

(2026) 03 P&H CK 1232
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5302 Of 2026

Kulwant Singh

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 27-03-2026

Acts Referred:

Constitution Of India, 1950 — Article 14, 16(1), 226, 227

Citation : (2026) 03 P&H CK 1232

Hon'ble Judges : Harpreet Singh Brar, J

Bench : Single Bench

Advocate : Abhishek Singla, Vikas Arora, Sanju Wadhwa

Final Decision : Allowed

Judgement

Harpreet Singh Brar, J

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing the respondents to promote the petitioner to the post of Assistant Corporation Engineer (O&M) (Civil) being fully eligible as per the Punjab Municipal Corporation Services (Recruitment and conditions of service) (Amendment) Rules, 2020. It is further prayed that directions be issued to the respondents to convene the Departmental Promotion Committee meeting as a number of posts of Assistant Corporation Engineer (O&M) (Civil) are lying vacant.

2. Learned counsel for the petitioner inter alia contended that the petitioner was appointed as Tubewell Driver in the Punjab Water Supply and Sewerage Board in the year 1995. In the year 1996, the services of the petitioner were transferred to the Municipal Corporation, Amritsar. Subsequently, in the year 2011, the services of the petitioner were regularized w.e.f. 01.01.1996 and all past benefits i.e., difference of pay and annual increment were also granted in compliance with the order passed by this Court. Thereafter, the petitioner was promoted to the post of Junior Engineer (O&M) (Civil) vide order dated 03.01.2017 (Annexure

P-1) on probation period of one year. Since the services of the petitioner were upto the mark and there was no complaint against him, his probation period was successfully completed and he was confirmed vide order dated 31.12.2018 (Annexure P-2) to the post of Junior Engineer (O&M) (Civil).

3. Learned counsel further contended that in the year 2020, the Government of Punjab, Department of Local Government issued the tentative seniority list of Junior Engineers (O&M) (Civil) (Annexure P-3), wherein the petitioner was placed at Sr. No.2. It was submitted that Sh. Nandan Bansal, who was placed at Sr. No.1, has already been promoted to the post of Assistant Corporation Engineer (O&M) (Civil) and, therefore, the petitioner is currently the senior-most Junior Engineer (O&M) (Civil).

4. It was argued that under the Punjab Municipal Corporation Services (Recruitment and conditions of service) (Amendment) Rules, 2020 (hereinafter referred to as the "2020 Amendment Rules") (Annexure P-4), promotion to the post of Assistant Corporation Engineer has to be made from amongst "the members of the Punjab Service of Corporation Junior Engineers working as Junior Engineer operation and maintenance (Civil) who possess diploma in civil engineering and have an experience of working in this service for a minimum period of seven years". It was submitted that the petitioner is fully eligible to be promoted as he has completed 07 years as Junior Engineer on 02.01.2024 and possesses a Diploma in Civil Engineering issued by the Punjab State Board of Technical Education and Industrial Training (Annexure P-5).

5. Furthermore, learned counsel placed reliance on the instructions dated 08.05.2017 (Annexure P-6) issued by the Government of Punjab, Department of Personnel, stating that the Departmental Promotion Committee (hereinafter referred to as "DPC") has to be held every three months so that eligible employees get their promotions in time. The petitioner submitted a representation dated 12.03.2024 (Annexure P-7) to the respondents to consider his case for promotion. However, no reply to the said representation has ever been received. Moreover, it is argued that similarly situated employees i.e., Junior Engineers (Mechanical) (O&M) have already been promoted vide promotion order dated 13.03.2025 (Annexure P-8).

6. Learned counsel contended that the case of the petitioner was not considered in the DPC held on 28.01.2025 irrespective of the fact that a number of posts of Assistant Corporation Engineer (O&M) (Civil) are lying vacant. It has also been brought to the notice of this Court that the petitioner is on the verge of his superannuation and is going to retire on 31.03.2026. Furthermore, reliance was placed on the judgment of the Delhi High Court in *Parvez Ahmed vs. Govt of Nct of Delhi & Anr*, 2025(2) SLR 638; the judgment of the Himachal Pradesh High Court in *Santosh Kumar Rana v. State of H.P.*, 2025 NHHC 41390; and the judgment of Manipur High Court in *WP(C) No. 844 of 2021*, titled as "*Shri Mongjam Birajit Singh and ors vs. The State of Manipur and ors.*" Thus, it was contended that employees should not suffer due to lapses of the employer in

conducting DPC for promotion in time. DPCs must be held regularly and timely to ensure promotions and career progression of eligible employees and to avoid stagnation.

