

CWP-15406-2017

2026:PHHC:000912



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

**CWP-15406-2017 (O&M)
Reserved on: 09.01.2026
Pronounced on: 19.01.2026**

Champa Bhatt

...Petitioner

Versus

UT of Chandigarh and Others

...Respondents

CORAM: HON'BLE MR. JAGMOHAN BANSAL.

Present:- Mr. D.S. Patwalia, Senior Advocate with
Mr. Ayush Gupta, Advocate for petitioner

Ms. Madhu Dayal, Advocate for respondent No.1-U.T.

Ms. Perna Malhotra, Advocate on behalf of
Mr. Prateek Mahajan, Advocate
for respondents No.1 & 2
Mr. Sanjiv Ghai, Advocate for respondent No.3-MC

JAGMOHAN BANSAL, J.

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of office order dated 22.06.2017 (Annexure P-22) whereby U.T. Administration has ordered to withdraw office order dated 22.07.2015 (Annexure P-12).

2. The petitioner joined Municipal Corporation, Chandigarh (for short 'MC Chandigarh') on 07.04.2000. She was placed in the grade of Junior Assistant w.e.f. 19.05.2008 vide office order dated 01.07.2009. She applied for SAS examination through proper channel. She qualified the exam as per result dated 29.04.2015. She vide application dated 04.05.2015 requested the respondent to adjust her as Section Officer (SAS) against vacant sanctioned post of Section Officer (for short 'S.O.') available in the MC Chandigarh. A



communication with respect to appointment of petitioner as S.O. with MC Chandigarh ensued between MC Chandigarh and U.T. Administration. The U.T. Administration vide memo dated 13.07.2015 forwarded representations of the petitioner to the Director, Treasury & Accounts, Punjab with a request to render advice as to whether employees of Boards/Corporations/Societies who qualify SAS exam in Punjab are being appointed under Finance Department or in their parent department or any option is being obtained in this regard. The petitioner vide office order dated 22.07.2015 of Commissioner, MC Chandigarh came to be provisionally appointed as Section Officer (SAS) in MC Chandigarh subject to clarification from Punjab Government. Officer order dated 22.07.2015 reads as:-

“ORDER

Consequent upon qualifying the SAS examination, conducted by the Punjab Govt. through Chandigarh Administration and in pursuance of endst. no. F&PO/A-1/2015/6888 dated 13.7.2015 from the Finance Secretary, Chandigarh Administration. Ms. Champa Bhatt, Jr. Assistant is hereby appointed provisionally as Section Officer (SAS) in the pay scale of Rs. 10300-34800+5000 GP in the Municipal Corporation, Chandigarh subject to the clarification from the Punjab Government w.r.t. the Special Secretary Finance, Chandigarh Administration office endst no. F&PO/A-1/2015/6887 dated 13.7.2015 and further subject to notification of service regulation for filling up the post of Section Officer (SAS) in the Municipal Corporation, Chandigarh.

Dated 22.7.2015

*BHAWNA GARG, IAS,
Commissioner,
Municipal Corporation,
Chandigarh.”*



3. The Administration continued to seek clarification from Punjab Government with respect to appointment of SAS passed candidates who belong to Boards/Corporations. The petitioner vide letter dated 06.01.2016 addressed to Special Secretary (Finance), Chandigarh Administration submitted that she is not willing to join Chandigarh Administration as Section Officer (SAS). The MC Chandigarh vide letter dated 24.08.2016 requested Administration to convey their concurrence for adjustment of the petitioner as Section Officer in the MC Chandigarh. The Administration vide impugned memo dated 22.06.2017 informed the MC Chandigarh that appointment of petitioner as Section Officer is not in order. The same was made without approval of the competent authority. It is not in accordance with existing Recruitment Rules for the post of Section Officer available with Finance Department, Chandigarh Administration. It was further mentioned that Municipal Corporation may create separate cadre of Section Officers and for the said purpose a separate proposal may be sent to the Administration. The petitioner is aggrieved from said letter.

