

CM-4985-LPA-2025
CM-4986-LPA-2025 in/and
RA-LP-64-2025 and
RA-LP-80-2025 in
LPA-955-2016
Date of Decision: 08.05.2026

JYOTI SAINI AND ANOTHER

...Appellants

Vs.

HARYANA VIDYUT PRASARAN NIGAM LIMITED AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Brijesh Khosla, Advocate for the review applicants No.2 in
RA-LP-80-2025.

Mr. Sanjeev Kaushik, Advocate for the review
applicant/respondent No.1 in RA-LP-64-2025.

Mr. Ashwani Talwar, Sr. Advocate with
Mr. Deepak Goyat, Advocate for the non-applicant/appellant.

ASHWANI KUMAR MISHRA, J. (Oral)**CM-4985-LPA-2025 in**
RA-LP-64-2025

Delay of 20 days in filing the accompanying review application,
has been satisfactorily explained.

In that view of the matter, the application is allowed and delay
of 20 days in filing the review application, is condoned.

Review Applications.

1. These review applications have been filed questioning the
judgment of the Division Bench passed in LPA No.955 of 2016, whereby the

promotion made in favor of the review applicant No.2 has been set at naught.

The operative part of the order under review reads as under:-

“7. The action of promoting the said persons as Divisional Accountants is, thus, found to be illegal and unjustified and an attempt to give undue benefit to the members of the ministerial cadre who could not be shifted to the accounts cadre because from the affidavit filed, it is apparent that there are 02 different cadres in the Corporation namely accounts cadre and ministerial cadre and in each cadre, there is a channel of promotion available. The respondents namely Ashwani Chauhan and Pooja Lathwal, therefore, could have been promoted in their own cadre.

8. In view of above, the promotion awarded to the respondents vide order dated 02.05.2012 and 17.02.2014 would not be sustainable in law.

9. We find that the appellants’ valuable right of consideration for promotion has been denied. The respondents shall, now, conduct a fresh exercise for promotion and consider the appellants for promotion to the post of Divisional Accountants as per their record of service on the day when they were to be considered, i.e. in 2012 and 2014. If they are found otherwise fit for promotion, they shall be promoted from the same date, with all the consequential benefits of seniority etc. and the appellants shall be entitled to the salary from the date of filing of the writ-petition.

10. It is made clear that since the promotion awarded to the respondents was wrongful and illegal, the departmental action ought to be taken against the concerned officer, who promoted the said respondents from the ministerial cadre in the accounts cadre and the recovery, if any, may also be effected from them with regard to the salary released to them. However, it is also made clear that so far as the respondents are concerned, they would be considered in their own cadre for promotion, if they are so eligible.”

2. The writ petitioners were the employees working in the Haryana Vidyut Prasaran Nigam Limited (for short 'HVPNL') who were aggrieved by non-consideration of their claim for promotion to the post of Accountant. The writ petition was heard by the learned Single Judge of this Court and was disposed of by observing as under:-

“Right to be considered for promotion as per the Rules governing the service is a fundamental right of an employee.

It appears that on account of some issues regarding the fixation of seniority of Junior Accountants for promotion to the post of Divisional Accountants, the Recruitment and Promotion Policy is under review. It is imperative that any such review be finalized expeditiously so that the case of the petitioners and other eligible Junior Accountants for promotion is not unnecessarily delayed.

Accordingly, this petition is disposed of with a direction to the respondents to finalize the revised Recruitment and Promotion Policy in relation to promotion of Junior Accountants at the earliest, so that the promotion cases of the petitioners and other eligible Junior Accountants can be considered expeditiously.”

3. Aggrieved by the order of the learned Single Judge, two of the writ petitioners filed the instant appeal which has since been allowed by the Division Bench vide the judgment which is under review. The Division Bench has taken note of the notification dated 09.03.1990 whereby the recruitment and promotion policy in respect of Audit/Account Wing was formalized for promotion to the post of Accountant. The persons from account cadre were eligible.

4. Clause 3 of the Policy permitted as one time measure the adjustment of Commercial Assistants also in the cadre. The Division Bench,

in such circumstances, was of the view that after 1990, it was not open for the Nigam to have promoted any person from the ministerial cadre to the post of Accountant even though he may have passed the departmental examination of Divisional Accountant. It was however brought to the notice of the Court that certain promotions were effected from ministerial cadre in the past including the promotion of the review applicant in the year 2014, as such, the Division Bench held such promotion to be bad in law.

