

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

2026:PHHC:064112-DB



(227)

**CWP-29997-2022(O&M)
Date of Decision: 27.04.2026**

Hemraj

--Petitioner

Versus

State of Haryana & others

--Respondents

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

Present:- Mr. Vinod Bhardwaj, Advocate for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

ASHWANI KUMAR MISHRA.J (Oral)

1. Prayer in this petition is for quashing the Rule 9(4) and Rule 9A(1)(2)(3) of the Haryana Public Works Department Public Health Branch (Junior Engineers) (Group-C) Service (Amendment) Rules, 2022 (for short 2022 Rules) incorporated vide Gazette Notification dated 21.10.2022 (Annexure P-13).

2. Petitioner was engaged as Water Pump Operator on 25.04.1992 on Muster Roll. His services came to be regularized on 01.02.1996 on the post of Pump Attendant. The post of Water Pump Operator was a Group-D post. The petitioner along with another person, filed CWP-16271-2014 challenging his regularization on the post of Pump Attendant on the plea that he ought to have been regularized on the post of Water Pump Operator. This petition was allowed. During the pendency of the writ petition, petitioner also sought permission to secure higher qualification. Such permission was granted on 05.11.2014 and the petitioner has obtained

Diploma in Civil Engineering on 09.02.2018. The petitioner raised a claim for promotion to the post of Junior Engineer (Civil) which came to be rejected by the respondents on 18.05.2022. This order was challenged in CWP-10827-2020. The writ petition came to be disposed of on 11.02.2021 vide following orders:-

“The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner prays for issuance of a writ in the nature of certiorari for quashing the Memo No.38909, dated 18.05.2020, rejecting to consider the petitioner for promotion to the post of Junior Engineer(Civil).

The writ petition has been contested on the ground that under the Service Rules applicable, there is no provision for promotion from the post of Water Pump Operator to the post of Junior Engineer. It has been pointed out that efforts were made to amend the service rules, however, the government did not accede to the aforesaid requests.

On 2.12.2020, the following order was passed:-

“The hearing of the case was held through video conference on account of restricted functioning of the Courts.

Arguments of learned counsels for the parties have been heard at some length.

Learned counsel for the petitioner while relying upon Annexure P-10 and reply to the demand notice, submits that the department have been giving relaxation in the rules while considering the cases of the pump operators/attendants for promotion to the post of Junior Engineer(Civil). He further draws attention of the court to Annexure P-12, at page 88, to contend that in the year 2018, as many as 20 such persons were given Current Duty Charge to the post of Junior Engineers.

Per contra, Mr. Samarth Sagar, Additional

Advocate General, Haryana, has submitted that the petitioner cannot claim relaxation as a matter of right. However, he prays for a short accommodation to get the complete instructions.

Adjourned to 08.12.2020, for final disposal.

No further request for an adjournment shall be entertained.”

In pursuance to the aforesaid order, an additional affidavit has been filed by the Superintending Engineer, Public Health Engineering Circle, Ambala Cantt, stating as under:-

“5. That the Government vide No.2/30/2017-2PH dated 05.03.2020 (Annexure R-3) decided that “since the amendment in service rules is under process, therefore, the action will be taken after the finalization of service rules”. Accordingly, the respondent department has sent the case to Government for amendment in service rules again which contain amendment in eligibility criteria for promotion to the post of Junior Engineer from RME staff, which is at final stage and pending at Government level. The Hon'ble CM/CS, Haryana, LR, FD and HSSC has already approved the said draft amendment and the said draft amendment was sent to Administrative Department for approval of CMM.”

Keeping in view the aforesaid facts and without commenting on the merits of the case, the government is requested to take a final decision within a period of three months.

With these observations, the writ petition is disposed of.”

3. It is thereafter that the 2022 Rules came to be amended vide notification dated 21.10.2022. The amended Rule 9(4) provided that an employee of Group C or D, who has not attained the age of 54 years as on 1st January of the calendar year shall be eligible for appearing in the departmental examination. It is with reference to the above amendment that

the respondents have denied claim of promotion in favour of the petitioner on the ground that he had not acquired 5 years of experience with the requisite qualification as was required vide notification dated 21.10.2022 for promotion. Appendix 'B' to Rule 7, as amended vide notification dated 21.10.2022 clearly puts a note as per which 5 years experience as Group-C employee has to be counted only after acquiring the academic qualification prescribed for the post. It is this clause with which the petitioner is aggrieved inasmuch as his claim for promotion has not been accorded consideration only on this point.