4. Learned Senior Advocate for the petitioner submits that there are seven sanctioned posts of S.O. with MC Chandigarh. The said posts cannot be controlled by U.T. Administration because MC Chandigarh is an autonomous body. The posts were created by Administration, however, recruitment in the absence of specific rules cannot be controlled or governed by Administration. The respondent-MC vide letter dated 17.03.2008 adopted amendment dated 13.02.2008 carried out in Chandigarh Administration, Finance Department Accounts (Group 'C' Posts) Recruitment Rules, 2000 (for short 'Recruitment Rules, 2000'). The effect of adoption of amendment of Recruitment Rules,



2000 was that employees of MC Chandigarh who cleared SAS exam conducted by the Punjab Government became eligible for the post available with MC Chandigarh. If it is held that seven posts of S.O. are still to be governed and controlled by U.T. Administration, office order dated 17.03.2008 of MC Chandigarh would become redundant. As per letter dated 20.06.2000, three posts of S.O. were created with MC Chandigarh. In the remarks, it was inserted that posts would be filled up through deputation. The respondent in 2008 created four additional posts. There was no such condition while creating four additional posts which included two posts of Assistant Controller (F&A). Five posts were filled up through deputation. Two posts were lying vacant which could very well be filled up through candidates available in the department itself. Source of appointment through deputation is utilized where candidates within department are not available. In the instant case, the petitioner was available with MC Chandigarh, thus, there was no question to look towards U.T. Administration. The petitioner is working with MC Chandigarh as S.O. since 2015. Any order denying her said post would entail her reversion to the post of Junior Assistant. It would be embarrassing for her to work at a lower post.

5. *Per contra*, learned counsel for the respondent submits that letter dated 17.03.2008 should be read in consonance with and continuation of notification dated 13.02.2008 whereby amendment was made in Recruitment Rules, 2000. The notification dated 13.02.2008 permitted employees of Boards/Corporations/Societies to participate in the SAS exam conducted by the Punjab Government and become part of cadre created under Recruitment Rules, 2000. By letter dated 28.03.2008, MC Chandigarh clarified that their



employees would be eligible to participate in the SAS exam conducted by Punjab Government and become part of cadre created by Finance Department, Chandigarh. The MC Chandigarh has no Rules governing recruitment of Section Officers (SAS). The U.T. Administration while creating posts of S.O. with MC Chandigarh made it clear that posts would be filled up through deputation. The reason was that U.T. Administration has created a cadre of officers who had cleared SAS exam. The members of cadre are deputed to different Boards/Corporations/Societies/Departments of U.T. Administration. It is irrelevant that a Board or Corporation is an autonomous body. The posts of S.O. available with different corporations including MC Chandigarh are ex-cadre posts of U.T. Chandigarh.

6. Heard the arguments and perused the record.
7. The conceded position emerging from record is that the petitioner joined Municipal Corporation as Clerk in the year 2000. She was placed in the grade of Junior Assistant w.e.f. 19.05.2008. She, with the prior permission of competent authority, in 2015 participated in the SAS exam conducted by Punjab Government. She qualified the exam. She formed an opinion that she may be assigned post of S.O. in MC Chandigarh itself because there are seven sanctioned posts of S.O. in MC Chandigarh. At that point of time, two posts were lying vacant. MC Chandigarh was of the *prima facie* opinion that petitioner may be appointed as S.O. in corporation itself and she is not required to become part of the cadre created by U.T. Administration. The Administration was not clear, thus, attempted to seek clarification from the Punjab Government. There is nothing on record disclosing that the Punjab Government answered letters of U.T. Administration. The Administration finally formed an



opinion that as per Rule 5 of Punjab State Finance and Accounts (Group A) Service Rules, 2012 (for short '2012 Rules') if a candidate belonging to Board or Corporation has cleared SAS exam, he would be permitted to become part of cadre provided his appointment would be treated as fresh entrant and would be placed at the bottom of seniority list. The petitioner categorically vide letter dated 06.01.2016 informed Special Secretary (Finance), Chandigarh Administration that she does not want to become part of cadre of U.T. Administration. She expressed her desire to remain employee of MC Chandigarh. The U.T. Administration by impugned memo dated 22.06.2017 asked the MC Chandigarh to withdraw its office order dated 22.07.2015. The MC Chandigarh has not withdrawn said letter because of interim orders of this Court. There is no separate cadre of S.O. (SAS) with MC Chandigarh. The Administration has asked MC to send proposal if it wants to create a separate cadre.

