



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

259

CWP-34528-2024 (O&M)

Date of decision: 14.07.2025

Manish Kumar Yadav

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Sanjay Kaushal, Sr. Advocate with
Mr. A.P. Setia, Advocate;
Mr. Arjun Kaushal, Advocate;
Ms. Pawel Preet, Advocate for the petitioner(s).

Ms. Dimple Jain, DAG Haryana.

Mr. Kanwal Goyal, Advocate and
Ms. Sheena Dahiya, Advocate and
Ms. Komal Klana, Advocate for the respondent(s)-HPSC.

VINOD S. BHARDWAJ, J. (Oral)

CM-9703-CWP-2025

Application is allowed as prayed for subject to all just exceptions. Replication to the written statement filed by respondents No.1 and 2 is taken on record. Registry is directed to do the needful.

Main case:

1. Challenge in the present writ petition is to the order dated 13.09.2024 passed by respondent No.2, namely, the Additional Chief Secretary and Financial Commissioner, Government of Haryana, Department of Revenue and Disaster Management, whereby claim of the petitioner for selection against 23 posts of HCS(Ex. Branch) for the year 2019 under Register A-1 has been rejected by the respondents and have consequently held him unsuccessful. A further prayer has been made for



issuance of a direction to declare the petitioner eligible as on the relevant date of consideration, i.e., 31.08.2019 and to direct consequential appointment and other benefits.

2. Learned senior counsel appearing on behalf of the petitioner submits that the petitioner was appointed as Naib Tehsildar and joined service on 23.08.2008. Thereafter, having qualified the prescribed departmental examinations and having undergone the mandatory training, the petitioner assumed charge as Tehsildar on 07.11.2013. As on the last date for consideration i.e. 31.08.2019, the petitioner had rendered a total service of 11 years, out of which approximately 03 years and 08 months were spent in training, while the remaining period of about 07 years and 04 months comprised field postings. It is further submitted that the Annual Confidential Reports (ACRs) of the petitioner were required to be recorded by the office of respondent No.2 viz. Additional Chief Secretary and Financial Commissioner, Government of Haryana, Department of Revenue and Disaster Management, on the basis of the petitioner's performance as reported and reviewed by the concerned Deputy Commissioners and Divisional Commissioners. Counsel contends that up to the year 2016-17, the petitioner had been graded as 'Outstanding' in five ACRs. Additionally, for the years 2017-18 and 2018-19, the ACRs recorded by the Reporting Authority (Deputy Commissioner) and Recommending Authority (Divisional Commissioner) were also 'Outstanding' and had been received in the office of respondent No.2 on 26.08.2019. It is urged that as per the applicable procedure, the competent authority for accepting the said remarks



was the Chief Secretary, which charge, at the relevant time, was held by the Additional Chief Secretary and Financial Commissioner, Department of Revenue and Disaster Management himself. Notwithstanding the same, the final acceptance and recording of the said ACR's was undertaken on 15.09.2019, i.e. after the cutoff date of 31.08.2019 by the authority.

3. Learned senior counsel for the petitioner further submits that the date 31.08.2019 assumes vital significance inasmuch as the respondent-State of Haryana initiated the selection process for filling up 23 posts in the Haryana Civil Services (Executive Branch) under Register A-1 for the year 2019, vide notification dated 30.05.2019. It is submitted that as per the said notification issued under Rule 9 of the Haryana Civil Services (Executive Branch) Rules, 2008 (un-amended) (hereinafter referred to as "the Rules of 2008"), the period of service rendered as Naib Tehsildar was, to be, excluded from completing the total length of service prescribed under Rule 9(1)(a) of the Rules of 2008. The learned senior counsel contends that, in terms of the un-amended Rule, the petitioner having rendered only 08 years of service as on 07.12.2021, was not eligible to participate in the said selection process. However, the said Rules had been amended in the year 2017, whereby the service rendered by a person as Naib Tehsildar was held eligible for computing the prescribed length of service under Rule 9(1)(a). The said amendment of 2017 was under challenge in a bunch of writ petitions including CWP No. 8502 of 2017, wherein the validity of including the service rendered as Naib Tehsildar in eligibility was in issue. It is stated that the said writ petitions were dismissed by a Division Bench of this Court



vide judgment dated 13.11.2019, thereby upholding the amended provisions. It is further submitted that the petitioner was a private respondent in the said proceedings and was permitted to participate provisionally in the selection process subject to final outcome of the proceedings. Pursuant thereto, the petitioner appeared before the Haryana Public Service Commission (HPSC) and was interviewed.

