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

CWP-18055-2022

Date of decision: 09.03.2026

Mahender Singh

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Raman B. Garg, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Ms. Nikita Goel, Advocate and
Ms. Naina Ranot, Advocate
for respondents No.3 & 4.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned transfer order dated 10.08.2022 (Annexure P-6) being illegal on a different post of Building Inspector contrary to the appointment of the petitioner being on the post of Junior Engineer (Mechanical) and being outside the cadre of the petitioner by respondent No.2, who is not competent to transfer as per Rule 12 of the Haryana Municipal Corporation Employees (Recruitment and Conditions) Service Rules 1998 (in short 'Service Rules of 1998').

2. Learned counsel for the petitioner *inter alia* contends that the petitioner passed the Bachelor of Technology in Mechanical Engineering in First Division from Maharishi Dayanand University, Rohtak in May, 2008 as discernible from Annexure P-1. Thereafter, the petitioner passed a degree of



M.Tech. in Mechanical Engineering and with specialization in Manufacturing Technology and Automation as discernible from Annexure P-2. On 17.06.2020, the petitioner was appointed as Junior Engineer (Mechanical) in Municipal Corporation, Faridabad as discernible from Annexure P-3. The petitioner joined on 18.06.2020. The service record of the petitioner is unblemished. The petitioner has not been issued any charge sheet nor any departmental inquiry has ever contemplated against the petitioner. Further, the post of Junior Engineer (Mechanical) is governed by the Haryana Municipal Corporation Employees (Recruitment and Conditions) Service Rules, 1998. Under these service rules, there are three categories of posts of Junior Engineers, namely, (i) Junior Engineer (Civil) (ii) Junior Engineer (Mechanical) and (iii) Junior Engineer (Electrical). The post of Junior Engineer (Civil) is also called as Building Inspector. 10% posts of Junior Engineer (Civil) or Building Inspector can be filled up by promotion from Road Inspectors and Surveyors, whereas, 33% posts of Junior Engineer (Electrical) can be filled up by promotion from Electrical Foreman/Electricians, whereas, there is no provision for filling up the posts of Junior Engineer (Mechanical) by promotion in terms of Rule 9 of Service Rules of 1998.

2.1. He further has drawn the attention of this Court regarding the educational qualification for the post of Junior Engineer (Civil) or Building Inspectors as well as the Junior Engineer (Mechanical) and Junior Engineer (Electrical). A person holding a degree of Mechanical Engineering cannot be posted as Junior Engineer (Civil) or Building Inspector or Junior Engineer (Electrical). Similarly, a person holding a degree of Civil Engineering cannot be posted or appointed as Junior Engineer (Mechanical) or Junior Engineer



(Electrical). Similar is the position in case of promotion on higher post of Assistant Engineer. Similarly, a Junior Engineer (Mechanical) cannot be promoted on the higher post of Assistant Engineer (Civil) or Assistant Engineer (Electrical). Likewise, no person holding the post of Junior Engineer (Civil) or Building Inspector or Junior Engineer (Electrical) can be promoted on the higher post of Assistant Engineer (Mechanical). Further, as per Rule 11 of the Service Rules of 1998, the seniority of the post of Junior Engineer (Mechanical) is to be determined on the basis of continuous length of service on that post only at the level of Municipal Corporation, Faridabad as the Commissioner concerned of the Municipal Corporation is the appointing authority.

2.2. Further, there is no past practice or provision regarding maintaining *inter se* seniority of the employees of different Municipal Corporations in the State of Haryana. He further relies upon the proceedings of the meetings held on 04.10.2013 (Annexure P-5) headed by the Special Secretary to Government of Haryana, Urban Local Bodies Department for finalization of seniority amongst the officers in Faridabad, Municipal Corporation and other Municipal Corporations and submits that a conscious decision was taken in view of the fact that the Municipal Corporation, Faridabad is having a unique position as right from the inception, it was only a Corporation, whereas, 08 other Corporations were created by converting the committees from the year 2008 to 2014 from Municipal Committees to Municipal Corporations. As such, it was decided in the aforesaid meeting that employees of Municipal Corporation, Faridabad, should be considered for promotion against vacancy of Municipal Corporation, Faridabad only, whereas,