7. Per Contra, learned counsel for respondents, while referring to the affidavit of Kulwant Singh, Director, Local Government, Punjab, argued that though the 2020 Amendment Rules provide that a person having Diploma in Civil Engineering is eligible for promotion, the Diploma in Civil Engineering obtained by the petitioner is in Part Time Mode and is not a regular Diploma. Therefore, the petitioner's Diploma is not valid and cannot be considered for the present promotion. Reliance was placed on the judgment of this Court in CWP-6507-2018, titled as "Ramesh Kataria and others vs. Punjab Water Resources Management and Development Corporation and others" wherein it has been held that Diplomas in Engineering acquired through distance education mode are neither valid nor recognized. In the aforesaid case, this Court had relied upon AICTE clarifications which state that AICTE does not recognize diploma courses in engineering conducted through Open and Distance Learning (ODL) mode. Further reliance was placed on the order dated 31.08.2023 (Annexure R-2) of the Directorate of Local Government, Punjab, stating that no application for obtaining an Engineering Diploma/Degree through Distance Mode shall be accepted, and applications received from various officers/employees which are pending should not be forwarded for approval.

8. Learned counsel argued that the petitioner's reliance on the promotion of Junior Engineers (Mechanical) on 13.03.2025 (Annexure P-8) is completely misplaced since 'Mechanical' and 'Civil' are two entirely separate streams/cadres with different eligibility criteria, different feeder posts, different vacancy positions and separate DPC processes. The holding of a DPC for one cadre does not create any legal right for another cadre to be considered simultaneously.

9. Regarding the government instructions dated 08.05.2017 (Annexure P-6), it was contended that the same are directory in nature. The instruction itself states that DPCs are required to be held as per the requirement of the department. As per the seniority list, Nandan Bansal (appointed in 2014) was promoted in 2021 on the basis of DPC. Since then, no employee in the petitioner's cadre became eligible for promotion, as other employees (except the petitioner) were appointed on or after 12.02.2019 and will only complete the requisite seven-year period on 12.02.2026. Furthermore, before sending the file for DPC, the concerned branch examines the eligibility as per rules, and on the basis of such initial examination, cases are presented to DPC for final recommendations. Since the petitioner was not eligible for promotion as per the 2020 Amendment Rules, his case was not presented to the DPC.

OBSERVATION & ANALYSIS

10. I have heard the learned counsel for the parties and have perused the record with their able assistance. Admittedly, the petitioner was promoted to the post of

Junior Engineer (O&M) (Civil) vide order dated 03.01.2017 (Annexure P-1) on probation period of one year. He was confirmed on the said post vide order dated 31.12.2018 (Annexure P-2).

11. The Governor of Punjab, in exercise of powers under Section 71(2) of the Punjab Municipal Corporation Act, 1976, has framed the 2020 Amendment Rules to further amend the Punjab Municipal Corporation Services (Recruitment and Conditions of Service) Rules, 1978. For promotion to the post of Assistant Corporation Engineer (O&M) (Civil) from the post of Junior Engineer (O&M) (Civil), the 2020 Amendment Rules provide the following eligibility criteria:

“(ii) Operation and Maintenance (Civil)

Should possess a degree in Civil Engineering from a recognized university or institution

i) 60% of the promotional posts

From amongst the members of the Punjab Service of Corporation Junior Engineers working as Junior Engineers Operation and Maintenance (Civil), who possess Diploma in Civil Engineering, and have an experience of working in this Service for a minimum period of Seven years.

Provided that the existing members of the aforementioned service shall be entitled for promotion notwithstanding the aforesaid educational qualifications.

ii) 40% of promotional posts

From amongst the members of the Punjab Service of Corporation Junior Engineers working as Junior Engineers Operation and Maintenance (Civil) who possess a degree in Civil Engineering or AMIE Civil of a recognized university or Institutions and have an experience of working in such Service for a minimum period of two years.”

(Emphasis added)

12. Although the aforementioned provision prescribes the requirement of a Diploma in Civil Engineering along with seven years experience, the Proviso expressly states that employees who are already members of the service of Junior Engineer (O&M) (Civil) shall be entitled for promotion notwithstanding the absence of such educational qualifications. As per Rule 1 of the 2020 Amendment Rules, the amendment came into force from the date of its publication in the Official Gazette, i.e., 15.09.2020. Accordingly, by virtue of the aforesaid Proviso, those employees, who were already working as Junior Engineer (O&M) (Civil) before the coming into force of the 2020 Amendment Rules, shall be entitled to be considered for promotion to the post of Assistant Corporation Engineer (O&M) (Civil) notwithstanding the fact that they do not have the requisite educational qualification, i.e., a Diploma in Civil Engineering.

13. This Court is of the considered view that the petitioner squarely falls within

the ambit of the aforesaid proviso, since he was already working as a Junior Engineer (O&M) (Civil) at the time the 2020 Amendment Rules came into force. Consequently, even if the petitioner's diploma obtained through part-time/distance mode is neither valid nor recognized, the same is not a prerequisite for his consideration for promotion to the post of Assistant Corporation Engineer (O&M) (Civil). Admittedly, the petitioner completed seven years of service as a Junior Engineer on 02.01.2024 and was, therefore, fully eligible for promotion in terms of the 2020 Amendment Rules.