8. Indubitably, the respondent-MC Chandigarh is an autonomous body. It has no right to create posts. The posts as per Section 71A (3) of Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994 can be created with the approval of Administrator, U.T., Chandigarh. Section 71A (3) for the ready reference reads as:-

“71A. Schedule or permanent posts and creation of temporary posts –

XXX XXX XXX XXX

(3) The Corporation may sanction the two Schedules either without modifications or with such modifications as it thinks fit and thereafter may amend them if it thinks it necessary. Such sanction or amendment shall be subject to the approval of the Administrator.”



9. The U.T. Administration vide memo dated 20.06.2000 approved posts as enumerated in Schedule-II of the memo. As per said Schedule, three posts of S.O. (SAS) were approved subject to the condition that these posts will be filled up through deputation. Relevant extracts of the memo and Schedule are reproduced as below: -

MEMO

“From,

*The Finance Secretary,
Chandigarh Administration.*

To,

*The Commissioner,
Municipal Corporation,
Chandigarh.*

*Memo No. 1687-FII(8)-2000/5865
Dated, Chandigarh the 20.06.2000*

*Subject :- Creation of posts for the Municipal Corporation,
Chandigarh.*

Reference your letter No. SAE-II/MC/99/9221, dated (NOT DISCERNIBLE) letter No. SAE-II/MC/99/226, dated 12.1.2000, letter No. CMC/Estt/E-1/99/9879, dated 22.10.99, letter No. SAE-II/MC/2000/1476, dated 21.2.2000, letter No. SAE-II/MC/99/12940, dated 31.12.99, letter No. CMC/Estt-I/E-III/99/2980, dated 22.4.99, letter No. SAE-II/MC/99/2109 dated 9.3.2000, letter No. CMC/Estt-I/E-I/2000/1032, dated 8.2.2000 on the subject noted above.

2. *Approval of the Administrator, U.T., Chandigarh as required under sub-section (3) of Section 71(A) of the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994 is hereby accorded to Schedule-II of posts of Municipal Corporation, Chandigarh, which includes newly created posts numbering 46 (Fortysix) as per detail given in the Schedule-II duly approved and attached.*

3. *Above approval is subject to the condition that no additional funds will be made available for these posts.*



*Superintendent Finance-II,
For Finance Secretary,
Chandigarh Administration.”*

SCHEDULE

<u>S.No.</u>	<u>Name of the Post</u>	<u>No. of Posts</u>	<u>Scale of Pay</u>	<u>Remarks</u>
1.	<u>SECTION OFFICERS (S.A.S.)</u> <u>S.O. (SAS)</u>	3	Rs. 6400-10640	Subject to the condition that the posts will be filled up on deputation.

10. The strength of aforesaid posts of S.O. (S.A.S.) was increased to seven vide letter dated 04.04.2008 of the U.T. Administration. Added 4 posts included 2 posts of Assistant Controller (F&A), meaning thereby, 5 posts of S.O. and 2 posts of Assistant Controller (F&A) were available with MC as per approval granted by Chandigarh Administration. The Chandigarh Administration vide notification dated 13.02.2008 amended Chandigarh Administration, Finance Department Accounts (Group ‘C’ Posts) Recruitment Rules, 2000. It is apt to mention here that Recruitment Rules, 2000 govern appointment of Section Officers. By way of 2008 amendment, the Administration permitted employees of Boards/Corporations/Societies of Chandigarh Administration to participate in the exam of SAS conducted by State of Punjab and become part of cadre. For the ready reference, notification dated 13.02.2008 whereby amendment was made in Recruitment Rules, 2000 is reproduced as below:-



“The 13th February, 2008.