5. Review applications are pressed by the learned senior counsel as well as State counsel by referring to the prayer clause of the writ petition, wherein, the limited prayer made was to direct the employer to promote the petitioners as Divisional Accountant w.e.f 04.04.2012, and not to make any promotion on the post of Divisional Accountant and Section Officers during the pendency of the writ petition. The writ petition admittedly was filed in the year 2014 by when the promotion of the review applicant No.2 was already made. It is apparent from the prayer clause of the writ petition that there was no challenge made to the promotion offered to the review applicant No.2.

6. The primary grievance raised on behalf of the review applicants is that the Division Bench fell in error in nullifying the promotion of review applicant already made, notwithstanding the fact that no such prayer was made in the writ petition. It is also contended on behalf of the review applicants that the respondents on account of various circumstances otherwise allowed promotion of employees from the ministerial cadre and, therefore, the direction issued by the Division Bench castigating such promotion is uncalled for.

7. Learned counsel for the appellants opposes the prayer made in the review applications by referring to notification of 1990, as well as

subsequent notification dated 03.10.2016, which makes reference to dozens of promotion policies formulated between 1990 to 2016. With reference to this policy, it is urged that in fact the consistent stand of the Nigam has been to restrict the promotion on the post of Divisional Accountant from the officials working in the field cadre of accounts and audit department alone and that any departure made by the Nigam has rightly been nullified by the Division Bench and the review applications merit rejection.

8. The narration of facts would clearly depict that in the writ petition filed by the appellants, the limited prayer made was to direct the Nigam to accord consideration to the claim of the writ petitioners for promotion. It is undisputed that the promotion of the review applicant was made prior to the filing of the writ petition. There was however, no challenge in the writ petition to the promotion offered to the review applicant. Once that be so, and the review applicant was already working on the post of Divisional Accountant for several years, we are of the view that there was no occasion for the Division Bench to have nullified the promotion offered to the review applicant. To such extent, we find that an error apparent on the face of record has crept in as the relief which was not claimed for, could not have been granted. It appears that the attention of the Division Bench was not invited to the fact that the promotion made from the ministerial cadre to the post of Divisional Accountant was never challenged. We, therefore, accept the claim of the review applicant and hold that while disposing of the appeal an inadvertent error has occurred.

9. We may further note that when the matter was heard earlier, we called upon the Nigam to clarify as to when the separate account cadre has

been constituted. An affidavit has been filed today on behalf of the Nigam sworn by the Under Secretary, HVPNL stating as under:-

12. That, the respondent i.e. Mrs. Pooja Lathwal was considered for promotion in the year 2014. Shri Ashwani Chauhan was considered for promotion in the year 2012. Both were promoted in term of policy dated 09.03.1990 and 23.01.1996. It is only in the year 2016 HVPNL decided to revise the recruitment & promotion policy for the post of Junior Accountant, Divisional Accountant and Section Officer.

13. That the Accounts Cadre was already in existence in erstwhile HSEB but due to shortage of manpower in the Accounts cadre, a conscious decision was taken by the Board that employees holding posts under Ministerial cadre may be considered and promoted to the posts belonging to Accounts cadre on passing the Departmental Accounts Examination. Accordingly this exercise was carried out only till 03.10.2016 i.e. the date when recruitment and promotion policy for non-gazetted staff of Accounts & Audit wing i.e. Junior Accountant, Divisional Accountant and Section Officer was revised in compliance of orders dated 18.02.2016 passed by the Hon'ble High Court in CWP No. 16872 of 2014 titled as Karamveer Vs HVPNL & Anothers. A last opportunity was also provided to the officials who are holding posts which belong to cadre other than Accounts cadre, to pass SO Part-I examination for consideration for promotion to the post of Divisional Accountant. However, thereafter, employees holding posts belonging to other cadre were not allowed to appear in Departmental Accounts Examination.

10. Considering the fact that the review applicant was already promoted in 2014 and there was no challenge to his promotion, we are not inclined to embark upon the factual aspect as to whether the promotion offered to the review applicant was consistent with the promotion policy or

not. It is otherwise the consistent case of the Nigam that the last promotion from the ministerial cadre was allowed as one time measure in 2016, and that no promotion has been offered to anyone from the ministerial cadre, thereafter. Such factual position is not disputed on the part of the writ petitioners.

11. In such circumstances, we allow the present review applications and protect the promotion already offered to the review applicants, which were not challenged in the writ petition. We also deem it appropriate to observe that the claim of the writ petitioners for promotion to the post of Divisional Accountant must be accorded consideration by the Board within a period of three months from today, in accordance with the promotion policy. In the event, it is found that persons junior to the writ petitioners have already been offered promotion to the post of Divisional Accountant, the authorities shall pass necessary orders granting such benefit of promotion to the post of Divisional Accountant to the writ petitioners from the date such benefit was granted to their juniors.

12. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

08.05.2026
rajesh

. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No