

2026.PHHC.041835



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

228

CWP-1392-2021 (O&M).

Date of Decision: 17.03.2026.

Surinder Singh

....Petitioner.

VERSUS

State of Punjab and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gurnoor S. Sandhu, Advocate and
Ms. Simvrita Singh, Advocate for the petitioner.

Mr. Vikas Sonak, Assistant Advocate General, Punjab
for respondent No.1-State.

Mr. Sandeep Khunger, Advocate and
Ms. Sudrishti, Advocate for respondent No.2.

HARPREET SINGH BRAR, J.

The present petition has been preferred under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing respondent No.2-Punjab Pollution Control Board, Patiala, to make regular promotion to the post of Senior Environmental Engineer against the posts accrued since 2018 and while holding the DPC for promotions to the four vacant posts, applying the principle as mandated by Regulation 6(D) of Punjab Pollution Control Board Employees Service Regulations, 2002, (Annexure P-2), dated 28.04.2003, being that of merit-cum-seniority, with further direction to hold the forthcoming DPC at the earliest as the petitioner due to retire on 31.01.2021. The petitioner further seeks direction to respondent No.2 to consider the name of petitioner for promotion to the post

of Senior Environmental Engineer w.e.f. 01.05.2018 i.e. when the first vacancy arose on the said post along with all consequential benefits.

2. Learned counsel for the petitioner, *inter alia*, contends that the service of the petitioner is governed by the Punjab Pollution Control Board Employees Service Regulations, 2002 (hereinafter to be referred as 'Regulations, 2002'), which was framed under Section 12 of the Water (Prevention and Control of Pollution) Act, 1974, and has been duly approved by the Government of Punjab. Further, Regulation 6(D) provides the procedure for promotion, which clearly indicates that promotion shall be made on the basis of merit-cum-seniority in the case of Grade-A and Grade-B posts. Learned counsel for the petitioner further refers to Regulation 17, which provides for classification of posts and while Appendix-A attached thereto clearly indicates that the post of Senior Environmental Engineer falls within the Grade-A posts. Disregarding the same, vide the impugned promotion order, the respondent No.2-Board has adopted a different criterion than that provided under Regulation 6(D) and has made promotions on the basis of seniority-cum-merit which is required to be followed for promotion to Grade-C and Grade-D employees. Admittedly, the Regulations have not been amended till date and it is trite law that executive instructions cannot supersede or override statutory rules. Learned counsel for the petitioner refers to the written statement filed by respondent No.2-Board and submits that the entire case of the respondents hinges upon the Extract of Meeting dated 08.11.2001 (Annexure R-2/2) attached with the written statement of respondent No.2-Board. He submits that respondent No.2-Board in its 113th meeting held on 08.11.2001 had adopted the instructions dated 06.09.2001 issued by the Government of Punjab, Department of Personal, which provides

for promotion on the basis of seniority-cum-merit as is discernible from Annexure R-2/1.

3. This Court had sought a specific affidavit on 27.01.2026, to seek information whether the Regulation 6(d) *ibid* has been amended till date or not. In compliance thereto, an affidavit was filed on 26.02.2026 and admittedly, the Regulation 6(D) *ibid* which provides for promotion has not been amended till date. However, respondent No.2-Board has reiterated the stand taken in the written statement dated 16.03.2021 and sought to justify the criteria of seniority-cum-merit by relying upon Regulation 9 of Regulations, 2002, which provides for determination of the seniority at the time of initial appointment on the basis of recommendation sent by the Selection Committee on merit, which has no nexus with the appointment by way of promotion and as such, respondent No.2-Board is blowing hot and cold in the same breath.

4. *Per contra*, learned counsel for the respondent No.2-Board submits that the instant petition is liable to be dismissed on the ground that in 2018, an agenda was circulated for convening the Departmental Promotion Committee for promotion to the post of four Senior Environmental Engineer. These promotions were made on the basis of seniority-cum-merit, whereas the petitioner has never challenged the recommendations of the promotion committee in terms of the agenda circulated in the year 2018. Further, the petitioner has not impleaded the persons mentioned at serial No.11 to 17 of the seniority list. As such, they are likely to be effected in case any order affecting their rights is passed.