4. It is in the above context that the present writ petition has been filed stating that persons junior to petitioner were promoted way back in the year 2018, whereas the claim of petitioner was overlooked. It is submitted that the amendment in the service rules cannot be given a retrospective effect so as to non-suit the claim of the petitioner for promotion since persons junior to him were promoted way back in the year 2018.

5. In support of above contention, learned counsel for the petitioner has stated as under:-

“22. That after acquiring the necessary qualification for the post of Junior Engineer (Civil), the petitioner was fully eligible for the promotion to the post of JE (Civil), but he was not given any promotion and even he was not given current duty charge for the post of JE (Civil) even the juniors were promoted and were given current duty charge for the post of JE (Civil) and the petitioner was ignored in a arbitrary manner.”

6. Reliance is also placed on the orders of promotion contained in Annexures P-10 and P-11, whereby persons including those who were Water Pump Attendants, have been promoted substantively to the post of

Junior Engineer (Civil).

7. The reply to paragraph 22 of the writ petition by the State reads as under:-

“22. That the contents of para no.22 of the present writ petition are wrong and denied. On mere acquisition of diploma in Civil Engineer, the petitioner cannot claim that he was eligible for promotion to the post of Junior Engineer. The posts held by the petitioner was not mentioned in above mentioned Rule 9 of Service Rules, 1986 and as such the petitioner was not eligible for promotion to the post of Junior Engineer (Civil) and no person from regular mechanical staff has been promoted or granted the current duty charge after 09.02.2018, the date when the petitioner acquired the Diploma in Civil Engineering.”

8. Learned counsel for the State, however, places reliance upon the unamended rules of 1986 to submit that the claim of promotion by virtue of Rule 9 could only be from Work Inspectors and Surveyors and not from the post of Water Pump Operators.

9. The promotion orders passed in favour of other persons in the year 2011 and 2018 clearly specify that power of relaxation was exercised by the employer to expand the feeder cadre and extend benefit of promotion to a Water Pump Operator.

10. From the materials placed on record, it is apparent that the petitioner, though, was regularized on the post of Pump Attendant but such regularization has been modified under the judgement of this Court to the post of Water Pump Operator. Once that be the position, the petitioner would be treated to have been regularized on the post of Water Pump Operator. The record further reveals that other similarly placed persons were accorded promotion in the year 2011 and 2018. For such purpose,

relaxation was granted to others. The claim of the petitioner, however, was kept pending. It is only after direction was issued by this Court that the rules have been amended so as to include the post of Water Pump Operator also as a feeder cadre post of promotion to the post of Junior Engineer. In this context the offending clause in the rule restricting the age to 54 years for persons, who are to take examination for promotion, crops up for consideration.

11. In the peculiar facts of the present case, we find that similarly placed persons were accorded consideration for promotion to the post of Junior Engineer. Merely as the petitioner's claim was not considered, it would at best indicate that he was not treated fairly. We are, therefore, of the view that the petitioner's claim for promotion ought to have been accorded consideration in the year 2018 itself. Once that be so, the respondents would not be justified in retrospectively applying the amended rule notified on 21.10.2022 so as to deny consideration of his claim for promotion.

12. We are, therefore of the view that amendment introduced in clause 9(4) of the amended rule notified on 21.10.2022 shall not be applicable on the facts of the petitioner's case as his entitlement to be considered for promotion had already crystallized prior to that. Undisputedly, the petitioner has appeared for the examination for promotion and has cleared the same. Once that be so, the claim of petitioner for promotion would be accorded consideration and the same shall not be discarded only on the ground that he was above 54 years of age on the date of appearing in the examination. The writ petition, accordingly, succeeds and is allowed.

13. Writ of Mandamus is issued to the respondents to accord consideration to petitioner's claim for promotion on the post of Junior Engineer from the date his juniors were accorded consideration by passing specific orders within a period of two months from the date of receipt of a copy of the present order.

14. The question as to on what particular date the persons junior to petitioner have been promoted shall be open for examination by the competent authority by passing consequential orders of promotion in case of the present petitioner and to extend such benefits accordingly.

15. The statement made by learned State counsel that such persons have actually been promoted only on 10.09.2025 shall also be open for examination.

16. At this stage, learned counsel for the petitioner states that the petitioner would be satisfied if benefit of promotion is granted to him from 10.09.2025 when large number of other persons have been promoted.

17. In that view of matter, we provide that the claim of petitioner shall be accorded consideration from 10.09.2025.

18. The appeal is allowed in the aforesaid terms.

(ASHWANI KUMAR MISHRA)
JUDGE

27.04.2026
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(ROHIT KAPOOR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No