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

107+264

[CM-439-LPA-2026](#) in/and
LPA-2926-2025 (O&M)
Date of Decision :25.08.2026

STATE OF HARYANA AND ANOTHER**..Appellant****Versus****SANJEEV BATISH AND ANOTHER****...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE MINDERJEET YADAV**

Present: Mr. Aman Mittal, DAG, Haryana.

Mr. D. S. Patwalia, Senior Advocate with
Mr. A. S. Chadha, Advocate
for the respondent No. 2.

Mr. Shreenath A. Khemka, Advocate
for respondent No. 1/caveator

* * *

Harsimran Singh Sethi, J. (Oral)

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1. The prayer in the present application filed by the respondent No. 1 is for placing on record additional documents as Annexures P-18 to P-22.

2. Keeping in view the averments mentioned in the application, the same is allowed. Copy of aforesaid documents are taken on record subject to all just exceptions.

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1. In the present appeal, the challenge is to the impugned order dated 21.11.2024 passed by the learned Single Judge, by which, CWP No.



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10291 of 2023 titled as ‘Sanjeev Batish versus State of Haryana and others’, filed by the petitioners (respondents herein) was allowed and learned Single Judge held that the experience gained while working on Current Duty Charge was liable to be taken into consideration for computing the requisite eight years service prescribed under the Rules for eligibility for further promotion from the post of Sub-Divisional Engineer to the post of Executive Engineer (Mechanical).

2. Certain facts needs to be mentioned for the correct appreciation of issue in hand.

3. Respondent No.1, namely, Sanjeev Batish, joined as a Junior Engineer on 23.05.1996 in the Haryana Public Works (Building and Roads) Department. Thereafter, he was transferred to the Haryana Public Health Engineering Department on 15.07.2004 and joined there on 03.08.2004.

4. While working on the post of a Junior Engineer, respondent No.1 was assigned the Current Duty Charge of Sub-Divisional Engineer (Mechanical) on 24.08.2011, in *his own pay scale*. Subsequently, he was promoted on a regular basis as Sub-Divisional Engineer (Mechanical) vide order dated 05.05.2020.

5. The further promotion from the post of Sub-Divisional Engineer (Mechanical) to that of Executive Engineer (Mechanical) is governed by the Haryana Service of Engineers, Group A, Public Health Engineering Department Act, 2009 (hereinafter referred to as the “2009 Act”).

6. Section 6 of the 2009 Act prescribes the eligibility/qualifications for promotion to the post of Executive Engineer. For promotion from Group “B” to Group “A”, eight years completed



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service, along with passing of the departmental examination of Group “B”, is prescribed as an essential qualification. Though, the Government has the power to relax the requisite service and it is a conceded fact that no such relaxation has been granted in the present case. The explanation to the Section 6 of the Act 2009 further provides the 8 years completed service would mean the service rendered in Group “B” as well as in Group “A”.

7. At the time of consideration of further promotion, the claim was raised by the respondent No. 1-Sanjeev Batish that he already had worked as Sub-Divisional Engineer (Mechanical) on a Current Duty Charge, which experience needs to be treated as a service rendered in the cadre of Sub-Divisional Engineer (Mechanical) while calculating 8 years service and therefore, by adding such Current Duty Charge period, he should be treated eligible for further promotion to the post of Executive Engineer(Mechanical).

8. The said claim was declined by the State vide order dated 22.02.2023, holding that the requisite eight years service was to be counted from the date of his regular promotion to the cadre of Sub-Divisional Engineer (Mechanical), which took place in the year 2020. Hence, the said order dated 22.02.2023 was challenged in the writ petition before the learned Single Judge.

9. The learned Single Judge, after appreciating all the facts, held that the service rendered by respondent No.1 on Current Duty Charge in the cadre of Sub-Divisional Engineer (Mechanical) is a valid experience for the purpose of computing the requisite eight years service. Accordingly, the speaking order dated 22.02.2023 passed by the authorities concerned was set



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aside and the period spent by respondent No. 1 on Current Duty Charge in the cadre of Sub-Divisional Engineer (Mechanical) was directed to be taken into consideration as service rendered in cadre of Sub-Divisional Engineer (Mechanical) for further promotion to the post of Executive Engineering (Mechanical).

10. The State has preferred the present appeal against the aforesaid order.

11. Learned State counsel submits that the learned Single Judge while passing the impugned order dated 21.11.2024 had misread the prescribed Rule, to mean that 8 years experience is required for further promotion to the post of Executive Engineering, whereas, under the prescribed Rules, 8 years complete service in the cadre concerned is required, hence, the service rendered by respondent No. 1 on Current Duty Charge while substantially working as a Junior Engineer, though, could have been treated as an experience but cannot be treated as '8 years service' which is envisaged under prescribed Rules to fulfil the eligibility for further promotion to Class 1.

12. Learned State counsel further submits that the judgment relied upon by the learned Single Judge, i.e. ***Chandigarh Administration v. Vipin Gupta and another, arising out of Special Leave to Appeal (Civil) No. 2680 of 2011, decided on 06.02.2013***, was on different footing keeping in view the requirement of the said Rules wherein "experience" was needed not the "required service" in the particular cadre to be eligible for further promotion.

