

LPA-3392-2024 (O&M)

2025:PHHC:026744-DB



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

**CM-8367-69-LPA-2024 in/and
LPA-3392-2024**

Date of Decision: February 24, 2025

RAJ KUMAR

.....Appellant

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Naveen Daryal, Advocate and
Dr. Sandeep K. Passi, Advocate for the appellant.

Mr. R.S. Pandher, Sr. DAG, Punjab.

LISA GILL, J.

CM-8368-LPA-2024

1. For the reasons mentioned in the application as well as arguments addressed, delay of 10 days in re-filing the appeal is condoned.
2. Application is, accordingly, disposed of.

CM-8367-LPA-2024

1. For the reasons mentioned in the application as well as arguments addressed, delay of 17 days in filing the appeal is condoned.
2. Application is, accordingly, disposed of.

LPA-3392-2024 (O&M)**LPA-3392-2024 (O&M)**

1. Prayer in this appeal is for setting aside order dated 19.07.2024 passed by learned Single Bench whereby CWP-31184-2018 filed by appellant (writ petitioner) has been dismissed.

2. Appellant (writ petitioner) filed abovesaid writ petition for setting aside order dated 20.02.2018, whereby his claim for promotion to the post of Junior Engineer (Civil) from the post of Work Supervisor had been rejected. It is pleaded that appellant (writ petitioner) was appointed as Work Supervisor with Municipal Corporation, Bathinda on 27.01.1995. Vide order dated 18.11.2006, he was promoted to the post of Junior Engineer (Civil). He worked on the said post for two years but was reverted at his own request, citing some domestic problems, with a rider he would be debarred for promotion to the said post for the next two years. After expiry of said two years, appellant sought his appointment to the promoted post of Junior Engineer on 02.08.2010. It is stated that his case was recommended and forwarded to respondent No. 1 but when no action was taken, appellant filed CWP-25992-2017 which was disposed of on 15.11.2017, directing competent authority to decide his representation within a period of three months. Accordingly, order dated 20.02.2018 was passed, rejecting his claim.

3. CWP-31184-2018 filed thereafter by appellant has been rejected by learned Single Bench, while specifically observing that appellant had not passed the departmental examination which is mandatory for promotion to post of Junior Engineer as per Punjab Municipal Corporation Services (Recruitment and Conditions of Service) Rules, 1978 (for short – ‘the PMCS (R&C) Rules 1978’). It is further observed in impugned order dated

19.07.2024 that Department had conducted departmental exam on 29.05.2018

LPA-3392-2024 (O&M)

but appellant never submitted his application nor took the said examination. Aggrieved of order dated 19.07.2024, present appeal has been filed.

4. Learned counsel for appellant vehemently argues that once promotion had been afforded to him way back on 18.11.2006 and appellant had in fact worked on the said post for nearly two years, there is no question of rejecting his claim at this stage. It is further contended that it is the PMCS (R&C) Rules, which were applicable at that relevant point of time, which are to be considered and not Rules as amended in 2015. Reference is made to draft Rules dated 23.07.1998 in respect to employees of Municipal Council (Annexure P6). It is, thus, prayed that this appeal be allowed.

5. Learned counsel for State has opposed this appeal while submitting that clearing of departmental examination was a mandatory condition at the relevant time in terms of notification dated 31.01.1996. Reference to draft Rules dated 23.07.1998 is of no avail to the appellant as these pertain to qualification and eligibility criteria for promotion in Municipal Councils to the post of Junior Engineer and not to employees of Municipal Corporations. It is, thus, prayed that this appeal be dismissed.

6. We have heard learned counsel for parties and have carefully perused the file, however, we do not find any ground for interference in the present appeal. Service conditions of appellant are governed by the PMCS (R&C) Rules, 1978. Rule 4 thereof, provides that necessary qualifications for direct recruitment and promotion to the posts in service shall be as per Appendix B. Appendix B of the PMCS (R&C) Rules, 1978 as reproduced in the written statement filed on behalf of respondents No. 1 and 2 has been reproduced verbatim in order dated 19.07.2024, as under:-

LPA-3392-2024 (O&M)

“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

Sr. No.	Name of Post	Qualification for direct recruitment	Qualification for promotion
10.	Punjab Service of Corporation Junior Engineers (1) Junior Engineer (Civil)	From amongst the candidates who possess a diploma in Civil Engineering of a recognized Institution	(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 who are 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:-

LPA-3392-2024 (O&M)

			(a) ten per cent out of Work Supervisors; and (b) twenty-five per cent out of Work Mistries/ Surveyors
--	--	--	---

7. It is specifically provided therein that 35% of promotion quota posts are to be filled up from amongst categories of employees working in Municipal Corporation under Director Local Government, Punjab, who are Matriculate and have minimum experience of 12 years besides having passed departmental examination. It is a matter of record that PMCS (R&C) Rules, 1978 were in currency even at the time of passing of order dated 18.11.2006 whereby appellant was purportedly promoted to the post of Junior Engineer (Civil). On pointed query, learned counsel for appellant affirmed that appellant had not passed the requisite departmental examination either in 2006 or thereafter. In this factual matrix, it is correctly held by learned Single Bench that appellant not having passed departmental examination, which is a mandatory condition for promotion to the post of Junior Engineer (Civil), was not eligible for promotion.

8. Argument raised by learned counsel for appellant that as appellant had already been promoted on 18.11.2006 and was reverted only on his own request, therefore, he is entitled to promotion, is an argument in futility in the given circumstances. In case, his initial promotion was incorrect, it was not incumbent upon respondent – Department to promote appellant on the said post merely on account of an earlier incorrect order. Reference to notification dated 23.07.1998 is indeed of no avail to the appellant as it does not pertain to employees of Municipal Corporations.

LPA-3392-2024 (O&M)

9. Learned counsel for appellant is unable to point out any illegality, infirmity or perversity in the impugned order dated 19.07.2024 passed by learned Single Bench.
10. No other argument has been addressed.
11. Appeal is, accordingly, dismissed with no order as to costs.
12. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

February 24, 2025
Rts

(ALOK JAIN)
JUDGE

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