4. Learned senior counsel further contends that the petitioner came to learn through his senior colleagues that the respondent-State had treated him ineligible for consideration on the ground that six Annual Confidential Reports (ACRs) of 'Very Good' or above grading were not available in his service record as on 12.07.2019 during last 8 years. It is submitted that aggrieved by the said action of the respondent-State, the petitioner approached this Court by filing CWP No. 26093 of 2019, wherein the respondent-State filed a written statement outlining its defence. Relevant paragraph No.5 and 6 thereof reads thus:-

“5 That while recommending the names of other eligible candidates, the record of petitioner was not recommended by the answering respondent to the respondent No.1 as the petitioner did not fulfill the conditions "The candidates should have atleast 6 ACRs of "Very Good" category and 2 ACRs of not less than "Good" category during the last eight years". However ACR record and other service record of the petitioner was sent on 24.09.2019 for the purpose of scrutiny to the Haryana Public Service Commission in



compliance of the following interim orders passed by the Hon'ble High Court on 16.09.2019 in present writ petition:

"Inter alia contends that ACRs for the year 2017-18 and 2018-19 which are required to be sent to respondent No.3 being essential and necessary for consideration for the post of Haryana Civil Services (Executive Branch) from Register A-1 are lying in the office of respondent No.2. There cannot be any fault on behalf of the petition.

Relies upon notice of motion order dated 04.09.2019 passed in CWP No.24538 of 2019 (Annexure P-19), which is pending consideration for 30.09.2019. Notice of motion for 30.09.2019.

In the meantime, respondent No.2 is directed to send the complete service record of petitioner including aforesaid ACRs after application of mind to respondent No.3.

A copy of this order be given to learned counsel for petitioner under the signature of Court Secretary of this court."

That ACRs of the petitioner for the year 2017-18 and 2018-19 were received the office of respondent no.2 on 26.08.2019 and after recording remarks of the accepting authority, the ACRs of the petitioner were sent by the respondent No.2 to the Haryana Public Service Commission on 24.09.2019. In view of the above made submissions, the present writ petition may kindly be dismissed.

6. *That it is also submitted that the Hon'ble High Court vide order dated 13.11.2019 dismissed contention/prayer*



made in CWP No.8502 of 2017 and other connected petitions including that of CWP No.24738 of 2019 has been dismissed. Meaning thereby Rules of 2008, amended in 2017 have been upheld by this Hon'ble Court. As per amended rules Tehsildars/District Revenue Officers who have not completed 8 years continuous Government service is entitled to count the service rendered by him as Naib Tehsildar in completing the period of 8 years continuous Government service. Therefore, the petitioner is only entitled to get the benefit of services rendered by him as Naib Tehsildar in case he is short of completing 8 years service Tehsildar/District Revenue Officer rest of the eligibility conditions have been maintained intact by this Hon'ble Court in its order dated 13.11.2019. Hence, the petitioner is not eligible for appointment by way of Haryana Civil Services (EB) by nomination from Register A-1. Accordingly, the petition may kindly be dismissed.”

5. Taking note of the written statement filed by the respondent-State, this Court proceeded to dispose of CWP No. 26093 of 2019 vide order dated 23.09.2022. The relevant paragraph Nos. 3 to 5 thereof reads thus:

“3. *Apropos, the ACRs of the petitioners were sent to respondent No.3-HPSC. As regards eligibility of the petitioner, learned counsel relies on a Division Bench judgment/ order dated 13.11.2019 rendered in CWP-8502- 2017 titled Joginder Sharma and others versus State of Haryana and others. In view*



of the aforesaid, nothing survives for adjudication before this Court except to determine the eligibility of the petitioner, in case aforesaid judgment is applicable to his case, as canvassed by learned counsel for the petitioner.