employees of remaining Municipal Corporations should be considered for promotion against vacancies of all other Municipal Corporations except Municipal Corporation, Faridabad. He further relies upon the impugned transfer order (Annexure P-6) and submits that the petitioner who was serving as a Junior Engineer (Mechanical) has been transferred to Municipal Corporation, Panipat for the post of Building Inspector for which the petitioner does not possess the necessary expertise or the qualification and posting a person having the degree and experience as Junior Engineer (Mechanical) to the post of Building Inspector, would be against the public interest. Moreover, it is against the legislative intent in providing different essential qualifications for different posts in view of the specialized nature of work of each post. Further, the respondents have failed to disclose any administrative ground necessitating transfer of the petitioner as per law.

2.3. Additionally, learned counsel for the petitioner has highlighted the fact that the impugned transfer order was not passed by the competent authority and in this regard, the petitioner has specifically relied upon Rule 12 of the Service Rules of 1998 and submits that the member of the service shall be liable to serve at any place in any Municipal Corporation in the State of Haryana or being ordered to do so by the appointing authority or the State Government, whereas, the impugned order has not been passed either by the appointing authority or by the State Government. Further, reliance of the respondents on Annexure R-1 also does not justify the impugned order as in para 3, it has been specifically provided in the instructions dated 17.03.2022 (Annexure R-1) that all the matters/proposals shall be routed through the Director, Urban Local Bodies, Haryana, Panchkula, except the establishment



matters where the Government is the competent authority, as such, under the garb of the instructions, the impugned order cannot be justified and respondent No.2 cannot usurp the power of respondent No.1 who is the competent authority in terms of the Service Rules of 1998.

2.4. He further relies upon the judgments of the Hon'ble Supreme Court in *Jawaharlal Nehru University Vs. Dr. K.S. Jawalkar 1989 AIR (Supreme Court) 1577*; *State of Punjab Vs. Inder Singh 1997 (8) SCC 372* and *Umapati Choudhary Vs. State of Bihar 1999 (4) SCC 659* and the judgments of this Court in CWP No.15589 of 1995 titled as *Parkash Singh Sekhon Vs. The State of Punjab and others* decided on 21.01.1997 & CWP No.8988 of 1993 titled as *Bahadur Chand Vs. State of Haryana* decided on 17.02.1995.

3. Per contra, learned counsel for the respondent-Corporation as well as the learned State counsel relies upon Annexure R-2 i.e. the instructions dated 24.08.2022 and submits that the Government has already taken a conscious decision to transfer a Junior Engineer (Civil), Junior Engineer of other streams in the available posts of all categories of Junior Engineer in the Municipalities. The transfers or deputations of these Junior Engineers can be made even if no sanctioned posts are available.

3.1. Learned State counsel further relies upon Rule 12 (2) of the Service Rules of 1998 and submits that the petitioner is serving on a State cadre post and he can be transferred anywhere in Haryana, as such, the present petition is liable to be dismissed.

4. Having heard learned counsel for the parties and after perusal of the record, it transpires that Rule 7 of Service Rules of 1998 provides that no



person shall be appointed to any post in the service unless he is in possession of qualification and experience specified in column 3 of Appendix B to these rules in case of direct recruitment and those specified in column 4 of the aforesaid Appendix in the case of persons appointed other than by direct recruitment. The same is reproduced as under:-

“7. Qualifications. - No person shall be appointed to any post in the Service, unless he is in possession of qualification and experience specified in column 3 of Appendix B to these rules in case of direct recruitment and those specified in column 4 of the aforesaid Appendix in the case of persons appointed other than by direct recruitment.”

