



107

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

CWP-3369-2026 (O&M)
Date of decision: 09.04.2026

Mahender Malik

... Petitioner

Vs.

Uttar Haryana Bijli Vitran Nigam and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ketan Antil, Advocate
for the petitioner.

Mr. Prince Singh, Advocate for
Mr. Sukhdeep Parmar, Advocate
for the respondents.

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 *mandamus* directing the respondents to grant annual increment and ACP to the petitioner as well as all the consequential benefits along with interest @18% *per annum* till the actual realization. It is further prayer to issue a writ in the nature of *certiorari* seeking quashing of the order dated 11.11.2019 (Annexure P-2) and the promotion order dated 19.11.2024 (Annexure P-1) to the extent of condition No.9 with regard to qualifying type test and computer test.

2026:PHHC:055185



2. On 05.02.2026, following order was passed by this Court: -

“Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of mandamus, directing the respondents to grant annual increment and ACP to the petitioner alongwith all other consequential benefits with interest @ 18% per annum till the date of actual realization. Further a writ of certiorari has been sought, for quashing the Office Order No.133/UH/GA-34/Reg./Vol-III dated 11.11.2019 (Annexure P-2) and the condition No.9 of the promotion order No.315 dated 19.11.2014 (Annexure P-1) with regard to qualifying the type test and qualification of computer test being violative of Recruitment & Promotion Policy in respect of LDC-MRs issued vide memo No.Ch-37/Reg. 114 dated 10.05.1989.

Learned counsel for the petitioner, inter alia, contends that the petitioner was promoted strictly in accordance with the Recruitment and Promotion Policy dated 10.05.1989, on the basis of prescribed qualifications and completion of 05 years experience. The petitioner was initially appointed on 06.12.2005 and was promoted on 19.11.2014, when the Instructions dated 10.05.1989 were fully in force. He further submits that the said Instructions, having been issued in exercise of the statutory rule-making power of the erstwhile Electricity Board, possessed a binding and sacrosanct character and could not have been withdrawn or superseded merely by an office order, much less with retrospective effect. The subsequent office order dated 11.11.2019 (Annexure P-2), whereby the Instructions dated 10.05.1989 were withdrawn retrospectively, has resulted in denial of time-bound scales and annual increments to the



petitioner, thereby adversely affecting vested rights accrued to him. He further contends that such vested rights cannot be taken away retrospectively, even by legislative action and the impugned action is, therefore, illegal and unsustainable in the eyes of law.

At this stage, Mr. Sukhdeep Singh Parmar, Advocate, appears and seeks a short accommodation to have complete instructions in the matter and to file an appropriate reply.

Adjourned to 23.02.2026.”

3. In compliance of the aforesaid order, reply on behalf of the respondents has been filed, wherein the respondents have taken a specific stand that promotion order (Annexure P-1) was issued on 19.11.2024 and the petitioner acquiesced to the said condition for several years and he challenged the same after failing to qualify the aforesaid tests. As such, the petitioner cannot be allowed to agitate the impugned condition contained in the promotion order (Annexure P-1) after lapse of a period of more than 11 years. Further, the petitioner has no vested right for promotion, as the clarification dated 10.05.1989 to the policy dated 23.02.1989 was considered by the Division Bench of this Court in **CWP-18143-2018** titled as **Nissar Ahmed Vs. State of Haryana and others**. In the said petition, an interim order was passed on 21.02.2019, wherein the Division Bench of this Court accepted the cut-off date as 07.11.2013 and directed that the employees, who were promoted after 07.11.2013, shall have to pass the State Eligibility Test in Computer Appreciation and Application.

4. Learned counsel for the petitioner, however, submits that though



the petitioner was promoted in the year 2014 and the respondent-Nigam has not conducted the aforesaid tests for several years, he made an application in the year 2022 for subjecting him to the said tests, which he could not qualify. Further, delay alone on the part of the employer in conducting the test(s) cannot be fastened upon an employee. As such, the petitioner cannot be made to suffer for not holding the tests in question in time. It is further submitted that as per Clause 8 of the impugned promotion order (Annexure P-1), in case of his failure to qualify the aforesaid tests, he would be reverted to the post, from which he was promoted.

