



LPA-1761-2019(O&M)

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

LPA-1761-2019 (O&M)
Date of Decision: 22.09.2025

HARYANA STATE AGRICULTURE MARKETING BOARD

.....Appellant

V/S

SATISH KUMAR AND ANOTHER

.....Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Deepak Balyan, Advocate with
Mr. Vicky Chauhan, Advocate, for the appellant.

Mr. Raman B. Garg, Advocate with
Mr. Mayank Garg, Advocate, for respondent No.1.

ROHIT KAPOOR, J.

CM-3963-LPA-2019

1. This application has been filed under Section 151 of the Code of Civil Procedure seeking condonation of delay of 80 days in re-filing the appeal.

2. For the reasons stated in the application, the same is allowed.
The delay of 80 days in re-filing the appeal stands condoned.

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3. This application has been filed under Section 5 of the Limitation Act, seeking condonation of delay of 140 days in filing the appeal.

4. We have perused the affidavit filed by the Secretary, Haryana State Agriculture Marketing Board, Panchkula. For the reasons stated



therein, we are satisfied that sufficient cause has been shown for the delay.

5. Accordingly, the application is allowed. The delay of 140 days in filing the appeal stands condoned.

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6. This appeal arises out of a judgment passed by the learned Single Judge dated 14.11.2018, whereby the order passed by the employer dated 06.04.2016 refusing to grant promotional pay scale to the respondent-writ petitioner w.e.f. 01.05.1989 has been set aside.

7. The writ petitioner was appointed in the Haryana State Agricultural Marketing Board as Sub Divisional Officer on 01.04.1975. He was promoted to the post of Executive Engineer on 30.06.1993. He was further promoted to the post of Superintending Engineer vide order dated 16.11.2006 w.e.f. 17.09.1999. An FIR No.120 dated 24.04.2001 was lodged against the respondent under various Sections of the Prevention of Corruption Act on account of his implication in a trap. It transpires that the promotional pay scale was initially not granted to the employees of Haryana State Agricultural Marketing Board and it is only sometime in the year 2009 that such policy was introduced. The promotional pay scales were to be granted subject to satisfactory service. The claim of the writ petitioner for grant of promotional pay scales was initially deferred for seeking opinion of higher authorities, after noticing the fact that 70% ACRs were not complete and for the year 1979-80, his integrity was found doubtful. It also transpires that the writ petitioner was ultimately convicted by the Sessions Court in the trap case. However, at the stage of appeal, the witnesses turned hostile and therefore the respondent-petitioner was acquitted by granting him benefit of doubt. The dismissal order passed by the employer against the petitioner on



the strength of his conviction in the criminal case was also set aside by this Court. It is thereafter that the claim for promotional pay scale was accorded consideration by the employer. It was taken note of that between 1984 to 2008, 26 charge sheets were issued to the respondent-petitioner.

8. Learned Single Judge has noticed the facts in the judgment that the petitioner was exonerated in 8 charge sheets; he was censured in 03 charge sheets; warning was issued in 03 charge sheets; charges were dropped in 06 charges; charges were filed in 03 charge sheets; charges were withdrawn in 01 charge sheet and punishment of recovery was awarded in two charge sheets.

9. Learned Single Judge ultimately quashed order dated 06.04.2016 by *inter-alia* observing as under:-

“Heard learned counsel for the parties.

In the present case, it is not in dispute between the parties that the petitioner earlier filed CWP No. 10487-2014, which was allowed on 14.01.2016 (Annexure P-5). This judgment was challenged by the Board by filing LPA No. 757-2017, which was also dismissed. The petitioner was paid all the consequential benefits from the date of his dismissal i.e. 22.04.2008 till the date which includes salary from 22.04.2008, the date of dismissal to 30.04.2009, the date of retirement of the petitioner and pension from 01.05.2009 till date. An order dated 17.04.2008 was also issued and pay and allowance in favour of the petitioner was released w.e.f. 22.04.2008 to 30.04.2009. Further the petitioner has been sanctioned pension from 01.05.2009 vide order dated 27.04.2018.

However, the petitioner was not granted the revised pay scale w.e.f. 01.05.1989 as granted to his colleagues including



his juniors, vide Annexure P-9 only on the ground that his 70% ACR's are not complete and his integrity was doubtful.

A perusal of the above 26 charge sheets would reveal that either the petitioner was exonerated or the charge sheets were dropped/filed in 18 charge sheets. The petitioner was censured or warned in 06 charge sheets and the said penalty has no value in the eyes of law. The only record of the petitioner upto 01.05.1989 was to be considered for grant of selection grade to him. Reference can further be made to order dated 18.01.2015 (Annexure P-24) whereby the allegations against the petitioner were inquired into in the departmental enquiry and the petitioner was found to be innocent. The Committee dropped the charge sheet issued vide memo dated 08.01.2002. In the judgment dated 17.12.2012, it further revealed that the petitioner was acquitted honorably.”