4. *In the premise, writ petition is disposed of with the expectation that respondents shall proceed further in accordance with law and pass appropriate orders to consider the candidature of the petitioner in case he is found eligible.*

5. *In the parting, my attention has been drawn by learned counsel for the petitioner to Paras-5 & 6 of the written statement dated 03.12.2019 filed on behalf of respondents No.1 to 3, wherein it is admitted by the State that the petitioner is indeed eligible. Be that as it may, respondents are to proceed accordingly. Since petition has been pending in this Court for almost 4 years, it is expected of the respondents to proceed as expeditiously as possible, but not later than 6 months from today.”*

6. Learned senior counsel appearing on behalf of the petitioner contends that the Hon’ble Single Bench, while disposing of the earlier writ petition, had specifically taken consideration of the averments set forth in paragraph Nos. 5 and 6 of the written statement filed by the respondent-State, wherein it was unequivocally admitted that the petitioner fulfilled the eligibility criteria. It is submitted that in compliance with the directions



issued by this Court vide order dated 23.09.2022, the respondent-authorities were obligated to consider the case of the petitioner in accordance with law and to pass a reasoned order. However, instead of doing so, respondent No.2 has proceeded to pass the impugned order dated 13.09.2024, which is assailed in the present writ petition. Operative part of the order reads thus:-

“6. And whereas, coming to the facts in case of the petitioner in view of the aforesaid provisions of Rule, the last 8 years of the service has to be evaluated as on the cut of date, as upheld by the Hon'ble Supreme Court i.e. 31.08.2019. It is relevant to mention that the petitioner joined the service as Tehsildar w.e.f 07.11.2013 and as per the criteria fixed the service record of last 8 years was to be evaluated, therefore, even after the service record of Naib Tehsildar for period 2012 is considered then also he could not make out for the criteria fixed. The ACR of the petitioner for the year 2017-18 and 2018-19 were received in office of Financial Commissioner Revenue (accepting authority) on 26.08.2019 and the Accepting Authority made her remarks on 15.09.2019. As such, the ACR for the period 2017-18 and 2018-19 was not considered since it was recorded after the eligibility date for consideration which was 31.08.2019. It is also mentioned that the petitioner remained under training from 07.11.2013 to 31.03.2014 for period of 2013-14, 2014-15 and from 01.04.2015 to 20.01.2016 for year 2015-16. As per the instructions of the Government,



the period of the training was to be treated as "Good". The relevant graded period of 8 years in case of the petitioner is tabulated as below:-

1	2011-12 (01.04.11 to 10.11.11) (11.11.11 to 31.03.12)	Outstanding	Period as Naib Tehsildar
2	2012-13 (01.04.12 to 05.06.12) (06.06.12 to 31.3.13)	Outstanding	Period as Naib Tehsildar
3	2013-14 (01.04.13 to 04.09.13) (07.11.13 to 31.3.14)	Outstanding Under Training (treated as "Good")	07.11.13 selected as A Class Tehsildar
4	2014-15	Under Training (treated as "Good")	
5	2015-16 (01.04.15 to 20.01.16) (21.01.16 to 31.03.16)	Under Training (treated as "Good") Short period (No Report Certificate)	
6	2016-17	Outstanding	
7	2017-18	ACR not recorded as not accepted as on date of consideration i.e. 31.08.2019	
8	2018-19	ACR not recorded as not accepted as on date of consideration i.e. 31.08.2019	

In view of the fact that for year 2017-18 and 2018-19, the grading of the marks could not be made as per the criteria that the recorded ACRs were not there on the date for the consideration and after taking the 2 years out of the 8 prescribed, the petitioner could not made out his claim for



consideration of atleast 6 years as "Very Good" and 2 years as "Good". Also, the petitioner remained under training for the period mentioned above and the ACRs for period of training was to be treated as "Good", as treated in case of all other similarly situated Tehsildars. It is relevant to mention that the service record including ACRs were sent to the Secretary, Haryana Public Service Commission for further consideration and scrutiny of documents vide letter dated 20.05.2024, however, as per the instructions and the rule, the petitioner was not having six ACRs recorded as "Very Good" and two ACR as "Good". Therefore, his case could not be considered for final results.

