

CWP-11644 of 2023

CNR No: PHHC010688652023
2026:PHHC:113537



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11644 of 2023

Vijay Kumar Gupta
.....Petitioner
Versus
State of Punjab and others
.....Respondents

Sr. No.	Particulars	Details
1.	The date when the judgment is reserved	07.08.2026
2.	The date when the judgment is pronounced	17.08.2026
3.	The date when the judgment is uploaded on the website	17.08.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Vivek Suri, Advocate,
 Ms. Kritika Sharma, Advocate, and
 Ms. Swati Bansal, Advocate,
 for the petitioner.

 Mr. Karunesh Kaushal, AAG, Punjab.

 Mr. Sarthak Gupta, Advocate,
 for respondents No.3 and 4.

NAMIT KUMAR, J.

1. The petitioner has invoked the writ jurisdiction of this Court by filing the instant petition under Articles 226/227 of the Constitution of India, seeking a writ of *mandamus* for directing the respondents to promote the petitioner to the post of Senior Environmental Engineer from the date of holding the Departmental Promotion Committee (for short ‘the DPC’) meeting i.e. 31.05.2022, as his name had been recommended for promotion to the said post against



the backlog vacancy of the reserved category and had been approved by the Hon'ble Chief Minister, Punjab.

2. Briefly stated, the facts of the case, as have been pleaded in the petition, are that the petitioner possesses the qualification of AMIE in the stream of Civil Engineering and has undergone the engineering course from the Institutions of Engineers (India), Calcutta. He was appointed as Junior Environmental Engineer on regular basis in the Punjab Pollution Control Board, Patiala, and was thereafter promoted to the post of Assistant Environmental Engineer w.e.f. 02.11.1996 and was further promoted to the post of Environmental Engineer w.e.f. 12.01.2015. The services of the petitioner are governed by the regulations known as 'Punjab Pollution Control Board Employees Service Regulation 2002'. The next channel of promotion from the post of Environmental Engineer is to the post of Senior Environmental Engineer, for which seven years' experience is required as Environmental Engineer. Since the petitioner was fully eligible for promotion, his case was recommended by the DPC in its meeting held on 31.05.2022 against a vacancy meant for Scheduled Castes category, subject to the approval by the Department of Social Justice, Empowerment and Minorities. However, the said department refused to dereserve the post reserved for the Scheduled Castes category to the general category. Consequently, the petitioner was not promoted to the said post and retired from service on attaining the age of superannuation on 31.10.2022. The petitioner submitted various representations, dated 24.08.2022; 30.08.2022; 17.10.2022; 18.10.2022



and 28.10.2022 (Annexure P-2 to P-6), seeking consideration of his claim for promotion. However, the same have not been responded to by the respondents. Hence, the present writ petition.

3. Short reply by way of affidavit of Harjeet Singh Sandhu, Joint Secretary to Government of Punjab, Department of Science, Technology and Environment, on behalf of respondents No.1 and 2 has been filed, wherein it has been stated as under: -

“4. That the main grievance of the petitioner is that he was not being promoted to the post of Senior Environmental Engineer in the Punjab Pollution Control Board against the backlog post of reserve category. In view of the facts and circumstances of the case, the present short reply is being filed by the deponent on behalf of respondent no.1 and 2 i.e. the Department of Science, Technology and Environment and the Department of Social, Justice Empowerment and Minorities, Government of Punjab respectively, mentioning therein the relevant facts of the case.

5. That the facts of the case relating to the status of service of the petitioner in the Punjab Pollution Control Board as Junior Environmental Engineer, Assistant Environmental Engineer and Environmental Engineer are a matter of record. It is also a matter of record that the petitioner was eligible for promotion to the post of Senior Environmental Engineer in accordance with the service Rules of the Punjab Pollution Control Board, but the petitioner being the general category candidate is claiming the promotional post of Senior



Environmental Engineer from the backlog vacancies meant for scheduled caste candidates.

