

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

**CWP-22694-2025 (O&M)
Reserved on: 06.08.2025
Pronounced on: 22.08.2025**

Rajesh Sharma

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Neha Jain, Advocate
for the Petitioner.

Mr. Siddharth Sandhu, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

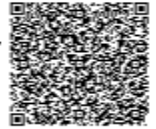
1. Present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* seeking quashing of the order dated 07.07.2025 (Annexure P-24), whereby claim of the petitioner for grant of higher pay grade and promotion next to the post of Programmer-cum-System Manager stands rejected and further for issuance of writ in the nature of *mandamus* directing the respondents to create a promotional avenue for the petitioner since he has been stagnant on the post



of Programmer-cum-System Manager.

CONTENTIONS

2. Learned counsel for the petitioner, *inter alia*, contends that initially, the petitioner was appointed by respondent No.2-Corporation on the post of Programmer-cum-System Manager on contract basis on 05.01.2006 and vide Resolution No.392 dated 02.12.2011 (Annexure P-3), his services were regularized and the State Government approved the same vide letter dated 24.12.2011 (Annexure P-4). Thereafter, the petitioner was issued a Letter of Appointment on 24.12.2011 (Annexure P-5) and he submitted his joining report on the same day. Further, vide notification dated 03.07.2014 (Annexure P-6), Local Government Department, Punjab under Section 71(1) of Punjab Municipal Corporation Act, 1976 (for short 'MC Act') constituted the post of Programmer-cum-System Manager, however, no recruitment rules for the said post were framed. Thereafter, Department of Governance Reforms, Punjab issued notification dated 30.11.2015 (Annexure P-7), framing Punjab Governance Reforms (Group A) Technical Service Rules, 2015 (for short 'Rules of 2015') for the various posts under proviso to Article 309 of the Constitution of India and recruitment rules for the posts of Senior System Manager, System Manager and Assistant Manager were also framed. The System Manager was placed in the pay grade of Rs.6600/- with pay scale of Rs.15600-39100/- and Assistant Manager was placed in pay grade of



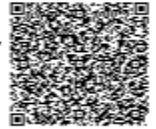
Rs.5000/- with pay scale of Rs.10300-34800/-. As such, post of the petitioner i.e. Programmer-cum-System Manager is equivalent to Assistant Manager and he is eligible for promotion to System Manager, therefore, respondent No.2-Corporation, vide letter dated 11.02.2020 (Annexure P-8), sent his case for promotion to the Government.

3. Thereafter, respondent No.2-Corporation passed a Resolution No.93 on 28.10.2021 (Annexure P-9), recommending case of the petitioner for promotion to the post of System Manager and the same was sent to respondent No.1 for approval in view of the relevant provisions contained in Rules of 2015. Finding the work and conduct of the petitioner satisfactory and useful to respondent No.2-Corporation, Mayor, Municipal Corporation, Jalandhar, vide his DO letter dated 21.12.2021 (Annexure P-10), also requested the Government to promote him to the post of System Manager in the pay scale of Rs.15600-39100 with Grade Pay of Rs.6600/-. However, without examining all aspects of the case, vide order dated 06.05.2022 (Annexure P-11), implementation of Resolution (Annexure P-9) was stayed by the Government. Thereafter, the petitioner submitted a representation dated 10.06.2022 (Annexure P-12) praying to grant the pay scale of Rs.15600-39100 with Grade Pay of Rs.6600/- at least from the date of passing of resolution (Annexure P-9), which was rejected by the Government vide order dated 03.08.2022 (Annexure P-13) in an arbitrary manner. Moreover,



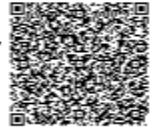
the persons junior to the petitioner, who were appointed on the post of Junior Engineer in the year 2011, have been promoted to the posts of Assistant Corporation Engineer and even Corporation Engineer.

4. Further, the petitioner submitted a detailed representation (Annexure P-14) to respondent No.1 on 26.11.2022, with a request to consider his claim by reviewing the decision taken on 03.08.2022 and thereafter, submitted a reminder dated 29.05.2023 (Annexure P-15). When no action was taken on the representation (Annexure P-14), the petitioner served a legal notice dated 31.07.2023 (Annexure P-16) upon the respondents, however, again his claim was rejected on the ground that the post of provincialized cadre and pay scale cannot be created under Section 71(1) of MC Act, as respondent No.2-Corporation has limited powers regarding pay scales and being an autonomous institution, rules of other department cannot be applied. In this regard, it is contended that one Varinder Khanna, Law Officer, posted in respondent No.2-Corporation has already been promoted to the post of Legal Advisor by adopting the rules and procedure of Municipal Corporations, Amritsar and Ludhiana, though the post of Legal Advisor is non-provincialized, as discernible from Annexures P-20 & P-21. However, while ignoring this fact, respondent No.1 rejected the claim of the petitioner vide orders dated 08.08.2023, 08.09.2023 & 30.10.2023 (Annexures P-17 to P-19 respectively).



5. Aggrieved by inaction of the respondents, the petitioner approached this Court by way of filing **CWP-20270-2024**, which was dismissed as withdrawn vide order dated 22.08.2024 (Annexure P-22), however, liberty was granted to approach the competent authority by filing a representation for redressal of his grievance. In pursuance of the order (Annexure P-22), a detailed representation was filed by the petitioner on 02.09.2024 (Annexure P-23), but vide impugned order dated 07.07.2025 (Annexure P-24), the same was rejected, without considering the ratio of law laid down by various Courts and the fact that his similarly situated employee i.e. Varinder Khanna, Law Officer, was granted the benefit of promotion to the post of Legal Advisor.