In view of above, there is no merit in the submissions made by the petitioner. Accordingly, the submissions made by Sh. Manish Kumar Yadav, District Revenue Officer, Karnal are hereby rejected. As such, the compliance of the directions of the Hon'ble High Court has been fully made out."

7. Learned senior counsel contends that respondent No.2 has held the petitioner ineligible on the sole ground that the Annual Confidential Reports (ACRs) for two years out of the prescribed eight-year period were not available before the cutoff date. Consequently, the petitioner was declared ineligible for consideration.



8. Assailing the aforesaid, counsel contends that respondent No.2, namely the Additional Chief Secretary/Financial Commissioner, Government of Haryana, Department of Revenue & Disaster Management, was also holding the charge of Chief Secretary as on the relevant date and was therefore responsible for accepting the remarks recorded in the petitioner's Annual Confidential Reports (ACRs) by the respective Deputy Commissioner and Divisional Commissioner. It is submitted that the petitioner cannot be held ineligible for any lapses on the part of the reporting officers in recording or forwarding the ACRs, nonetheless, in the present case, both the Deputy Commissioner and Divisional Commissioner had already forwarded the ACRs pertaining to the relevant years to respondent No.2 on 26.08.2019 i.e. six days prior to the cutoff date of 31.08.2019. Despite the charge of Financial Commissioner and the Chief Secretary being vested in the same person at that time, a formal letter forwarding the said ACRs for their acceptance, was sent to the office of Chief Secretary on 29.08.2019 i.e. two days before the cutoff date for determination of eligibility. It is submitted that the final acceptance of the remarks recorded in the ACRs was made by the competent authority only on 15.09.2019 i.e. after the cutoff date and the remarks recorded by the reporting authorities remained unchanged and unimpaired in any manner.

9. Learned senior counsel further submits that an employee has a right to be considered for promotion and such right cannot be defeated by casual or malicious administrative lapses attributable solely to the respondent department more so when the recording or accepting authority



have themselves failed to comply with instructions issued by competent authorities in matters regarding recording of ACR's. Once the entire record was already placed before the competent authority within the prescribed period, any subsequent administrative delay caused by the respondents, without any explanation or satisfactory justification, should not be permitted to operate as a barrier to deny consideration. It is further contended that out of the 23 posts advertised, only 21 have been filled up and two posts still remain vacant.

10. Learned State counsel reiterates the reasons recorded in the impugned order and submits that the cutoff date was sacrosanct for determining eligibility. It is contended that the petitioner did not fulfill the prescribed eligibility criteria due to the non-availability of two ACRs prior to the cutoff date and hence had less than 6 'Very Good' or above reports in last 8 years. Accordingly, the impugned order holding the petitioner ineligible has been rightly passed. The remaining submissions advanced by the learned senior counsel are not denied or disputed by the State.

11. Counsel for the Haryana Public Service Commission submits that no lapse can be attributed to the Commission, as it is not the competent authority to determine eligibility for the selection process. The Commission's role was confined to conducting the interview and forwarding the final result to the respondent-State Government. It is further submitted that the respondent-State had recommended only 23 candidates, out of whom two candidates failed to appear for the interview, resulting in recommendations being made in respect of only 21 candidates.



12. Neither any other argument has been raised, nor any other judgment cited by the respective parties.

13. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petition, with their able assistance.

14. Undisputedly, the petitioner has been held ineligible solely on the ground that the Annual Confidential Reports (ACRs) for the years 2017-18 and 2018-19 were not accepted by the competent authority prior to the cutoff date. It is also undisputed that the Chief Secretary himself was holding the charge of the office of Financial Commissioner, Government of Haryana, Department of Revenue & Disaster Management at the relevant time. Further, the reporting authority and forwarding authority, namely the Deputy Commissioner and Divisional Commissioner respectively, had recorded the petitioner's performance as 'outstanding' and had forwarded the same to respondent No.2 which was received in the office on 26.08.2019 i.e. six days prior to the cutoff date. A formal letter forwarding the ACRs was sent to the office of the Chief Secretary on 29.08.2019, well before the cutoff date. However, the final decision on the acceptance of the reports was taken only on 15.09.2019. No explanation or reasons have been provided for such delay in decision-making by the competent authority.