6. *That it is pertinent to mention here that the State Pollution Control Board is also implementing the reservation policy of the State Government as per the available Acts and Rules. As per record available with the Government, there are twelve sanctioned posts of Senior Environmental Engineer in the service of Punjab Pollution Control Board and according to the reservation policy of the State Government, two posts out of twelve sanctioned posts of Senior Environmental Engineer are reserved for the candidates of scheduled caste and one post is reserved for handicapped person.*
7. *That a meeting of the Departmental Promotion Committee was held on 31.05.2022 wherein the cases for promotion to various posts in the service of Punjab Pollution Control Board including the post of Senior Environmental Engineer from amongst the Environmental Engineers working in the Board were considered. As per the availability of posts, three Environmental Engineers of general category namely Sh. Arun Kumar Kakkar, Sh. Ashok Kumar Sharma and Sh. Lavneet Kumar Dubey were considered and recommended for promotion to the post of Senior Environmental Engineer by the Departmental Promotion Committee in its meeting held on 31.05.2022. Two other Environmental Engineers of general category namely Sh. Vijay Kumar Gupta (petitioner) and Sh. Harpal Singh were also considered for promotion to the post of Senior Environmental Engineer against the backlog of two posts reserved for scheduled caste*

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- candidates. It was decided by the Departmental Promotion Committee that before promoting Sh. Vijay Kumar Gupta (Petitioner), the post will be got de-reserved from the Department of Social Justice, Empowerment and Minorities. It was further decided by the Departmental Promotion Committee that the second candidate Sh. Harpal Singh will be promoted to the post of Senior Environmental Engineer after the retirement of Sh. Rajeev Kumar Sharma, Senior Environmental Engineer on 31.10.2022. However, the post will be got de-reserved from the Department of Social Justice, Empowerment and Minorities against the backlog of two posts reserved for scheduled caste candidates.*
8. *That the Punjab Pollution Control Board has forwarded the case for de-reservation of two posts of Senior Environmental Engineer in the pay scale of 37400-67000+8700 grade pay to the office of Secretary to Government of Punjab, Department of Science, Technology and Environment vide letter no. 12244 dated 10.06.2022 with a request that the two backlog posts of Senior Environmental Engineer reserved for scheduled caste category may be got de-reserved from the Department of Social Justice, Empowerment and Minorities. A copy of letter no. 12244 dated 10.06.2022 is enclosed herewith as Annexure R-1-2/A.*
9. *That though the office of Punjab Pollution Control Board has forwarded the case of the petitioner to the Government of Punjab, Department of Science, Technology and Environment i.e. respondent no.1 with a request to get the reserved category post de-reserved from the Department of Social Justice,*



Empowerment and Minorities i.e. respondent no.2, but the Department of Social Justice, Empowerment and Minorities has not agreed to the proposal and informed the department of Science, Technology and Environment vide letter memo dated 16.09.2022 to keep the two reserved posts of Senior Environmental Engineers vacant in view of provisions of Section 7(1) of the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006.

10. *That it is relevant to mention here that a case relating to tempering / doubling in the roster register of Environmental Engineer of the Punjab Pollution Control Board was under scrutiny wherein inquiry was conducted by the two Chief Environmental Engineers of the Punjab Pollution Control Board. The Department of Social Justice, Empowerment and Minorities vide letter memo dated 10.08.2022 has desired the copy of inquiry report from the Department of Science, Technology and Environment. Due to the above reason, the Department of Social Justice, Empowerment and Minorities vide letter memo dated 16.09.2022 has asked the Department of Science, Technology and Environment to keep the two reserved posts of Senior Environmental Engineer vacant in view of the provisions of Section 7(1) of the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006. A copy of letter dated 16.09.2022 of the Department of Social Justice, Empowerment and Minorities is enclosed as Annexure R-1-2/B.*

The Department of Science, Technology and Environment vide letter dated 27.07.2023 has



informed the Department of Social Justice, Empowerment and Minorities that the case of cutting / doubling of roster register has been filed in view of the provisions of Rule 2.2 (b) condition (2) (ii) of Punjab Civil Services Rules (Volume II).