No. F&PO (I)-2008-1039

In exercise of the powers conferred by the proviso to Article 309 of Constitution of India read with Government of India, Ministry of Home Affairs, Notification bearing NO. GSR3267 dated 1st Nov. 1966, the Administrator Union Territory, Chandigarh hereby makes the following amendments regulating the method of recruitment in the Chandigarh Administration, Finance Department Accounts (Group-C Posts) Recruitment Rules 2000, namely:-

i) These rules may be called the Chandigarh Administration Finance Department Accounts (Group-C Posts) Recruitment Rules (First Amendment), 2008.

ii) They shall come into force on the date of their publication in the official Gazette.

iii) In the Chandigarh Administration Finance Department Accounts (Group-C Posts) Recruitment Rules, 2000, in the schedule appended thereto in column No "11" under heading "Method of Recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods" after the word "Government" in the third line the following shall be added, namely:-

"Board/Corporations/Societies of the Chandigarh Administration.

iv) Further in the Chandigarh Administration Finance Department Accounts (Group-C Posts) Recruitment Rules, 2000 in the schedule appended thereto in column no. "11" under heading "Method of Recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods" after sub para (c) the following shall be added, namely:-

(d) The employees of the Boards/Corporation/Societies who qualify both parts of the SAS Examination conducted by the Punjab Government will be adjusted in the SAS Cadre of the Finance Department, Chandigarh Administration on the



existing pattern of the Punjab Government and further amendments made thereunder, by the Punjab Government from time to time".”

11. The MC Chandigarh vide office order dated 28.03.2008 adopted aforesaid amendment carried out by U.T. Administration. Office order dated 28.03.2008 reads as:-

“MUNICIPAL CORPORATION, CHANDIGARH

OFFICE ORDER

In exercise of powers conferred upon the undersigned the pursuance of the resolution passed by the Municipal Corporation, Chandigarh, in its 10th meeting held on 29.7.1997, the notification No. F&PO (1)-2008/1039, dated 13.2.208 (sic, 13.2.2008) (copy enclosed) of Finance Secretary, Department of Finance, Chandigarh Administration, regarding method of recruitment in the Chandigarh Administration, Finance Department Accounts (Group 'C' posts) Recruitment Rules for the employees of the Boards/Corporation/Societies who qualify both parts of the SAS examination conducted by the Punjab Govt. will be adjusted in the SAS cadre of the Finance Department, Chandigarh on existing pattern of the Punjab Govt., is hereby adopted in favour of employees of Municipal Corporation, Chandigarh on the same terms and conditions as contained in the aforesaid letter of the Chandigarh Administration.”

12. A conspectus of aforestated factual and legal position reveals that MC Chandigarh has no cadre of S.O. though having seven posts. The U.T. Administration is having cadre of S.O. Members of cadre curated by U.T. Administration are deputed to different Departments/Corporations/Boards. The U.T. Administration approved seven posts of S.O./Assistant Controller in MC Chandigarh. The approval was granted in terms of Section 71A(3) of Punjab

Municipal Corporation Act. While granting approval, Administration made it



clear that posts will be filled up through deputation. The petitioner is claiming that by office order dated 28.03.2008, MC Chandigarh got power to make appointment at its own level. Sanction of posts and recruitment are two different facets of service. Power to sanction a post does not include power to make appointment. Contention of petitioner at the first blush seems to be attractive and convincing, however, cannot be countenanced in the peculiar facts and circumstances of the present case. The U.T. Administration by way of notification dated 13.02.2008 amended Recruitment Rules, 2000. By amendment, employees of Boards/Corporations/Societies were permitted to participate in the SAS exam conducted by the State of Punjab. They were further made eligible to become part of U.T. cadre of Section Officers. The Municipal Corporation adopted said amendment. By adopting said amendment, the Corporation permitted its employees to participate in the exam of SAS conducted by the State of Punjab and become part of cadre of S.O. curated by U.T. Administration. In the absence of adoption of amendment carried out by U.T. Administration, the employees of MC Chandigarh could not appear in the SAS exam conducted by the State of Punjab and become part of U.T. cadre. An employee of one organization except in case of resignation cannot become part of another organization without approval of the parent department. The MC Chandigarh by adopting amendment carried out by U.T. Administration granted general permission to its employees to appear in SAS exam conducted by Punjab Government and become part of U.T. cadre of S.O. Thus, inevitable conclusion is that MC Chandigarh by order dated 17.03.2008 adopted amendment carried out by U.T. Administration in Recruitment Rules, 2000. The said adoption did not entail right in favour of MC to fill up posts of S.O. at

its own end.



