



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

**LPA No.955 of 2016 (O&M)**

**Date of Decision: 20.05.2025**

Jyoti Saini and another

...Appellants

Versus

Haryana Vidyut Parsaran Nigam Ltd. and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA  
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Ashwai Talwar, Advocate  
Mr. Nikhil Sehrawat, Advocate and  
Mr. Deepak Goyat, Advocate  
for the appellants.

Mr. Sanjeev Kaushik, Advocate  
for respondent No.1.

Mr. Sandeep Singh, Advocate  
for respondent No.2.

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**SANJEEV PRAKASH SHARMA, J.(Oral)**

1. The challenge in this appeal is to the judgment dated 18.02.2016 passed by learned Single Judge in *CWP No.16872 of 2014*, whereby the writ-petition preferred by the petitioners was disposed of with the following direction:-

*“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.”*



2. Learned counsel for the appellants submits that learned Single Judge has erred in not deciding the issue raised by the appellants before it. It was a specific case raised by the appellants in the writ-petition that they are holding the post of Junior Accountant who had passed the departmental accounts examination as prescribed for the purpose of consideration for the promotion under the 50% quota available for promotion to the post of Divisional Accountant in terms of Para 4.3 of the Recruitment and Promotion Policy of Audit & Accounts Wing as it was invoked at that relevant time. Learned counsel further submits that instead of considering the appellants for promotion, Clerks who had also passed the Divisional/Revenue Accountants/Section Officers Part-I examination, were considered and promoted as Divisional Accountants, although they were not required to be considered for the said post. Learned counsel has invited our attention to Para 4.3 to submit that in the event of non-availability of qualified Accountants, Junior Accountants/Accounts Clerks alone could be considered for promotion on seniority-cum-merit basis provided that they have passed the departmental examination. He submits that merely because the departmental examination was passed by the qualified UDCs/LDCs, would not make them eligible for consideration for promotion. However, the department has wrongfully promoted the concerned LDCs/UDCs, who are from a separate cadre. He also submits that the said aspect has been completely ignored by learned Single Judge and the order, therefore, deserves to be set-aside and the writ-petition deserves to be allowed.

3. In the appeal after issuing notice of motion, this Court directed



the respondent-Corporation to furnish service particulars of the appellants viz-a-viz Ashwani Chauhan and Pooja Lathwal, who were named by the appellants to have been promoted, in a tabulated form. In compliance of the order passed by this Court on 21.08.2018, an affidavit has been filed by Sh. S.K. Aggarwal, Chief Accounts Officer, which reflects as per Annexure A-1 that so far as the appellants Jyoti Saini and Parvinder Singh are concerned, they were appointed on the post of Junior Accountant in erstwhile HSEB and joined on 21.10.2010 and 03.11.2010 respectively while Ashwani Chauhan and Pooja Lathwal continued in the ministerial cadre till they have been promoted as Divisional Accountants. Along-with the details, no reasons have been assigned as to why and how Ashwani Chauhan and Pooja Lathwal were promoted as Divisional Accountants though they do not fall in the accounts cadre.

4. Learned counsel for respondent No.1 has feebly tried to support the action and submits that as Clause 4.4 allows UDCs/LDCs to participate in the examination, thereto deserve to be considered.

5. We have examined the facts and the law as has come on record and find that the action of the promoting the concerned respondents in the accounts cadre is clearly in violation of the Recruitment and Promotion Policy of Audit & Accounts Wing. It would be appropriate to quote clause 4.3 and 4.4 of the said Policy:-

*“4.3 Remaining 50% posts, shall be filled-up by promotion from amongst Accountants on seniority-cum-merit basis and having passed Departmental Examination as prescribed by the Board. In case,*



*qualified Accountants, are not available for the appointment as Divisional/Revenue-Accountants, Junior Accountants/ Accounts Clerk having passed Departmental Examination as prescribed by the Board, shall be considered for promotion to the post of Divisional/ Revenue-Accountants, on seniority-cum-suitability basis.*

*4.4 The following officials will be eligible to appear in the Divisional/RevenueAccountants Examination:-*

- a) Junior Accountant/Accountants*
- b) Accounts Clerk, having passed the Departmental Examination as prescribed for Jr. Accountants by the Board.*
- c) Accounts Clerk having 10 years service on regular basis as Accounts Clerk in the Board.”*

6. Apparently and admittedly, it has come on record that there were no qualified Accountants available with the Department. In the event of non-availability of such qualified Accountants, the promotion to the post of Divisional Accountants could only be from Junior Accountants/Accounts Clerks. From the details which have been placed on record along-with the affidavit as directed by this Court, it is apparent that at no point of time, the respondents were designated as Accounts Clerks. Merely on account of the candidates having passed an examination, which appears to be not only for Divisional Accountants but Revenue Accountants and Section Officers, UDCs and LDCs cannot be said to have become eligible for promotion under the 50% quota in terms of Clause 4.3.

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.



11. The appeal is allowed accordingly.
12. No costs.
13. Pending miscellaneous application(s) also stand disposed of.

**(SANJEEV PRAKASH SHARMA)**  
**JUDGE**

**20.05.2025**

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**(MEENAKSHI I. MEHTA)**

**JUDGE**

*Whether speaking/reasoned:* Yes/No

*Whether Reportable:* Yes/No