11. *That it is pertinent to mention here that in order to provide reservation in service for the members of scheduled castes and backward classes and for the matters connected therewith or incidental thereto, the Legislature of the State of Punjab has enacted the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006. The relevant extract of Section 7(1) of the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006 is reproduced below for kind perusal and reference:*

De-reservation of reserved vacancy

7. (1) There shall be no de-reservation of any reserved vacancy by any appointing authority in any establishment, which is to be filled up by direct recruitment or by promotion. In case, a qualified or eligible Scheduled Caste and Backward Classes Candidates, as the case may be, is not available to fill up such vacancy, in that situation, such vacancy shall remain unfilled.

12. *That though the Departmental Promotion Committee has recommended the name of the petitioner for promotion to the post of Senior Environmental Engineer subject to de-reservation of reserved category post, but the petitioner cannot claim the promotion as a matter of his right. The availability of post does not in any manner confer a right upon*



the petitioner to claim the said post, which is reserved for scheduled caste candidate.

13. *That it is relevant to mention here that the petitioner has already retired from the service of the Punjab Pollution Control Board on 31.10.2022. The Department of Social Justice, Empowerment and Minorities which is implementing the reservation policy of the State and the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006 has decided to keep the reserved post of Senior Environmental Engineer vacant in view of the provisions of the said Act, 2006. No public interest seems to be involved in the case for filling up of the reserved post of Senior Environmental Engineer by the petitioner who is general category candidate. As such the claim of the petitioner cannot be accepted.”*

4. Short reply by way of affidavit of Er. Gurinder Singh Majithia, Member Secretary, Punjab Pollution Control Board, Patiala, on behalf of respondents No.3 and 4 has been filed, wherein it has been stated as under: -

- “5. *That briefly stated, according to the provisions of the Punjab Pollution Control Board Employees Service Regulations, 2002, the post of Senior Environmental Engineer is filled 100% by way of promotion from amongst the Environmental Engineers working in the Punjab Pollution Control Board who have an experience of working as such for a minimum period of 07 years and possess at-least bachelor's degrees or AMIE in Engineering from recognized institute / University. It is pertinent to mention here that the State Pollution Control Board is also implementing the reservation policy of*

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the State Government as per the available Acts and Rules. There are twelve sanctioned posts of Senior Environmental Engineer in the service of Punjab Pollution Control Board and according to the reservation policy of the State Government, two posts out of twelve sanctioned posts of Senior Environmental Engineer are reserved for the candidates of scheduled caste and one post is reserved for handicapped person.

- 6. That a meeting of the Departmental Promotion Committee was held on 31.05.2022 wherein the cases for promotion to various posts in the service of Punjab Pollution Control Board including the post of Senior Environmental Engineer from amongst the Environmental Engineers working in the Board were considered. As per the availability of posts, three Environmental Engineers of general category namely Sh. Arun Kumar Kakkar, Sh. Ashok Kumar Sharma and Sh. Lavneet Kumar Dubey were considered and recommended for promotion to the post of Senior Environmental Engineer by the Departmental Promotion Committee in its meeting held on 31.05.2022. Two other Environmental Engineers of general category namely Sh. Vijay Kumar Gupta (petitioner) and Sh. Harpal Singh were also considered for promotion to the post of Senior Environmental Engineer against the backlog of two posts reserved for scheduled caste candidates. It was decided by the Departmental Promotion Committee that before promoting Sh. Vijay Kumar Gupta (Petitioner), the post will be got de-reserved from the Department of Social Justice, Empowerment and Minorities. It was further decided*



by the Departmental Promotion Committee that the second candidate Sh. Harpal Singh will be promoted to the post of Senior Environmental Engineer after the retirement of Sh. Rajeev Kumar Sharma, Senior Environmental Engineer on 31.10.2022. However, the post will be got de-reserved from the Department of Social Justice, Empowerment and Minorities against the backlog of two posts reserved for scheduled caste candidates.