13. On the other hand, learned counsel appearing for respondent



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No.1/caveator submits that though eight years service as Sub-Divisional Engineer (Mechanical) is needed for the promotion to the post of Executive Engineering (Mechanical), but the service rendered by respondent No. 1 on Current Duty Charge should also be counted, keeping in view the provisions of the said Rules under which, the eligibility is to be seen. Learned counsel for the respondent No. 1 further submits that once, the promotion can be made against an officiating vacancy, experience gained on Current Duty Charge is valid, which fact is being ignored by the State while addressing the arguments herein above as well as while passing the order dated 22.02.2023.

14. Learned counsel for respondent No. 1 further submits that even if, the order assigning the Current Duty Charge mentioned that respondent No.1 would continue in his “*own rank and pay*” but, while officiating on a higher post, the respondent NO. 1 could have claim the salary as per the settled principle of law and therefore, non grant of the salary will not come in the way of the respondent No. 1 to deny him the benefit of service rendered on Current Duty Charge in the cadre of Sub-Divisional Engineer (Mechanical) to be taken as valid service for further promotion.

15. Learned Senior counsel appearing for the private respondents submits that the difference between “*service*” and “*experience*” rendered and such question raised in the present petition should have been adjudicated by the learned Single Judge rather than granting the benefit of experience rendered on Current Duty Charge by the respondent No. 1, by placing reliance upon the judgment passed in ***Vinay Gupta’s case (supra)***, which is based upon a different rules/facts than the one which governs the



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issue in hand for further promotion between the parties herein.

16. Learned Senior counsel appearing on behalf of private respondents further submits that once the Service Rules require eight years service, such service can only be counted from the date on which the employee enters/inducted into of the relevant service. Since respondent No.1 enters/inducted into the cadre of Sub-Divisional Engineer (Mechanical) only upon his regular promotion in the year 2020, the period spent by him on Current Duty Charge prior thereto cannot be counted towards the requisite eight years service.

17. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

18. The Rules governing the issue in hand are clear with regard to the qualification/eligibility prescribed for promotion from Group “B” to Group “A”.

The relevant Section 6 of the 2009 Act is as under :-

“6. No person shall be appointed to the Service on or after the date of publication of this Act in the Official Gazette, unless he,-

(a) in case of appointment by direct recruitment, possesses one of the degrees or other qualifications in the respective engineering discipline from a University or deemed University approved by University Grants Commission or from a technical institution approved by All India Council of Technical Education or has passed sections A and B of the Associate Membership Examination of the Institution of Engineers (India). The requisite qualifications shall be possessed by the candidate on or before the last day of submission of



application to the Commission:

Provided that no degree obtained through correspondence or distance education mode from any University or deemed University or technical institution shall be considered for appointment by any mode of recruitment to the Service. The degrees awarded must be approved by All India Council of Technical Education :

Provided further that the candidates to be appointed for Civil cadre shall be recruited with qualification in Civil or Public Health Engineering, whereas those recruited in Mechanical cadre shall be required to possess qualification in Mechanical Engineering;

- (b) in case of an appointment by promotion from Group B Service, has, in addition to the qualifications provided in clause (a), eight years completed service and passed the departmental examination of Group B Service:*

Provided that the Government may relax the condition of eight years service in the case of an officer who has completed five years service and in such case, the officer shall earn the first increment as an Executive Engineer on the completion of nine years service.

Explanation. For the purpose of computing eight years service, the service in Group B, as well as in Group A, shall be counted;

- (c) is a person with a satisfactory character and antecedents, verification in respect of which shall be arranged through appropriate Government agency, except in cases where such verification may have already been made at the time of his entry into Government Service;*
- (d) has not more than one wife living or, in the case of a woman, is not married to a person already having a wife living:*



Provided that the Government may, if satisfied that there are special grounds for doing so, exempt any person from the operation of this condition;

- (e) obtains from the Standing Medical Board a certificate of physical fitness after being examined in accordance with the Punjab Civil Services Rules as applicable to the State of Haryana and is considered by the Standing Medical Board to be fit in all respects for active outdoor duties”*

19. A bare perusal of the above Section would show that for promotion from Group “B” to Group “A”, requisite 8 years complete service alongwith passing of the departmental examination of Group “B” service is necessary. Though, the Government has power to relax such service but it is a conceded fact that in the present case no such relaxation has been given by the Government. Further, for computing requisite 8 years service, the same has to be completed either in Group ‘A’ or in Group ‘B’.

20. The question which arises for consideration is as to from which date the period of requisite eight years’ service in the relevant cadre is to be computed.

21. It may be noticed that the Rules itself defines a “member of service” : as an officer appointed substantively to a cadre post.

22. The said clause means “substantively appointment” and not “temporary appointment”. Hence, in the present case, the Current Duty Charge assigned to respondent No.1 on 24.08.2011 cannot be treated as a substantive appointment to the post of Sub-Divisional Engineer (Mechanical). Qua the argument of the learned counsel for the respondents that even while granting the Current Duty Charge, same should be treated as



in the cadre of Sub-Divisional Engineer (Mechanical).