10. Aggrieved by the judgment of the learned Single Judge, employer is before us in the present appeal.

11. Learned counsel for the appellant submits that the service record of the writ petitioner clearly indicated that services were not satisfactory during the course of his employment and, therefore, he is not entitled to the benefit of promotional pay scale. It is further submitted that the findings of the learned Single Judge that the respondent-petitioner was acquitted honourably and was found innocent in the departmental enquiry are based on an incorrect appreciation of material available on record. It is contended that the perusal of the acquittal order would clearly show that benefit of doubt was given to the petitioner, and the order passed in the departmental enquiry was based upon the said acquittal order.

12. Learned counsel for the respondent-petitioner on the other hand



urges that in terms of the applicable policy, the benefit of promotional pay scale cannot be denied to the writ petitioner. So far as the policy followed by the State for grant of promotion is concerned, our attention has been invited to Government Order dated 19.07.1973, as per which, censure or warning indeed are not to be taken as material *per se* adverse against the employee for consideration of his claim for promotion and overall suitability of the employee is to be judged by treating these penalties as part of overall record of the employee.

13. Our attention has also been invited to Government Order dated 09.05.1985, which provides as under:-

“2(iv). Copy of C.S. Hr.No.2/10/85-GSI dt. 9.5.85

I am directed to invite your attention to the instructions contained in Hr. Govt. Letter No.931-IGS-72/10308 dated the 13.4.1972 on the subject noted above where in it was provided inter alia that the officials who have earned 50% or more good or better than average report during the last ten years of service should be considered eligible for promotion to higher post.

2. The matter has been considered further by the State Govt. and it has been decided that in future only such official/Officer(s) who have obtained at least 70% or more reports of good or better categories during the last 10 years should be considered eligible for promotion to a higher post from which further promotion is being considered.

These instructions may please be noted for careful compliance and brought to the notice of all concerned.”

14. The question of grant of promotional pay scale to the respondent is required to be considered in the light of the prevalent policy applicable on 01.05.1989. The aforesaid two Government Orders would be applicable in the present case. Undisputedly, as per the policy for grant of

promotional pay scales, the competent authority was required to satisfy itself that overall service record of the employee, was satisfactory.

15. The records reveal that ACRs of the petitioner for the year 1978-1979, 1981-1982, 1982-1983, 1983-1984 and 1985-1986 were not available. The integrity of the officer was found doubtful for the year 1979-1980. In the last 10 years, preceding 01.05.1989, 05 charge sheets were issued to the officer, which are as under:-

Sr. N o.	C/sheet whether under rule-7 or 8	Issued on	Decision/Remarks
1	7	12.11.84	Recorded warning vide order dated 26.9.95
2	7	11.2.87	Censured vide order dated 16.6.88
3	7	19.4.88	Withdrawn vide order dated 19.5.88
4	7	26.2.88	Censured vide order dated 18.3.92
5	7	29.6.88	Exonerated vide order dated 10.3.99

16. Cumulative assessment of the record of the respondent for the last 10 years would reveal that he has been censured twice and warned once. His integrity was also found doubtful for 01 year. The employer has taken a decision not to grant promotional pay scale to the respondent-petitioner, after taking into consideration the overall service record, as mandated under the policy and applicable instructions. We also find force in the submissions made by the learned counsel for the appellant that the petitioner was acquitted by giving him benefit of doubt. However, even if this aspect was to be kept aside, still the decision of the employer that the overall service record of the writ petitioner was not satisfactory, so as to earn him the promotional pay scale, cannot be termed as arbitrary or illegal.



17. It is well settled that assessment by the concerned authority as to whether the employee's overall service record is satisfactory or not, is generally not within the domain of the Constitutional Courts exercising their powers of judicial review under Article 226 of the Constitution of India, unless there is a clear case of procedural illegality, manifest injustice or violation of statutory provisions. It has been repeatedly held by the Hon'ble Supreme Court that Constitutional Courts cannot act as an Appellate body and cannot substitute its view for that of the competent authority. Records reveal that keeping in view the provisions of natural justice, the petitioner was afforded opportunity of personal hearing and the entire service record was put up before the Administrative Committee where yet another opportunity of hearing was accorded to him. It is only after considering the entire service record of the petitioner, that the competent authority rejected the claim of the petitioner finding the said record to be not satisfactory, which was a pre-condition for the grant of promotional scale/ACP scale.

18. Having given our thoughtful consideration, we are not persuaded to endorse the view taken by the learned Single Judge while setting-aside the order dated 06.04.2016 passed by the competent authority, since it tantamounts to substituting the subjective satisfaction of the authority concerned, as regards the overall service record of the petitioner, which in our opinion was not warranted in the facts and circumstances of the case. We do not find that the order dated 06.04.2016 suffers from any procedural illegality, manifest injustice or violation of statutory provisions.

19. Consequently, the present Letters Patent Appeal is allowed and the impugned judgement and order dated 14.11.2018 passed by the learned Single Judge is set-aside.



20. All application (s), if any, stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

September 22, 2025

R Sharma/ajaysharma

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No