- 7. That the office of answering respondent in reference to Government memo no. 1/13/2022-STE(4)/176 dated 08.06.2020, has forwarded the case for de-reservation of two posts of Senior Environmental Engineer in the pay scale of 37400-67000 + 8700 grade pay to the office of Secretary to Government of Punjab, Department of Science, Technology and Environment vide letter no. 12244 dated 10.06.2022 with a request that the two backlog posts of Senior Environmental Engineer reserved for scheduled caste category may be got de-reserved from the Department of Social Justice, Empowerment and Minorities. A copy of letter no. 12244 dated 10.06.2022 is enclosed herewith as Annexure R 3-4/A.*
- 8. That the office of answering respondent no. 3 and 4 has forwarded the case of the petitioner to the Government of Punjab, Department of Science, Technology and Environment i.e. respondent no.1 with a request to get the reserved category post de-reserved from the Department of Social Justice, Empowerment and Minorities i.e. respondent no.2, but the Department of Social Justice, Empowerment and Minorities has not agreed to the proposal and*

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informed the department of Science, Technology and Environment vide letter memo dated 16.09.2022 to keep the two reserved posts of Senior Environmental Engineers vacant in view of provisions of Section 7(1) of the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006.

9. *That it is relevant to mention here that a case relating to tempering / doubling in the roster register of Environmental Engineer of the Punjab Pollution Control Board was under scrutiny wherein inquiry was conducted by the two Chief Environmental Engineers of the Board. The Department of Social Justice, Empowerment and Minorities vide letter memo dated 10.08.2022 has desired the copy of inquiry report from the Department of Science, Technology and Environment. Due to the said reason, the Department of Social Justice, Empowerment and Minorities vide letter memo dated 16.09.2022 has asked the Department of Science, Technology and Environment to keep the two reserved posts of Senior Environmental Engineer vacant in view of the provisions of Section 7(1) of the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006.*

The Department of Science, Technology and Environment vide letter dated 27.07.2023 has informed the Department of Social Justice, Empowerment and Minorities that the case of cutting / doubling of roster register has been filed in view of the provisions of Rule 2.2 (b) condition (2) (ii) of Punjab Civil Services Rules (Volume II).



10. *That the relevant extract of Section 7(1) of the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006 is reproduced below for kind perusal and reference:*

De-reservation of reserved vacancy

7. (1) *There shall be no de-reservation of any reserved vacancy by any appointing authority in any establishment, which is to be filled up by direct recruitment or by promotion. In case, a qualified or eligible Scheduled Caste and Backward Classes Candidates, as the case may be, is not available to fill up such vacancy, in that situation, such vacancy shall remain unfilled.*
11. *That it is relevant to mention here that the petitioner has already retired from the service of the Punjab Pollution Control Board on 31.10.2022. The Department of Social Justice, Empowerment and Minorities which is implementing the reservation policy of the State and the Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006 has decided to keep the reserved post of Senior Environmental Engineer vacant in view of the provisions of the said Punjab Schedule Castes and Backward Classes (Reservation in Services) Act, 2006. As such the claim of the petitioner cannot be accepted.”*

