



2026:AHC-LKO:17481

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 8266 of 2025

Rajendra Pratap Giri

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. P.W.D. Lko. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Sridhar Awasthi, Akhilesh Kumar Yadav
Counsel for Respondent(s) : C.S.C.

Court No. - 7

HON'BLE MANISH MATHUR, J.

A.F.R.

1. Heard Mr. Sudeep Seth, Senior Advocate assisted by Mr. Sridhar Awasthi, learned counsel for petitioner and Mr. V.K. Bajpai, learned State Counsel appearing for opposite parties.
2. Petition has been filed challenging order dated 27.02.2025 whereby petitioner's representation for consideration for promotion on the post of Superintending Engineer (Electrical/Mechanical) has been rejected.
3. Learned counsel for petitioner submits that earlier as well petitioner had filed Writ-A No. 1293 of 2025 which was disposed of vide order dated 30.01.2025 directing the authorities concerned to take a final decision with regard to grievance of petitioner. It is in pursuance thereof that the impugned order has been passed.
4. Learned counsel has submitted that with regard to such consideration for promotion, it is the Government Order dated 27.09.2019 read with Government Order dated 04.10.2019 which is implemented. It is submitted that Government Order dated 27.09.2019 indicates the procedure and methodology of consideration for promotion with marks being allocated on the basis of entries made in the annual character roll. It is submitted that the Government Order indicates a benchmark of 80 marks out of 100 which are required to be obtained by a candidate for being considered for promotion. It is submitted that a perusal of said Government Order indicates the marks required to be allocated with regard to the annual character roll entries and places reliance on paragraph - 7 of the aforesaid Government Order to submit that

apart from the marks allocated for entries in the Annual Character Roll, additional marks and consideration is required by the Departmental Promotion Committee (DPC) for the aspects indicated in the said paragraph pertaining to capability, merit, technological knowledge, special entries, etc.

5. It is submitted that however, in the present case, petitioner's candidature for promotion has been rejected only on the ground that he failed to attain the minimum benchmark of 80 without considering the aspects indicated in paragraph - 7 of the Government Order dated 27.09.2019.

6. He has also adverted to paragraph - 9 and Schedule - I of the Government Order dated 04.10.2019 to submit that the schedule indicates the format which is required to be forwarded to the Departmental Promotion Committee (DPC) as indicated in Format - 4 whereunder comments are also required to be made in terms of paragraph - 7 of Government Order dated 27.09.2019 but no such consideration has been made with regard to petitioner.

7. Learned State Counsel on the basis of counter affidavit has refuted the submissions advanced by learned counsel for petitioner and submits that both Government Orders dated 27.09.2019 and 04.10.2019 indicate merit based selection for which a benchmark of 80 marks has been prescribed and it is only those candidates or employees who secure 80 or more marks who are classified under the suitable category and included in the selection list subject to availability of actual vacancies and in order of seniority within feeding cadre.

8. It is submitted that for selection year 2022-23, the selection committee convened on 27.09.2022 and based on the ACRs of preceding ten years, a computation chart was prepared whereunder petitioner secured only 73.65 marks which was below the prescribed benchmark of 80 marks and therefore he was classified under the unsuitable category.

9. It is thus submitted that since petitioner was unable to obtain the benchmark of 80 marks, there is no error in excluding his candidature for consideration for promotion.

10. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, the aspect

requiring adjudication is:-

(i) Whether the provisions indicated in paragraph - 7 (7) of the Government Order dated 27.09.2019 are required to be taken into account for ascertaining benchmark of 80 marks or subsequent thereto?

11. With regard to aforesaid aspect, a perusal of the Government Order dated 27.09.2019 reveals the aspects required to be considered for consideration of employees for promotion. The Government Order indicates that for purposes of ascertainment of merit, ACRs of the entire service period may be seen with special consideration being given to the ACRs of preceding ten years. It also indicates that apart from seniority, merit is also a consideration required and for which purpose, a benchmark has to be indicated for consideration of candidates who are suitable and have obtained more than the benchmark of 80 marks.

12. Paragraph - 3 (2) of the Government Order dated 27.09.2019 has also indicated the aspect that the word 'benchmark' is not to be applied in mechanical manner and the method and procedure to be followed is at the discretion of the selection committee as per its collective wisdom and the numerical aspects would not bound the selection committee from consideration of suitable candidates.

13. Paragraph - 7 of the Government Order thereafter indicates the method of marking for purposes of obtaining the minimum benchmark marks by a candidate.