5. Having heard learned counsel for the parties and after perusal of the record of the case file with their able assistance, it transpires that when the petitioner was initially appointed, the instructions/clarification dated 10.05.1989 were fully in force and any subsequent office order (Annexure P-2), which was passed on 11.11.2019, cannot be applied to him with retrospective effect. The condition as contained in the promotion order dated 19.11.2024 (Annexure P-1) cannot be imposed upon the petitioner in view of the order dated 21.02.2019 passed by the Division Bench of this Court in **Nissar Ahmed**'s case (*supra*). The order dated 21.02.2019 reads as under: -

“Pursuant to the last order dated 10.01.2019, Mr. D.S. Dhesi, IAS, Chief Secretary to the Government of Haryana has filed an affidavit (in CWP No.7630 of 2016), Paras 6 and 7 thereof read thus:-

“6. That now with reference to the interim orders passed by Hon'ble High Court on 04.09.2018 and 10.01.2019 in the

2026:PHHC:055185



present Civil Writ Petition, vide Govt. instructions No.17/28/2018-3GS- II, dated 17.11.2018 (Annexure R-5), the condition of SETC (State Eligibility Test in Computer Appreciation and Applications) has been made compulsory for all currently working Clerks and all those who want to work as Clerk on promotion or by direct recruitment. The definition of Clerk includes Clerk-cum-Computer Operator, Office Associate, Clerk-cum-Data Entry Operator, Steno-typist, Data Entry Operator and Clerk-cum-Typist, whether regular or contractual, appointed by any mode of recruitment i.e. whether appointed on regular basis or transfer basis or promotion basis or deputation or under Part-II of Outsourcing Policy, etc.

7. In view of the above, the condition of passing the type test/SETC is mandatory for appointment & promotion for the post of Clerks working in the entire State of Haryana. Therefore, it is incumbent upon the petitioners to pass the said test.”

2. We really appreciate the urgent steps taken by the Chief Secretary by carefully applying his mind to the entire controversy and having understood the need of the administration to run effectively in the State of Haryana instead of allowing the game of favoritism and nepotism and the grant of en masse exemptions from passing the SETC (State Eligibility Test in Computer Appreciation and Applications) for promotion. We do not think that we are living in the days of granting exemptions at the costs of running the administration. Large number of qualified young people are unemployed who possess the skill to occupy such posts.

3. Learned State counsel has relied upon the notification dated

2026:PHHC:055185



07.11.2013 and has made a statement that, 07.11.2013 is the cut-off date which means those who have been promoted after the said date will have to compulsorily pass the test. Else the consequences will follow.

4. We accept the said cut-off date in order to avoid any chaotic condition. We, therefore, accept the said cut-off date and accordingly order that those who have been promoted after 07.11.2013 only shall have to pass the test.

5. It is made clear that the State shall now decide the number of chances to be given to those who are required to pass the said test. We also expect the State to give sufficient number of chances for passing the said test. We also clarify that those who have been reverted to Class-IV posts due to non-passing of the test, will be given chance to pass the test in question and accordingly, consequences would follow.”

6. Pursuance to the aforesaid directions issued by the Division Bench in **Nissar Ahmed**'s case (*supra*), the State Government decided to give 10 chances to clear the aforesaid tests.

7. In view of the above, present petition is disposed of. The impugned promotion order dated 19.11.2024 (Annexure P-1) to the extent of condition No.8 is hereby set aside and the respondent-Nigam is directed to provide another chance to the petitioner to clear the State Eligibility Test in Computer Appreciation and Application by holding the same in the month of August, 2026.

8. It is made clear that the petitioner has been granted another chance in order to qualify the aforesaid test(s) in view of the peculiar facts

2026:PHHC:055185



and circumstances of the present case and it will not be treated as precedent for any relaxation to other employees, who have not cleared the said test despite availing the chance(s).

9. The pending miscellaneous application(s), if any, shall stand disposed of.

09.04.2026
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[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No