5. In nutshell, the stand taken by the respondents in their separate replies is that a meeting of DPC was held on 31.05.2022, wherein the cases for promotion to various posts in the Punjab Pollution Control Board, including the post of Senior Environmental Engineer from amongst Environmental Engineers working in the Board



were considered. As per the availability of posts, three Environmental Engineers of general category, namely, S/Sh. Arun Kumar Kakkar; Ashok Kumar Sharma and Lavneet Kumar Dubey were considered and recommended for promotion to the post of Senior Environmental Engineer and two other Environmental Engineers of general category, namely, S/Sh. Vijay Kumar Gupta (petitioner) and Harpal Singh were also considered for promotion to the post of Senior Environmental Engineer against backlog of two posts reserved for Scheduled Castes candidates and it was decided by the DPC that before promoting the petitioner, the posts were required to be got dereserved from the Department of Social Justice, Empowerment and Minorities. It was further decided by the DPC that the second candidate, namely, Sh. Harpal Singh would be promoted to the post of Senior Environmental Engineer after the retirement of Sh. Rajeev Kumar Sharma, Senior Environmental Engineer, on 31.10.2022. The Board forwarded the case for dereservation of two posts of Senior Environmental Engineer to the office of Secretary, Government of Punjab, Department of Science, Technology and Environment, vide letter dated 10.06.2022, with a request that two backlog posts of Senior Environmental Engineer reserved for Scheduled Castes category be got dereserved from the Department of Social Justice, Empowerment and Minorities. However, the Department of Social Justice, Empowerment and Minorities did not agree to the said proposal and, vide letter dated 16.09.2022, informed the Board to keep two reserved posts of Senior Environmental Engineer vacant in view of provisions of Section 7(1) of



the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006.

6. Learned counsel for the petitioner has submitted that the petitioner was fully eligible for promotion to the post of Senior Environmental Engineer. Three other candidates belonging to general category were recommended for promotion against the posts meant for general category, whereas the name of the petitioner was recommended for promotion to the said post against a backlog vacancy reserved for the Scheduled Castes category, subject to dereservation of the said post to general category. However, the Department of Social Justice, Empowerment and Minorities has wrongly not dereserved the post of Scheduled Castes category to general category and in consequence thereof, the petitioner was not promoted and retired from service on 31.10.2022, on attaining the age of superannuation. The action of the Department of Social Justice, Empowerment and Minorities is totally illegal and arbitrary.

7. *Per contra*, learned State counsel, assisted by learned counsel for the Board, has submitted that although the name of the petitioner was duly recommended for promotion to the post of Senior Environmental Engineer in the DPC meeting held on 31.05.2022, such recommendation was subject to approval for dereservation of the post reserved for Scheduled Castes category to general category. However, the said request was not accepted by the Department of Social Justice, Empowerment and Minorities. Consequently, the petitioner could not be promoted to the post of Senior Environmental Engineer.



8. I have heard learned counsel for the parties and perused the record.

9. The Hon'ble Supreme Court in *Ajit Singh v. State of Punjab, 1999(4) SCT 1; Union of India and others v. Sangram Keshari Nayak, 2007(3) SCT 512 and Union of India and another v. Hemraj Singh Chauhan and others, 2010(2) SCT 421* has held that the promotion is not a fundamental right, however, consideration for promotion is a fundamental right.

10. Admittedly, the petitioner belongs to general category and three Environmental Engineers senior to the petitioner were also recommended for promotion to the post of Senior Environmental Engineer in the same very DPC meeting held on 31.05.2022 and name of the petitioner was also considered for promotion to the post of Senior Environmental Engineer against two vacancies reserved for Scheduled Castes category and before promoting the petitioner to the post of Senior Environmental Engineer, post was to be got dereserved from the Department of Social Justice, Empowerment and Minorities. However, the Department of Social Justice, Empowerment and Minorities, vide letter dated 16.09.2022, conveyed as under: -

***“Government of Punjab
Department of Social Justice, Empowerment and Minorities
(Reservation Cell)***

***Sub: Regarding de-reservation/carry forwarding of
post of Senior Environmental Engineer from the
Department of Social Justice Empowerment and
Minorities.***

*In reference to memo no STE-TEB01/7/2021-
STE5-Part(1)/394232 dated 15.07.2022 of the*



Superintendent, (STE Branch) Department of Science and Technology.