6. Learned counsel for the petitioner thus contends that for the last about 18 years, the petitioner is serving respondent No.2-Corporation and denial of promotion is contrary to the principles of natural justice. It is a well settled principle of law that legitimate claim of an employee for promotion cannot be rejected on the ground that he has received the benefits of ACP. He relies upon judgments of the Hon'ble Supreme Court in ***Raghunath Prasad Singh Vs. Secretary, Home (Police) Dept., Govt. of Bihar (Civil Appeal No.2439 of 1982)***, ***State of Tripura Vs. K.K. Roy, (2004), 9 SCC 65*** and ***Sukhmander Singh Vs. State of Punjab, 2025 (1) SLR 952***, wherein it has been held that every government employee must have at least two avenues of



promotion to avoid stagnation. As such, respondent No.1 has passed the impugned order dated 07.07.2025 (Annexure P-24) in an arbitrary and discriminatory manner.

7. Learned State counsel contends that claim of the petitioner for grant of promotion to the post of System Manager is being raised in absence of any legal provision or rule in the Punjab Municipal Corporation Services (Recruitment and Condition of Service) Rules, 1978 (for short 'Rules of 1978') as amended from time to time, which was made applicable to the petitioner. Further, it is a well settled law that promotion is not a legal right and a person can only be considered for promotion when there exists a promotional avenue. It is further contended that the fact that there was no promotional avenue to the post of System Manager, was well within the knowledge of the petitioner when he joined the service. Further, the notification dated 30.11.2015 (Annexure P-7) was made applicable to the posts sanctioned in the Department of Governance Reforms, Punjab and the same does not have any legal application or is binding on the Department of Local Government, or Municipal Corporations. Further, the post of Programmer-cum-System Manager in Municipal Corporation, Jalandhar cannot be equated with the post of System Manager in the Department of Governance Reforms, where there are separate posts of Programmer and System Manager with different pay scales. As such, the notification dated



30.11.2015 (Annexure P-7) being not applicable to Municipal Corporations, claim of the petitioner for promotion and grant of higher pay scale has rightly been rejected.

8. Learned State counsel further contends that the example of grant of pay scales to Assistant Corporation Engineers or Corporation Engineers, who are serving respondent No.2-Corporation, has no relevance with the post of Programmer-cum-System Manager. Hence, the claim based on the pay scale of any other post is unsubstantiated and cannot stand to support the claim of the petitioner. Further, Resolution No.93 dated 28.10.2021 (Annexure P-9) was passed by the House of respondent No.2-Corporation and in the absence of any such service rule and channel of promotion, Rules of 1978 applicable to the Department of Governance Reforms could not be applied to the Municipal Corporations, given the different service conditions. Hence, the resolution was rightly rejected. It was also brought to the attention of this Court that the petitioner has already availed the benefit of Assured Career Progression (for short 'ACP') on completion of 4 and 9 years of service on 05.01.2016 and 05.01.2021.

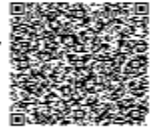
OBSERVATIONS AND ANALYSIS

9. Having heard learned counsel for the petitioner as well as learned State counsel at length and after careful perusal of record of the case with their able assistance, this Court of the opinion that the opportunity of



promotion or advancement is an essential feature for the progress of any organisation and acts as an incentive for personnel development of the employees. The Hon'ble Supreme Court, in a catena of judgments, has consistently held that opportunities for promotion enhance efficiency in public services, whereas stagnation diminishes efficiency and renders the service ineffective. Promotion is, therefore, to be regarded as a normal incidence of service. At least two promotional avenues for every government employee are crucial to avoid stagnation, having regard to the constitutional obligations adumbrated in Articles 14 and 16 of the Constitution of India. Reliance can be placed on the judgments of ***Raghunath Prasad Singh's*** case (*supra*), ***K.K. Roy's*** case (*supra*), ***Council of Scientific and Industrial Research Vs. K.G.S. Bhatt, (1989) 4 SCC 635*** and ***Dr. Ms. O.Z. Hussain Vs. Union of India, 1990 (Supp) SCC 688***.

10. Further, although the petitioner has already availed the benefit of ACP on completion of 4 and 9 years of service, it is significant to note that financial upgradations under ACP cannot be treated as a substitute for promotion. While the ACP scheme is indeed a good measure to mitigate stagnation, it cannot override or displace the law laid down by the Hon'ble Supreme Court on the subject. Similar view has been taken by the Coordinate Bench of this Court in ***Subhash Chander Vs. State of Haryana, (CWP-2427 of 2020(O&M))*** and ***Sanjeev Kumar Vs. Haryana Vidyut Prasaran Nigam***



Ltd., (CWP No. 24545 of 2015).

11. In view of the foregoing discussion, it is deemed appropriate in the interest of justice to direct the respondents to take a conscious decision regarding creation of an avenue of promotion for the post of Programmer-cum-System Manager by appropriately amending the Rules, within a period of six months from today and consider claim of the petitioner accordingly, within one month thereafter.

12. Present petition is disposed of accordingly.

13. All the pending miscellaneous application(s), if any, shall stand disposed of.

22.08.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No