5. In rebuttal, learned counsel for the petitioner submits that the petitioner has a right to challenge the denial of consideration to the post of promotion even if he has not challenged the recommendations of the

Departmental Promotion Committee in the year 2018. However, in 2021, when the agenda for further promotion to the post of Senior Environmental Engineer was circulated, the petitioner immediately approached this Court. Moreover, the persons at serial No.11 to 17 in the seniority list have already retired, therefore, they have not been impleaded as party in the present petition.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the Regulation 6(D) of Regulations 2002, provides for complete mechanism for appointment by way of promotion, which is reproduced hereunder:-

“6 (D) APPOINTMENT BY PROMOTION

(i) All appointments by promotion to the service shall be made by selection on the basis of merit-cum-seniority in case of Grade-A and Grade-B posts and on the basis of seniority-cum-merit in case of Grade-D and Grade-D posts and no person shall be entitled to claim promotion on the basis of seniority alone. The eligibility criteria and percentage of posts to be filled up by promotion will be as specified in Appendix-B.

(ii) The members of service belonging to different cadres shall be eligible for promotion in their respective cadres.

Note: In the matter of appointments to be made by promotion or through direct recruitment, the appointing authority shall be guided by a Selection Committee to be constituted by the Board from time to time. An officer of the State Government shall be associated with the Selection Committee by the Board for making appointments in the Board.”

7. Respondent No.2-Board has initially relied upon Annexure R-2/1 and R-2/2 to justify the adoption of seniority-cum-merit criteria on the basis of the Extract of Meetings adopting the instructions circulated by the Department of Personal of the Government of Punjab, on 06.09.200 in its 113th meeting and further in the affidavit filed on 26.02.2026, they have made a futile attempt to justify the criteria of seniority-cum-promotion by relying

Regulation 9 of Regulations, 2002, which provides for Seniority of Members of Service and is reproduced hereunder:-

“9. SENIORITY OF MEMBERS OF SERVICE

The seniority inter-se of the members of a service appointed to posts in each cadre of a service shall be determined by the length of continuous service on such post in that cadre of the service:-

Provided that in the case of members appointed by direct appointment who join within the period specified in the order of appointment or within such period as may be extended from time to time by the appointing authority the seniority based on the order of appointment, the order of merit determined and recommended by the selection committee, shall not be disturbed;

Provided further that in the case of two members their seniority shall be determined as follows:

(a) A member appointed by promotion shall be senior to a member appointed by transfer.

(b) In the case of members appointed by promotion or transfer, seniority shall be determined according to the seniority of such members in the appointments from which they were promoted or transferred; and

(c) In the case of members appointed by transfer from different cadres, their seniority shall be determined according to pay preference being given to a member who was drawing a higher rate of pay in his previous appointment, and if the rates of pay drawn are also the same, then by their length or service in those appointments and if the length of such service is also the same an older member shall be senior to a younger member.

Explanation: Seniority of members appointed on purely provisional basis or on daily wages shall be determined as and when they are regularly appointed keeping in view the date of such regular appointment.”

8. A bare reading of Regulation 9 of Regulations, 2002, clearly indicates that seniority *inter se* of the members of a service appointed to posts in each cadre of a service shall be determined by the length of continuous service on such post in that cadre, and proviso attached thereto stipulates that

while determining the seniority based on the order of appointment, the order of merit, determined and recommended by the Selection Committee shall not be disturbed. As such, the Regulation 9 of Regulations, 2002, has no nexus with the appointment by promotion, which is entirely governed by the Regulation 6(D) *ibid*. Further, there is no denial to the fact that the petitioner has approached this Court immediately, once the agenda for holding the Departmental Promotion Committee was circulated in the year 2021. The Regulation 6(D) of Regulations, 2002, provides that the principle to be adopted for promotion for Grade-A and Grade-B posts shall be that of merit-cum-seniority. Perusal of Regulation 17 of Regulations, 2002, and Appendix-A clearly indicates that the post of Senior Environmental Engineer falls within Grade-A posts. As such, respondent No.2-Board without amending the applicable Regulations of 2002, cannot adopt a different criteria than provided in the aforesaid regulations as it is trite law that the instructions cannot supersede the statutory provisions. Reliance in this regard may be placed on the judgment rendered by the Full Bench of Allahabad High Court in **2005(2) AWC 1991** titled as **Vijay Singh and others vs. State of Punjab of U.P.** and judgment dated 19.08.2025 of this Court passed in **CWP-1221-2021** titled as **Sukhdarshan Singh vs. State of Punjab**.

9. Accordingly, the present petition is allowed. The respondents are directed to consider the name of the petitioner for promotion in accordance with Regulation 6(D) of Regulations, 2002, i.e. on the basis of merit-cum-seniority and in case, the petitioner is found eligible, to grant him the promotion w.e.f. the date when vacancy arose, along with all consequential benefits.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

17.03.2026
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No