



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

228

**CWP-16718-2020 (O&M)
Date of decision: 18.03.2026**

Mukesh Kumar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Kundu, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The 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* for quashing the impugned promotion order dated 11.09.2020 (Annexure P-2) insofar as it promotes respondent No.4, who is junior to the petitioner and for issuance of direction to the respondents to consider and promote the petitioner to the post of Executive Officer from the date his juniors were promoted along with all consequential benefits.

BRIEF FACTS

2. The brief facts of the case, as pleaded in the writ petition, are that the petitioner was appointed as Secretary, Municipal Council, Bahadurgarh on 09.03.2011 and joined on 11.03.2011. His grievance stems from the promotion order dated 11.09.2020, whereby three



Secretaries, including respondent No.4, were promoted as Executive Officers. The petitioner claims to be senior to respondent No.4 as per the merit list of the Haryana Staff Selection Commission and the tentative seniority list (Annexure P-3), which shows the petitioner at Sr. No. 10 and respondent No.4 at Sr. No. 11. The petitioner's date of joining is incorrectly shown as 31.10.2012 in the seniority list, whereas he had actually joined on 11.03.2011. He asserts that he was deliberately ignored for promotion because a charge-sheet (Annexure P-5) was issued to him on 02.07.2019, immediately before the Departmental Promotional Committee (DPC), on the basis of a false and baseless report. The petitioner contends that the very foundation of the charge-sheet is non-existent, as he was never appointed as the Nodal Officer for the Open Defecation Free (ODF) project.

CONTENTIONS

3. Learned counsel for the petitioner, *inter alia*, contends that the impugned order dated 11.09.2020 (Annexure P-2) was passed by ignoring the claim of the petitioner while respondent No.4, who is admittedly junior, was promoted. In order to deny the petitioner his rightful consideration for promotion, a charge-sheet was issued to him on 02.07.2019 (Annexure P-5), immediately before the DPC. Learned counsel refers to the statement of charges and submits that the petitioner was falsely alleged to be the Nodal Officer to ensure Bahadurgarh town is declared ODF. He relies on the Minutes of Meeting dated 22.06.2017 (Annexure P-7), which categorically shows that three other officers,



namely Sh. Narender Dalal, Sh. Bharat Bhushan, and Sh. Ramphal, were appointed as Nodal Officers, and the petitioner's name does not figure in the said order. He further points to the compliance report (Annexure P-8) to demonstrate that the necessary action was taken by the concerned officers. Learned counsel for the petitioner further argues that since the petitioner was never the Nodal Officer, the charge-sheet is based on a non-existent factual foundation and is therefore perverse. He also highlights that the disciplinary proceedings have remained pending for over five years without conclusion, and the subsequent charge-sheets issued to the petitioner have already been withdrawn by the respondents. He places reliance on the Division Bench judgment of this Court in ***B.M. Sharma vs. State of Haryana and others, 1987 (5) SLR 531***, to argue that the pendency of departmental proceedings cannot operate as a bar to promotion. He accordingly prays that the respondents be directed to consider the case of the petitioner for promotion to the post of Executive Officer from the date his juniors were promoted along with all consequential benefits.

4. *Per contra*, learned counsel for the respondents (State) submits that three charge-sheets under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 were pending against the petitioner, and therefore, he was not found fit for promotion by the DPC. He further contends that the seniority list relied upon by the petitioner is merely tentative and has not been finalized and the petitioner's correct date of entry into service (15.03.2011) shall be



considered at the time of finalization of the seniority list. Learned counsel for the respondents further argues that the scope of judicial review in disciplinary matters is extremely narrow and this Court cannot sit in appeal over the decision of the DPC. He relies on the principle that an employee against whom a disciplinary proceeding is pending has no vested right to promotion and the DPC was justified in ignoring his case.