2. *After considering the subject cited case in under reference, it is intimated to keep 2 Reserve posts of Senior Environmental Engineer vacant as per the provisions of Clause 7(1) of The Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006, the Senior Environmental Engineer 02 Reserved seats should be kept vacant.*

3. *This letter is issued after the approval of the competent authority.*

*Sd/
Superintendent*

To

*Superintendent, (STE Branch),
Department of Science and Technology,
Punjab Civil Secretariat-2*

I.D.L. no. 2/6/2021-RS2/328 Date:Chandigarh 16/09/2022”

11. The Department of Social Justice, Empowerment and Minorities has refused to dereserve two vacant posts belonging to Scheduled Castes category to general category on the basis of Section 7(1) of the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006, which reads as under: -

“7. (1) There shall be no de-reservation of any reserved vacancy by any appointing authority in any establishment, which is to be filled up by direct recruitment or by promotion. In case, a qualified or eligible Scheduled Castes or Backward Classes candidate, as the case may be, is not available to fill up such vacancy, in that situation, such vacancy shall remain unfilled.

(2) Notwithstanding anything contained in sub-section (1), if, in the public interest, it is deemed necessary to fill up any vacancy referred to in that sub-section, the appointing



authority shall refer the vacancy to the Department of Welfare of Scheduled Castes and Backward Classes for de-reservation. Upon such reference, the Department of Welfare of Scheduled Castes and Backward Classes may, if it is satisfied that it is necessary or expedient so to do, by order in writing, de-reserve the vacancy, subject to the condition that the vacancy so de-reserved, shall be carried forward against a subsequent unreserved vacancy.”

12. The admitted factual position is that the vacancies in question were earmarked for reserved category candidates. The DPC, while assessing the petitioner's suitability, did not recommend his promotion unconditionally. The recommendation specifically stipulated that the petitioner could be promoted only if the reserved vacancy was de-reserved by the Department of Social Justice, Empowerment and Minorities. Thus, the recommendation itself was conditional and incapable of implementation unless the Department of Social Justice, Empowerment and Minorities authority granted approval for de-reservation. It is a settled proposition of service jurisprudence that recommendation by a Departmental Promotion Committee does not, by itself, create a vested or indefeasible right to promotion. The recommendation of the DPC is only one stage in the process of promotion. Where such recommendation is expressly made subject to fulfilment of a particular condition, no legal right accrues unless the condition is satisfied. A conditional recommendation cannot be equated with a final recommendation entitling an employee to claim promotion as a matter of right.



13. The policy relating to reservation in public employment is intended to secure adequate representation to members of the reserved categories. Consequently, de-reservation of a reserved vacancy is an exception and not the rule. Such de-reservation can be resorted to only in accordance with the applicable statutory provisions, executive instructions and governmental policy, and only after approval by the competent authority. No employee belonging to the general category can insist that a reserved vacancy must necessarily be de-reserved for his benefit.

14. Once the proposal for de-reservation was rejected by the Department of Social Justice, Empowerment and Minorities, the very foundation upon which the DPC recommendation rested disappeared. The recommendation consequently became incapable of implementation. The respondents cannot be faulted for refusing to issue a promotion order in the absence of approval for de-reservation.

15. The petitioner has neither challenged the order dated 16.09.2022 of the Department of Social Justice, Empowerment and Minorities, whereby dereservation of two vacant posts belonging to reserved category to general category has been refused nor laid any factual foundation to establish that such decision suffers from *mala fides*, arbitrariness, perversity or violation of any statutory provision. In the absence of any challenge to the decision refusing de-reservation, this Court cannot examine the correctness thereof in these proceedings. So long as the decision declining de-reservation remains valid and operative, no consequential direction for promotion can be issued.

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Further, it is not the case of the petitioner that any person junior to him belonging to general category has been promoted to the post of Senior Environmental Engineer before his retirement.

16. In view of the above, finding no merit in the present petition, same is hereby dismissed with no order as to costs.

17.08.2026
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No