



209 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-15924-2016
Date of Decision: 07.08.2025

Gursaran Dass

...Petitioner

Versus

Chandigarh Administration and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Ashish Rawal, Advocate
for respondents No.2 and 3.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 02.06.2016 (Annexure P-14) whereby he has been denied promotional post of Executive Engineer (B&R).

2. The petitioner joined Chandigarh Administration Office on 24.06.1980. On coming into existence of Municipal Corporation, Chandigarh, the petitioner was transferred to Municipal Corporation. He was assigned charge of Sub Divisional Engineer (SDE) vide order dated 17.01.2007. It was current duty charge. He was promoted as SDE w.e.f. 23.11.2015. He claimed promotion to the post of Executive Engineer on the ground that he has completed 08 years' service as SDE. He was of the opinion that service rendered as SDE (Current Duty Charge) should be counted for the sake of promotion. Prior to 2016, the Municipal

Corporation Service Regulations, 2012 (for short '2012 Regulations') were in force. As per 2012 Regulations, seven years regular service was required for promotion to the post of Executive Engineer. The said Rules came to be amended in 2016. The Chandigarh Administration approved amendment on 20.01.2016, however, notification in this regard was issued on 08.04.2016. The respondent rejected claim of the petitioner on the ground that he had not completed seven years regular service as SDE.

3. Mr. Vipin Mahajan, Advocate submits that amended Rules whereby requirement of regular seven years' service as SDE was dispensed with came into force w.e.f. 20.01.2016 i.e. the date on which Administration approved amended provisions. The issuance of notification was ministerial act. The notification was issued on 08.04.2016 and petitioner attained age of superannuation on 29.02.2016. The petitioner could not be denied his substantive right on account of procedural or technical reasons.

4. *Per contra*, Mr. Ashish Rawal, Advocate submits that in the absence of notification there was no question of amendment of Rules. The notification was issued on 08.04.2016. The amended Regulations came into force w.e.f. 28.04.2016. The petitioner by said date had already attained age of superannuation, thus, he was not entitled for the post of Executive Engineer.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. From the perusal of record, it is evident that Chandigarh Administration approved amended provisions by a communication dated 20.01.2016. The letter dated 20.01.2016 is reproduced as below:

“No.6/1/818-FII (8)-2016/739
CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Chandigarh, dated 20.01.2016

To

*The Commissioner,
Municipal Corporation,
Chandigarh.*

Subject: Promotion for the post of Executive Engineer (Public Health/Civil/B&R)-(Diploma candidates) Misinterpretation of Service Regulations-request to make necessary correction therein.

Reference: Your memo No.SAE-3/Admn./MC/2015/4752, dated 31.07.2015, on the subject noted above.

2. Approval is hereby accorded to the amendment of the Service Regulation, 2012 of Municipal Corporation, Chandigarh for enabling to make Service Regulation for recruitment to the post of Executive Engineer (Civil, B&R, Public Health, Horticulture and Electrical) in the Municipal Corporation, Chandigarh. Notification of Municipal Corporation, Chandigarh (Amendment) Service Regulation, 2016 duly approved by the Competent Authority, is also sent herewith for taking further action at your end.

*Joint Secretary Local Govt.,
For Secretary Local Govt.,
Chandigarh Administration.”*

7. The Municipal Corporation, Chandigarh issued notification on 08.04.2016. The notification was issued with the approval of Administrator, U.T., Chandigarh. As per petitioner, amended provisions came into force as soon as amendment was approved by Chandigarh Administration. Issuance of notification was a procedural part. As per amended provisions, there was no requirement of experience as regular SDE. There was requirement of only experience. If it is held that

amended provisions came into force w.e.f. 20.01.2016, the petitioner was entitled to promotion and if it is held that amended provisions came into force w.e.f. 08.04.2016, he was not entitled to promotion.

8. The approval of amendment by Chandigarh Administration does not bring the amended provisions into force. The amendment comes into force the moment notification is issued by the Competent Authority. The respondent placed amended provisions before Administrator, U.T., Chandigarh who approved the amendments. The letter dated 20.01.2016 does not depict that approval was granted by Administrator, U.T., Chandigarh. The notification was issued by Competent Authority on 08.04.2016. The said notification was issued in exercise of power conferred by Section 75 of Punjab Municipal Corporation Act, 1976 as extended to U.T., Chandigarh. As the notification implementing amended provisions came into force w.e.f. 08.04.2016, the petitioner was not entitled to benefit of amended provisions.

9. In the wake of above discussion and findings, the instant petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

07.08.2025

Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No