director, Local Government, Punjab in the following ratio:- (a) ten per cent out of Work Supervisors; and (b) twenty-five per cent out of Work Mistries/Surveyors</i>

From perusal of above it is apparent that 35% of promotion quota posts are to be filled from amongst categories of employee working in Municipal Corporation under Director, Local Government, Punjab and who are matriculates and have minimum experience of 12 years besides having passed the departmental examination. The petitioner does not fulfill the aforesaid qualification.



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xx xx xx xx xx

6. *That the petitioner has not passed the departmental exam as per the aforesaid qualification and therefore was not considered for promotion. The qualification of passing the departmental exam is necessary as per the Rules and therefore the Rules cannot be ignored. The department has conducted the departmental examination test on 29.05.2018. The detail of the candidates willing to appear in the departmental test was sought from the Municipal Corporations vide letter dated 13.07.2017 but the petitioner neither submitted any application nor had appeared in the said examination. The condition of passing the departmental examination was very well effective with the Rules 1978 as well as in the amended Rules, 2015.”*
3. Learned State counsel submits that since the petitioner has not passed the departmental examination which is mandatory for promotion to the post of Junior Engineer (Civil) as per the rules, therefore, the petitioner is not eligible for promotion. He further submits that the department has conducted the departmental examination on 29.05.2018 and details of the candidates willing to appear in the departmental examination was sought from the Municipal Corporations vide letter dated 13.07.2017, but the petitioner neither submitted any application nor had appeared in the said examination.
4. Since the petitioner is not eligible as he has not passed the departmental examination as per the Rules, therefore, no mandamus can be issued against the provisions of the Rules to promote the petitioner to the post of Junior Engineer (Civil).
5. In view of the above, the present petition is dismissed.

19.07.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No