5. Further, at serial Nos.38 & 39 of the appendix B, the academic qualification and experience for direct recruitment and for appointment other than by direct recruitment for the post of Junior Engineer (Civil) or Building Inspector and Junior Engineer (Mechanical) is reproduced as under:-

Sr. No.	Designation of Post	Academic qualifications and experience, if any, for direct recruitment	Academic qualifications and experience, if any, for appointment other than by direct recruitment
38.	Junior Engineer (Civil) or Building Inspector	(i) Diploma in Civil Engineering from an institution recognized by the State Government; (ii) Knowledge of Hindi upto Matric Standard.	For Promotion- (i) Diploma in Civil Engineering from an institution recognized by the State Government; (ii) Ten years' experience as Road Inspector; OR (i) Surveyor Course from ITI; (ii) Twelve years' experience as Surveyor. For Transfer or Deputation- (i) Diploma in Civil Engineering from an institution recognized by the State Government; (ii) Two years' experience as Junior Engineer (Civil) or Building Inspector; (iii) Knowledge of Hindi upto Matric Standard.

39.	Junior Engineer (Mechanical)	(i) Diploma in Mechanical Engineering from an institution recognised by the State Government; (ii) Knowledge of Hindi upto Matric Standard.	For Transfer or Deputation- (i) Diploma in Mechanical Engineering from an institution recognised by the State Government; (ii) Two years' experience as Junior Engineer (Mechanical); (iii) Knowledge of Hindi up to Matric Standard.
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6. Further, the post of Junior Engineer (Mechanical) is governed by Service Rules of 1998. Under these service rules, there are three categories of the post of Junior Engineers namely (1) Junior Engineer (Civil); (2) Junior Engineer (Mechanical) and Junior Engineer (Electrical). The post of Junior Engineer (Civil) is also called as Building Inspector 10% posts of Junior Engineer (Civil) or Building Inspector can be filled up by promotion from amongst Road Inspectors and Surveyors whereas 33% of posts of Junior Engineer (Electrical) can be filled up by promotion from Electrical Foreman/Electricians whereas there is no provision for filling up the post of Junior Engineer (Mechanical) by promotion as per Rule 9 of Service Rules of 1998. The relevant Rule 9 is reproduced as under:-

9. Method of recruitment.-(1) XXX XXX XXX

(1A) Recruitment to the services shall be made,-

(I) to (XXXVII) XXX XXX XXX

(XXXVIII) in the case of Junior Engineer (Civil) or Building Inspector,

- (i) 10 per cent by promotion from amongst Road Inspectors and Surveyors in 6: 4 ratio; and
- (ii) 90 per cent direct recruitment; or



(iii) by transfer or deputation of an official already in the service of any State Government or Government of India.

(XXXIX) in the case of Junior Engineer (Mechanical),

(i) by direct recruitment; or

(ii) by transfer or deputation of an official already in the service of any State Government or Government of India.

(XL) in the case of Junior Engineer (Electrical),

(i) 33% by promotion from amongst Electrical Foremen/Electricians, and

(ii) 67% by direct recruitment; or

(iii) by transfer or deputation of an official already in the service of any State Government or Government of India.

(XLI) to (CXXII) XXX XXX XXX

(2) All promotions, unless otherwise provided, shall be made on seniority-cum-merit basis and seniority alone shall not confer any right to such promotion."

7. The educational qualifications for the post of Junior Engineer (Civil) or Building Inspector, Junior Engineer (Mechanical) and Junior Engineer (Electrical) are also different.

8. A person holding the degree of Mechanical Engineering cannot be posted or appointed as Junior Engineer (Civil) or Building Inspector or Junior Engineer (Electrical). Similarly, a person holding the degree of Civil Engineering cannot be posted or appointed as Junior Engineer (Mechanical) or Junior Engineer (Electrical). Similar is the position in the case of promotion on higher post of Assistant Engineer.



9. Similarly a Junior Engineer (Mechanical) cannot be promoted on the higher post of Assistant Engineer (Civil) or Assistant Engineer (Electrical). Similarly, no person holding the post of Junior Engineer (Civil) or Building Inspector or Junior Engineer (Electrical) can be promoted on the higher post of Assistant Engineer (Mechanical).