OBSERVATION & ANALYSIS

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. It transpires that the sole ground for denial of promotion to the petitioner is the pendency of a charge-sheet dated 02.07.2019 (Annexure P-5). A bare perusal of the said charge-sheet along with the statement of allegations appended thereto reveals that its foundational premise rests on the assumption that the petitioner was acting as the Nodal Officer responsible for declaring/ensuring Bahadurgarh town as Urban ODF. However, a perusal of the minutes of the meeting dated 22.06.2017 (Annexure P-7), held under the chairmanship of Jag Niwas, HCS, Sub-Divisional Magistrate, Bahadurgarh, in relation to Urban ODF and stray cattle clearly reflects that Sh. Narender Dalal, Tehsildar, Bahadurgarh, was designated as the Nodal Officer for Urban ODF. This position stands further corroborated by the communication dated 07.08.2017 (Annexure P-8) issued by the Sub-Divisional Officer, which



reiterates that the Tehsildar, Bahadurgarh, was appointed as the Nodal Officer for Urban ODF.

7. In view of the above, it is incomprehensible for this Court to appreciate how, in the face of contemporaneous records, including the appointment reflected in the meeting minutes and the subsequent official communication recognizing the Tehsildar, Bahadurgarh as the Nodal Officer, the respondents could proceed to attribute such responsibility to the petitioner and contemplate the imposition of any penalty on that erroneous premise.

8. The scope of judicial review under Article 226 of the Constitution of India in matters of disciplinary proceedings is limited and narrow. Interference is warranted only when the findings recorded are perverse, arbitrary or tainted by procedural illegality or where there is a manifest error apparent on the face of the record resulting in failure of justice.

9. The Hon'ble Apex Court in *S.R. Tewari vs. Union of India, (2013) 6 SCC 602*, has dealt with the scope of judicial interference in disciplinary matters and while speaking through Justice B.S Chauhan made the following observations,:

30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is "against the weight of evidence", or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no evidence or



thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with. (Vide *Rajinder Kumar Kindra v. Delhi Admn.* [(1984) 4 SCC 635 : 1985 SCC (L&S) 131 : AIR 1984 SC 1805] , *Kuldeep Singh v. Commr. of Police* [(1999) 2 SCC 10 : 1999 SCC (L&S) 429 : AIR 1999 SC 677] , *Gamini Bala Koteswara Rao v. State of A.P.* [(2009) 10 SCC 636 : (2010) 1 SCC (Cri) 372 : AIR 2010 SC 589] and *Babu v. State of Kerala* [(2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179].)

31. Hence, where there is evidence of malpractice, gross irregularity or illegality, interference is permissible.”

10. Admittedly, in the instant case, the charge is not merely disproportionate, it is fundamentally perverse. To initiate disciplinary proceedings against an officer for failing to perform duties of an office he never held is an act of grave irrationality that shocks the conscience of this Court. The initiation of such proceedings, especially immediately before the DPC meeting, creates a strong inference of *mala fide* intent to deprive the petitioner of his rightful promotion. This is precisely the kind of "extreme case" where judicial intervention is not only permitted but warranted.

11. As such the charge-sheet dated 02.07.2019 (Annexure P-5) is declared *void ab initio*. The respondents cannot be permitted to use a foundationally flawed charge-sheet as a “shield” to deny the petitioner his legitimate career progression. Consequently, there exists no ground for the respondents to bypass the petitioner (Sr. No. 10) and promote respondent No.4 (Sr. No. 11).



CONCLUSION

12. In light of the above, the present petition is allowed. The charge-sheet dated 02.07.2019 (Annexure P-5) and the consequent disciplinary proceedings are hereby quashed and set-aside. Further, the impugned promotion order dated 11.09.2020 (Annexure P-2) promoting respondent No.4, who is admittedly junior to the petitioner in the merit list, is ordered to be unsustainable in the eyes of law.

13. The respondents are directed to consider the case of the petitioner for promotion to the post of Executive Officer from the date his junior (respondent No.4) was promoted, i.e., 11.09.2020, and grant him all consequential benefits, including seniority, arrears of pay, and allowances, as if he had been promoted on that date along with an interest of 6% per annum from the due date till its actual realization.

14. The entire exercise, including the issuance of a fresh promotion order and disbursement of consequential benefits, shall be completed within a period of three months from the date of receipt of a certified copy of this order.

15. Pending miscellaneous applications, if any, are also disposed of.

(HARPREET SINGH BRAR)
JUDGE

18.03.2026
yakub

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