15. The office of the Chief Secretary Haryana circulated letter No.60/2/85-S(I) dated 27.03.1985 prescribing that ACR be recorded not later than 6 weeks after the close of the said year. The time schedule prescribed therein is thus:-



- a. Reporting Authority shall initiate the annual 'confidential reports in time and ensure that they reach the Reviewing Authority by 7th April;*
- b. Reviewing Authority would send the reports to the Accepting Authority so as to reach him by 20th April*
- c. The report should be sent to the Head of Department by 15th May.*

16. The above time lines were reiterated in the instructions bearing letter No.60/4/97-S(I) dated 07.08.1997; directions issued vide letter No.60/4/97-S(I) dated 21.11.1997; letter No.60/1/2002-6S(I) dated 16.06.2003 and reiterated vide letter No.60/1/2002-6(S)(I) dated 17.09.2004. Even though these timelines have been held only to be directory, however, the fate of vested rights should not be tied down to the same. Allowing such a course as a valid foundation for denial of promotion may have an immense potential for misuse and mischief. Some people may resort to manipulating the recording of ACR to deny consideration to an otherwise eligible and meritorious employee. Once the Govt. prescribes a specific date for consideration, it does cast a duty on the authorities to take steps to ensure that the State obligations are duly discharged. Litigation like this one is an unnecessary by-product of non-adherence to the instructions by the authority which issued the instructions and then to fasten liability and disqualification on the employee who has no domain or control over the same. No reason have been given by the respondents as to why the ACR could not be recorded on time and/or as to whether the petitioner was himself derelict in his duties or caused delay in recording of his ACR. In the absence of any



such pleading, the lapse is attributable solely to the respondent.

17. The position in law has multiple precedence where in case a promotion is denied to a person due to adverse remarks in his ACR and the same are later expunged, the employee has been held entitled to benefits of promotion from the same date. It has been held that a person cannot be denied promotion on the ground of unsuitability once the adverse remark is removed, by the Hon'ble Supreme Court in the matter of **Harish Maganlal Baijal Vs. State of Maharashtra and others** reported as **2010(6) SCC 585**.

The case of petitioner, against whom it was not a case of any adverse comment or disciplinary proceeding, cannot be said to fall in any lower footing. To illustrate, if these two ACR's were recorded only as "good" or "average" or "adverse remark" and the petitioner would have preferred an appeal against the same. Had he succeeded in appeal and got the remark upgraded, he would be held entitled to the claim raised herein. The reason assigned by the authority, when applied practically or theoretically leads to outcomes which cannot withstand judicial validity.

18. The lapses in timely recording and forwarding of the ACRs, in violation with the instructions issued by the Chief Secretary, should thus not visit consequences upon the employee to his detriment. An employee's accrued right to be considered for promotion cannot be left at the mercy or discretion on the part of the reporting or accepting authorities. Needless to mention that such opportunities for promotion are infrequent and the denial of consideration on the ground such as this is likely to trigger undesired consequences and encourage malpractice.



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19. I am thus of the considered view that the reasons assigned by the respondent(s) for declaring the petitioner ineligible do not withstand the test of reasonableness, objectivity, legality, and rationality. The impugned order thus deserves to be set aside.

20. Accordingly, the writ petition is **allowed**. The impugned order dated 13.09.2024 passed by respondent No.2, namely the Additional Chief Secretary & Financial Commissioner, Government of Haryana, Department of Revenue & Disaster Management, is hereby set aside.

21. The respondent-State is further directed to declare the result of the petitioner, based on the result already forwarded to the State Government by the Haryana Public Service Commission. The offer of appointment, in terms of the result prepared by the Haryana Public Service Commission, be extended to the petitioner within a period of two months from the date of receipt of a certified copy of this order. The petitioner shall also be entitled to his seniority and consequential benefits in accordance with the merit list prepared by the Haryana Public Service Commission, notionally w.e.f. the dated when appointment was offered to the person lower in merit/similarly situated and actually w.e.f. the date of appointment or two months as ordered above, whichever is earlier.

22. Pending application(s), if any, stand(s) disposed of.

(VINOD S. BHARDWAJ)
JUDGE

14.07.2025

Mangal Singh

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