23. It may be noticed that the contention raised on behalf of respondent No.1 that the appointment to a Group 'A' service could be made against an officiating vacancy. As per the Rule, substantive appointment can be made against an officiating vacancy but same has to be mean substantive appointment to Group 'A' service though against of vacant post but in the present case as no given point of time substantive appointment was given to the respondents to Group A service at the time of giving him a Current Duty Charge. Such appointment was only given in the year 2020, which fact has gone un rebutted, cannot mean that an employee holding Current Duty Charge would acquire substantive appointment to the higher cadre.

24 The Substantive appointment will only recite regular appointment and not on *stop-gap appointment* to be given on Current Duty Charge. The Current Duty Charge itself mean a *stop-gap appointment* for a particular period in a higher cadre. The Current Duty Charge given in own rank and pay of Junior Engineer cannot be treated as a substantive appointment to a class 1 service even against an officiating vacancy.

25. Had there been a substantive appointment already in favour of the respondent, there was no need to pass a fresh order in the year 2020 regularly promoting him to the cadre of Sub-Divisional Engineer (Mechanical), hence, there are two order which exist; one qua Current Duty Charge i.e. dated 24.08.2011 and other on substantive appointment i.e. 05.05.2020 when the respondent, when the respondent was promoted on regular basis, hence, terming the Current Duty Charge order as a substantive appointment order against officiating post, cannot be accepted.



Hence, the claim which is being raised by the learned counsel for the respondent that the Current Duty Charge will mean substantive appointment against an officiating vacancy, is incorrect.

26. Further, it may be noticed that the benefits in the cadre of Sub-Divisional Engineer (Mechanical) were admittedly extended to respondent No.1 only from the date of his substantive appointment order dated 05.05.2020 and not from the date on which he was assigned on Current Duty Charge i.e. 24.08.2011. This fact has also been conceded by learned counsel for respondent No.1 on instructions from the respondent, who is present in Court.

27. Consequently, for all intents and purposes, the substantive appointment to the cadre of Sub-Divisional Engineer (Mechanical) was made only in May, 2020, therefore, the requisite period of eight years service is liable to be computed from the said date and not from the date on which respondent No.1 was assigned Current Duty Charge in the cadre of Sub-Divisional Engineer (Mechanical).

28. The learned Single Judge has granted relief to respondent No.1 primarily on the basis of the experience gained by him while working on Current Duty Charge in the cadre of Sub-Divisional Engineer (Mechanical) and by relying upon the judgment in ***Vipin Gupta's case (supra)***. However, the statutory provision considered in ***Vipin Gupta's case (supra)*** is entirely different from the Rule applicable in the present case. In that case of ***Vipin Gupta's case (supra)***, the requirement was of “experience”, whereas the Rule governing the present promotion specifically requires “completed 08 years service”, which fact has been duly conceded by learned counsel for the



respondents during the course of hearing, hence, the said fact has not been appreciated by the learned Single Judge while passing the impugned order dated 21.11.2024.

29. That being so, judgment in Vinay Gupta's case (supra) could not have been made applicable in the present case.

30. Further, wherever, the requisite experience is needed for promotion to a particular post, experience rendered even on Current Duty Charge will be a valid experience, however, where the Rules prescribe completed 08 years' service in the particular cadre, the requirement necessarily relates to requisite service rendered by an employee after substantive appointment to that cadre, hence, the learned Single Judge erred in treating the service rendered on Current Duty Charge period as valid service for computing the requisite eight years' service. Therefore, the order dated 22.02.2023 passed by the State is correct and valid.

31. Hence, the interpretation of the Section 6 of 2009 Act given by the learned Single Judge, to the effect that the period spent on Current Duty Charge be counted as service for computing the requisite eight years service in the cadre of Sub-Divisional Engineer (Mechanical), cannot be sustained in the eyes of law and the same needs to be set-aside. The respondent would be entitled to claim further promotion only after completing eight years regular service in the cadre of Sub-Divisional Engineer (Mechanical), unless the prescribed period is relaxed by the Government by passing an appropriate order in accordance with law.

32. At this stage, learned counsel for respondent No.1 submits that the present order may not come in the way of respondent No.1 seeking



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relaxation of the requisite period of service for further promotion.

33. *‘It may be clarified that the present order only interprets the requirement of eight years service prescribed under the Rules. Nothing contained herein will be construed as an adjudication upon the jurisdiction of respondent No.1 to seek relaxation or upon the power or jurisdiction of the State Government to consider such request in accordance with law.’*

34. Accordingly, ***the present appeal is allowed and the order dated 21.11.2024 passed by the learned Single Judge is hereby set aside*** and the order dated 22.02.2023 passed by the State is upheld and the writ petitions is accordingly, dismissed.

Pending civil miscellaneous application(s), if any, stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(MINDERJEET YADAV)
JUDGE

August 25, 2026

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Whether speaking/reasoned :Yes
Whether reportable : No