14. Accordingly, this Court concludes that the respondent-corporation has misinterpreted the 2020 Amendment Rules and were wrong in stating that the petitioner is not eligible for promotion to the post of Assistant Corporation Engineer (O&M) (Civil). Furthermore, it is settled law that DPCs must be held regularly and timely to ensure promotions and career progression of eligible employees and to avoid stagnation. The employees cannot be made to suffer for the fault of the employer in holding DPCs in a delayed manner. Reliance in this regard can be placed on the judgment of the Delhi High Court in *Parvez Ahmed v. Govt of Nct of Delhi*, 2024 NCDHC 9530, wherein the Court, while relying on the two-Judge Bench Judgment of the Hon'ble Supreme Court in *Union of India v. N.R. Banerjee*, 1997(9) SCC 287, has observed as follows:

"9. The Supreme Court in *Union of India and Others v. N.R. Banerjee and Others*, (1997) 9 SCC 287, has echoed the importance of holding of DPCs at regular annual intervals preferably, if necessary, on a fixed date in a year and I may quote the relevant para hereunder:-

"6. DPCs should be convened every year, if necessary, on a fixed date, i.e. 1st of April or May. In the middle of the para, by way of amendment brought on 13-5-1995, it postulates that very often action for holding DPC meeting is initiated after the vacancy has arisen. This results in undue delay in filling up of vacancies and causes dissatisfaction among those who are eligible for promotion. It may be indicated that regular meeting of DPC should be held every year for each category of posts so that approved select panel is available in advance for making promotions against vacancies arising every year. Under para 3.2, the requirement of convening annual meetings of the DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question. It would, thus, be seen that DPCs are required to sit every year, regularly on or before 1st April or 1st May of the year to fill up the vacancies likely to arise in the year for being filled up. The required material should be collected in advance and merit list finalised by the appointing authorities and placed before the DPCs for consideration. This requirement can be dispensed with only after a certificate is issued by the appointing authority that there are no vacancies to be filled by promotion, or that no officers are due for confirmation, during the year in question."

10. From the aforementioned judgment of the Supreme Court, which has been

subsequently followed in several other judgments, as well as from a reading of the DoPT O.Ms., some of which have been alluded to above, there is no gainsaying that it is imperative that DPCs are convened at regular intervals so that the employees, who are in the zone of consideration and eligible, do not stagnate for want of consideration for promotion and at the same time, the functioning of the Government is not adversely impacted.”

(Emphasis added)

15. Moreover, instructions dated 08.05.2017 (Annexure P-6) issued by the Government of Punjab, Department of Personnel, expressly state that DPCs have to be held every three months so that eligible employees get their promotions in time. Relevant portion of the aforesaid instructions is reproduced hereunder:

“It was emphasized under the circular letter dated 21.11.1995, directions dated 10.03.2009, directions dated 23.04.2009 and directions dated 30.06.2014 quoting the personnel department that the meetings of the DPC should be convened on time so that the concerned officers/employees could get promotions against the vacancy in time and further instructions were also given that if any departmental promotion committee's meeting is not called and if due to this the concerned officers/employee does not get the promotions on time then the competent officers will be responsible in that case.

The request was also made by sending the relevant version of the instruction No. 4/30/89-3PP1/20265 dated 23.11.1990 issued by the department of personnel that in order to comply with the policy of Govt. of India that after the record updated by the cadre controlling authority, the meetings of the DPC could be convened in any month of the year but before October against the vacant post by the end of each year as indicated in the instructions. In this regard, it has now been decided that the meetings of the departmental promotion committee should be convened as per the requirement in quarterly (every 3 months) during every calendar year so that the employee can get promotion against the vacant posts in time.”

(Emphasis added)

16. This Court does not find merit in the argument of the learned counsel for the respondents that the instructions dated 08.05.2017 (Annexure P-6) are merely directory in nature. As noted above, DPCs must be held regularly to ensure career progression and avoid stagnation. Right to be considered for promotion is a fundamental right under Article 14 and 16(1) of the Constitution. Delay in convening the DPC not only causes financial loss to the concerned officers on account of delayed promotion to the next higher grade, but also adversely impacts their future career progression, as it correspondingly postpones their eligibility for further advancement. Therefore, the respondents are mandated to hold DPCs every three months (quarterly) during every calendar year so that employees can get promotions against vacant posts in time.

CONCLUSION

17. In view of the foregoing discussion, the present writ petition is allowed. The respondents are directed to grant the petitioner notional promotion to the post of Assistant Corporation Engineer (O&M) (Civil), along with all consequential benefits, with effect from the date he completed seven years of service as a Junior Engineer (O&M) (Civil), i.e., 02.01.2024. Nothing has been brought on record to show that the petitioner does not fulfill the eligibility criteria/benchmark for promotion to the aforesaid post. An appropriate order to this effect shall be passed within a period of three weeks from the date of receipt of a certified copy of this order.

18. The respondents are further directed to convene a DPC meeting within a period of three weeks from the date of receipt of a certified copy of this order to fill any remaining vacant posts. Going forward, as observed hereinabove, the respondents are mandated to hold DPCs on a quarterly basis (every three months) during each calendar year, in strict compliance with the instructions dated 08.05.2017 (Annexure P-6).

19. Pending miscellaneous applications, if any, shall also stand disposed of.