14. It is sub-paragraph (7) of paragraph 7 of the aforesaid Government Order which is relevant for purposes of adjudication of the present writ petition. The sub-paragraph (7) is as follows:-

"(7) संबंधित कार्मिक की सत्यनिष्ठा, नेतृत्व प्रदान करने व त्वरित निर्णय लेने की क्षमता, तकनीकी/विषयज्ञान, विशिष्ट उपलब्धियों/योगदान, कार्य की सुगमता से निष्पादन की क्षमता, विशेष प्रविष्टियों, व्यक्तिगत पत्रावली में उपलब्ध अन्य अभिलेखों एवं विभागीय पदोन्नति समिति के संज्ञान में लाये गये अन्य तथ्यों के आधार पर भी चयन समिति द्वारा संबंधित कार्मिक के अंक घटाये या बढ़ाये जा सकते हैं। इसके लिए तथ्यों एवं आधारों का उल्लेख विभागीय चयन समिति द्वारा अवश्य किया जायेगा।"

15. It is a relevant fact that paragraph 7(11) of the aforesaid Government Order indicates that after determination of all the criteria indicated in sub-paragraphs (1) to (10) of Paragraph 7 of the Government Order, the marks obtained by a candidate are required to be calculated in order to ascertain whether he has

crossed the benchmark or not. Relevant sub-paragraph is as follows:-

"7(11) उपर्युक्त उप प्रस्तर-1 से 10 के आधार पर 100 अंकों में से 80 अंक का बेन्चमार्क निर्धारित करते हुए 80 या 80 से अधिक अंक पाने वाले अभ्यर्थी/कार्मिक को "उपयुक्त" श्रेणी में वर्गीकृत करते हुए, वास्तविक रिक्तियों की उपलब्धता की सीमा तक, उनकी पोषक संवर्ग की वरिष्ठता के क्रम में, चयन सूची में शामिल किया जायेगा तथा उनकी पोषक संवर्ग की ज्येष्ठता के आधार पर उनके पदोन्नति के आदेश निर्गत किये जायेंगे। ज्ञातव्य हो कि 'उपयुक्त' श्रेणी में वर्गीकृत अधिकारियों के मध्य मेरिट के आधार पर कोई विभेद नहीं होगा। अर्थात् चयनित अधिकारियों का अधिक्रमण (Supersession) नहीं होगा। 80 अंक से कम पाने वाले अभ्यर्थियों को अनुपयुक्त श्रेणी में वर्गीकृत किया जायेगा।

उपर्युक्त के अतिरिक्त यदि 80 अंक के बेन्चमार्क के आधार पर रिक्तियों की संख्या के अनुरूप 'उपयुक्त' श्रेणी में वर्गीकृत कार्मिक उपलब्ध नहीं हो पाते हैं, तो चसुन समिति उक्त 80 अंक के बेन्चमार्क को घटाने हेतु सक्षम होगी।"

16. From a perusal of the aforesaid sub-paragraph (11) of paragraph 7, therefore it is evident that the criteria for marking indicated in sub-paragraphs (1) to (10) of paragraph 7 of the Government Order would have a bearing in the calculation of marks obtained by a candidate for purposes of ascertainment of his suitability for being considered for promotion, and for obtaining benchmark.

17. The wordings of the aforesaid sub-paragraph (11) of paragraph 7 of the Government Order therefore clearly ascribes the aspect that the conditions indicated in sub-paragraph (7) of paragraph 7 of the Government Order would also be one of the conditions required to be taken into account for purposes of ascertainment of benchmark pertaining to a particular candidate.

18. The said aspect is clarified in paragraph 9 of the Government Order dated 04.10.2019 which is as follows:-

"(9) उपर्युक्त के अतिरिक्त कार्मिक विभाग के शासनादेश संख्या-4/2019/13(2)/2007/ का -1-2019, दिनांक 27.09.2019 के प्रस्तर-7 में उल्लिखित सामान्य मार्गदर्शी सिद्धांतों के आलोक में संलग्न प्रारूप-4 पर पात्र अधिकारियों के अंकों एवं सुसंगत तथ्यों का अधिकारीवार विवरण भी उपलब्ध कराया जाय।"

19. The said paragraph alludes to Format - 4 appended to Government Order dated 04.10.2019 which specifically indicates relevant aspects apart from the ACRs.

20. A conjoint reading of paragraphs 7(7), 7(11) of Government

Order dated 27.09.2019 and paragraph 9 read with Format - 4 of Government Order dated 04.10.2019 leads this Court to an inescapable conclusion that the conditions indicated in paragraph 7(7) of Government Order dated 27.09.2019 therefore are also required to be taken into account for purposes of calculation of marks obtained by a candidate for purposes of allocating the benchmark.

21. Upon perusal of impugned order, it is also evident that petitioner's representation has been rejected only on the ground that as per the ACR entries for the preceding ten years, he has obtained less than the benchmark of 80 marks and was therefore categorized as unsuitable.

22. It is thus evident that the aspects required to be taken into account in paragraph 7(7) of Government Order dated 27.09.2019 have not been taken into account by opposite parties who have delved only on the markings as per the ACR.