10. As per rule 11 of Service Rules of 1998, seniority of the post of Junior Engineer (Mechanical) is to be determined on the basis of continuous length of service of that post only at the level of the Municipal Corporation, Faridabad. Neither Junior Engineer (Civil) or Building Inspector or Junior Engineer (Electrical) are part of the cadre of Junior Engineer (Mechanical). In other words, the post of Junior Engineer (Civil) or Building Inspector or Junior Engineer (Electrical) is not the part of the cadre of the Junior Engineer (Mechanical) at the level of Municipal Corporation.

11. Further, in terms of the series of meeting held on 04.10.2013 (Annexure P-5) there is no *inter se* seniorities of the employees of Municipal Corporation, Faridabad with the employees of any other Municipal Corporation in the State of Haryana.

12. Relevant Rule 12 of Service Rules of 1998 is reproduced as under:-

12. Liability to serve.- (1) *A member of the Service shall liable to serve at any place, in any Municipal Corporation in the State of Haryana on being ordered so to do by the appointing authority or the State Government.*

(2) *A member of Service may also be deputed to serve as under:*

(i) *a company, an association or a body of individuals whether incorporated or not, which is wholly or*



substantially owned or controlled by the State Government, a Municipal Corporation or Municipal Council or Municipal Committee or a local authority or University [or any other department of the State Government] within the State of Haryana,

(ii) the Central Government or a company, an association or a body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government; or

(iii) any other State Government, an international organisation, an autonomous body not controlled by the Government or a private body.

13. Moreover, both the Municipal Corporations at Panipat and Faridabad i.e., the respondents No. 3 and 4 are separate entities. The appointing authority of the petitioner is the Commissioner, Municipal Corporation, Faridabad, the respondent No.3. The appointing authority of the post of Building Inspector at Municipal Corporation, Panipat is the Commissioner, Municipal Corporation, Panipat, the respondent No.4. The powers of the State Government are exercised by the Secretary of the Government of Haryana as per Business of the Haryana Government (Allocation) Rules, 1974. Therefore, the respondent No. 2 is not competent to order transfer of the petitioner.

14. Moreover, posting the petitioner as Building Inspector to undertake the overall supervision of the civil/building work would not be in the public interest as the petitioner has the expertise only in mechanical works not in civil works. So it has a potential to cause loss to public as well as the Municipal Corporation, Panipat, as such, the transfer of the petitioner to the post of Building Inspector is against the public interest. Moreover, in terms of Rule 12 of Service Rules of 1998, the power to transfer a Junior Engineer



(Mechanical) to any other Corporation is with the State Government and reliance of the respondent on Annexure R-1 to the instructions dated 17.03.2022 is totally misplaced even in para No.3 of the aforesaid instructions it has been clearly indicated that all the matters/proposals shall be routed through Directorate of Urban Local Bodies, Haryana, Panchkula, except the establishment matters where the Government is the competent authority. Further, even the letter dated 24.08.2022 (Annexure R-2) relied upon by the respondent does not justify the decision of the transfer order in the aforesaid instructions as it has been clearly mentioned that work profile of the officials will be remain same strictly as per their actual designations. Although, the transfer is a normal incident of service, however, the same has to be done in compliance of the applicable rules.

15. The judgment of this Court, cited by the learned counsel for the petitioner in CWP No.8988 of 1993 titled ***Bahadur Chand vs. State of Haryana***, decided on 17.02.1995, is applicable to the present case.

16. In view of the discussion above, the present petition is allowed and the impugned transfer order dated 10.08.2022 (Annexure P-6) is hereby set aside. However, liberty is granted to the competent authority to pass any order of transfer of the petitioner if required by giving cogent reasons to the post of Junior Engineer (Mechanical) in accordance with the rules.

(HARPREET SINGH BRAR)
JUDGE

09.03.2026
Neha

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