13. Concededly, MC Chandigarh has no separate cadre of S.O. Recruitment Rules, 2000 framed by U.T. Administration has created cadre of S.O. Amendment was made in Recruitment Rules, 2000 by way of notification dated 13.02.2008. Prior to said amendment, employees of Corporation were not eligible to participate in the SAS exam conducted by the State of Punjab. As per Recruitment Rules, 2000, an employee who clears Part I & II of SAS exam becomes member of cadre. He may be employee of any Board/Corporation/Department of U.T. Administration. As per Rule 5(4) of Punjab State Finance and Accounts (Group 'A') Service Rules, 2012, a candidate belonging to Board or Corporation having passed SAS examination Part I & II on his request is considered for appointment in the service. His appointment is considered as fresh appointment though for pensionary benefits, past service is counted. The petitioner was asked to submit her willingness to join Chandigarh Administration as Section Officer. She vide letter dated 06.01.2016 submitted that she is not willing to join Chandigarh Administration. She did not join Chandigarh Administration because she was supposed to be tagged at the bottom of seniority list of Section Officers. She opted to remain in MC Chandigarh because she had discretion either to join Administration or remain in MC Chandigarh.

14. The petitioner participated in the SAS exam conducted by State of Punjab. She participated in the exam as per Recruitment Rules, 2000. She was eligible to appear and become Section Officer as per Recruitment Rules, 2000 read with Rules framed by State of Punjab. It means her source of passing exam was Recruitment Rules, 2000. As per said Rules, she could become S.O. by joining cadre created by Chandigarh Administration. She could not blow hot and cold. She could not be permitted to choose favorable and leave unfavorable



right arising out of same set of Rules. It was unfavorable for her to join S.O. cadre curated by U.T. Administration, however, it was favorable for her to remain in MC Chandigarh. Despite letters of Administration, MC Chandigarh did not prepare and send proposal for creating its separate cadre of S.O. In the absence of separate cadre of MC Chandigarh, the petitioner was bound to be governed by Recruitment Rules, 2000. The State of Haryana, Punjab and U.T. have created separate cadre of Sections Officers in Finance Department. The members of service clear Part I & II of SAS exam. They are deputed to different departments as representative of Finance Department. In the present case, the Administration approved seven posts of S.O. and Assistant Controller (F&A) in the MC Chandigarh. While creating three posts at the first instance, it was clarified that these posts would be filled up through deputation. Five posts concededly were filled through deputation. The petitioner attempted to take advantage of the situation and started claiming that she should be adjusted against vacant post though she was not part of S.O. cadre of U.T. Administration. There is no challenge to the memo whereby posts were created subject to the condition that these posts would be filled up through deputation. The MC was bound to fill up posts through deputation. These posts were not at the discretion of MC. It is apt to notice here that MC Chandigarh cannot create posts at its own. It is bound to seek approval of Administrator. Creation of seven posts with MC did not endow MC to fill up posts at its own. In the absence of specific Rules as well as cadre, there was no question to fill up posts at its own. The MC was bound by memo whereby posts were created.

15. The petitioner is discharging duties of S.O. for last 9 years in view of interim orders of this Court. Holding post on account of interim orders of

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this Court does not create absolute right in favour of the petitioner. She is bound to follow applicable Rules and Regulations.

16. In the wake of above discussions and findings, this Court is of the considered opinion that petition deserves to be dismissed and accordingly dismissed.

17. Pending Misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

19.01.2026
SDK

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

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