23. With regard to interpretation of the Government Order dated 27.09.2019, the aspect of purposive construction would be applicable. The said aspect signifies that a statute or a provision must be construed with regard to its intent, which is meaningful and fulfills the object and purport of such intention. The doctrine also indicates that meaning of words used in a provision is required to be comprehended to advance the purpose of object and to remedy the mischief, if any, which it sought to remedy. Context includes reading the statute or the provision as a whole with the surrounding circumstances so that its intention is in consonance with the policy in order to give it a meaningful object. Aforesaid proposition has been enunciated by Hon'ble the Supreme Court in **Vivek Narayan Sharma and others**(Demonetisation Case-5 J.) v. **Union of India and others** reported in (2023) 3 SCC 1 in the following manner:-

"137. A statute must be construed having regard to the legislative intent. It has to be meaningful. A construction which leads to manifest absurdity must not be preferred to a construction which would fulfil the object and purport of the legislative intent."

"148. It is thus clear that it is a settled principle that the modern approach of interpretation is a pragmatic one, and not pedantic. An interpretation which advances the purpose of the Act and which ensures its smooth and harmonious working must be chosen and the other which leads to absurdity, or confusion, or friction, or contradiction

and conflict between its various provisions, or undermines, or tends to defeat or destroy the basic scheme and purpose of the enactment must be eschewed. The primary and foremost task of the Court in interpreting a statute is to gather the intention of the legislature, actual or imputed. Having ascertained the intention, it is the duty of the Court to strive to so interpret the statute as to promote or advance the object and purpose of the enactment. For this purpose, where necessary, the Court may even depart from the rule that plain words should be interpreted according to their plain meaning. There need be no meek and mute submission to the plainness of the language. To avoid patent injustice, anomaly or absurdity or to avoid invalidation of a law, the court would be justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of the enactment. Ascertainment of legislative intent is the basic rule of statutory construction."

24. Similarly, in the case of X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and another reported in (2023) 9 SCC 433, the Rule of purposive interpretation has been indicated as follows:-

"31. The cardinal principle of the construction of statutes is to identify the intention of the legislature and the true legal meaning of the enactment. The intention of the legislature is derived by considering the meaning of the words used in the statute, with a view to understanding the purpose or object of the enactment, the mischief, and its corresponding remedy that the enactment is designed to actualise. [Justice G.P. Singh, Principles of Statutory Interpretation, (Lexis Nexis, 2016), at p. 12; State of H.P. v. Kailash Chand Mahajan, 1992 Supp (2) SCC 351 : 1992 SCC (L&S) 874; Union of India v. Elphinstone Spg. & Wvg. Co. Ltd., (2001) 4 SCC 139] Ordinarily, the language used by the legislature is indicative of legislative intent. In Kanai Lal Sur v. Paramnidhi Sadhukhan [Kanai Lal Sur v. Paramnidhi Sadhukhan, 1957 SCC OnLine SC 8 : AIR 1957 SC 907] , Gajendragadkar, J. (as the learned Chief Justice then was) opined that "the first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature itself". But when the words are capable of bearing two or more constructions, they should be construed in light of the object and purpose of the enactment. The purposive construction of the provision must be "illuminated by the goal, though guided by the word". [Kanta Goel v. B.P. Pathak, (1977) 2 SCC 814] Aharon Barak opines that in certain circumstances this may indicate giving "an unusual and exceptional meaning" to the language and words used. [Aharon Barak, Purposive Interpretation in Law, (Princeton University Press, 2007), at p. 306.]"

25. Although the aforesaid judgments pertain to statutory interpretation but in the considered opinion of this Court, they would be applicable in the present circumstances as well with regard to procedure indicated in the Government Order dated 27.09.2019 particularly since it indicates the aspects which are

required to be kept in mind for purposes of consideration of employees for promotional avenues. Once a specific procedure has been indicated without any ambiguity, the same is required to be adhered to in totality without any deviation in order to give a purpose and meaning to all the conditions indicated therein.

26. As indicated here-in-above, for purposes of ascertainment of suitability of a candidate, the aspects indicated in paragraph 7(7) of Government Order dated 27.09.2019 were thus required to be taken into account by the opposite parties. Such a course of action having not been followed by the opposite parties renders the impugned order dated 27.02.2025 vitiated and is therefore quashed by issuance of a writ in the nature of Certiorari.

27. A further writ in the nature of Mandamus is issued commanding the opposite party No.2, Principal Secretary, Public Works Department, Civil Secretariat, Lucknow or any other competent authority to re-consider petitioner's case for promotion on the post of Superintending Engineer (Electrical/Mechanical) for the selection years 2021-22 onward taking into account aspects indicated in paragraph 7(7) of the Government Order dated 27.09.2019.

28. Such a consideration shall be made expeditiously within a period of eight weeks from the date a certified copy of this order is served upon authority concerned.

29. Resultantly, petition succeeds and is **allowed**. Parties to bear their own costs.

March 10, 2026
kvg/-

(Manish Mathur,J.)