

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.1623 of 2020

Decided on: 13.08.2026

Leela Dass Mehta

...Petitioner

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Ashwani Chawla, Advocate.

For the respondents: Mr. Amandeep Sharma, Additional
Advocate General.

Jiya Lal Bhardwaj, Judge *(Oral)*

The petitioner, by way of present petition, has
prayed for the following substantive reliefs:-

"(i) That the respondents may be directed to grant third upgradation i.e. increment and next higher grade pay on the completion of 14 years of service under new 4-9-14 Assured Career Progression Scheme (ACPS) to the Applicant from due date with all consequential benefits."

(ii) The respondents may be further directed to calculate the arrears on account of grant of increment and next higher grade pay under new ACPS scheme alongwith interest @9% pm.

(iii) That the respondents may be further directed to revise and re-fix the pension of the Applicant and may be further directed to release the consequential arrears accrued thereto."

¹ Whether reporters of Local Papers may be allowed to see the judgment?

2. The facts as emerge from the pleadings are that the petitioner was appointed as Language Teacher on regular basis in the respondent-Department, who joined his duties on 01.11.1988. As per the instructions issued by the respondent-Department, a Government employee was entitled to three financial upgradations in the entire service career, in case he/she had not been promoted to the next higher post, for whatever reasons may be.

3. The petitioner was granted two financial upgradations under the old Assured Career Progression Scheme (in short 'ACPS') after completion of 8 and 16 years' service. However, vide instructions dated 09.08.2012 (Annexure A-1), which are incomplete, the Government of Himachal Pradesh had introduced the new ACPS on completion of 4, 9 and 14 years of service in a cadre. As per this new ACPS, after service of 4,9 and 14 years in a post or posts without any financial enhancement in the same cadre (hereinafter referred to as the same post) and service rendered in the same post in different Government

Departments, who is not promoted to higher level on account of non availability of a vacancy or non existence of a promotional avenue in the cadre, shall be granted the grade pay, which is next, higher in the hierarchy of grade pays given in the schedule annexed to Revised Pay Rules, 2009, up to the maximum grade pay of Rs.8900/- As per para 4(a) of the instructions dated 09.08.2012, an employee shall be entitled to maximum of three placements in the next higher grade pay in the hierarchy of grade pays with benefit of one increment each at every placement under the scheme.

4. The petitioner was entitled to third upgradation on completion of 14 years of service under the new ACPS and his case was recommended for grant of third upgradation, but the same was rejected on the ground that the same shall not be allowed to him since he had been paid grade pay of Rs.3800/-p.m. w.e.f. 01.01.2006, whereas he was entitled for grade pay of Rs.3600/- p.m. w.e.f. 01.01.2006, in case, he claims the benefit under new ACPS. The service book of the petitioner was returned with a direction to re-fix his pay and

recover the excess amount paid, in case he claimed the benefit under the new ACPS.

5. Respondent No.4 had asked the petitioner to deposit the excess amount of grade pay, paid to him, in the Treasury and thereafter his case would be forwarded to respondent No.3. The petitioner, in compliance with the observations and directions issued by respondent No.3, deposited a sum of Rs.30,790/- in the Treasury and, thereafter, when his case was re-submitted to respondent No.2 for upgradation under the new ACPS, he was verbally informed that his case had been rejected on the ground that the benefit would not be extended to the incumbents, whose cases for upgradation had remained pending and left out.

6. The Government of Himachal Pradesh issued instructions dated 07.07.2014 (Annexure A-2), wherein it was stipulated that the overriding objective of an ACPS is to ensure at least three financial upgradations/enhancements/promotions to a regular employee in his entire service career. Therefore, in partial

modification of earlier orders on ACPS, it was directed that once an employee has already got three enhancements/financial upgradations i.e. grant of progression under the new or old ACPS or promotion or any other financial enhancement except the annual increment or the general pay revision based on the pay commission in fourteen years or more of his/her entire service, he/she will not be entitled to placement in the next higher grade pay under the ACPS introduced vide instructions dated 09.08.2012. On the basis of the aforesaid instructions dated 07.07.2014, the petitioner was not granted the third upgradation as per the new ACPS.

7. It has further been averred that the action on the part of the respondents in denying the benefit under new ACPS is arbitrary and discriminatory inasmuch as similarly situate persons have already been granted the said benefit, and thus, the respondents cannot apply different yardsticks in the case of the petitioner and, as such, prayed for a direction to the respondents to grant him third upgradation.

8. The petitioner has also placed on record the instructions dated 09.09.2014, whereby it was clarified that the instructions contained in the letter dated 07.07.2014 would be made applicable with immediate effect.

9. The respondents filed reply to the petition and averred that the Government of Himachal Pradesh had introduced the new ACPS on completion of 4, 9 and 14 years of service in a cadre, vide letter dated 09.08.2012, for all State Government employees. Further, as per letter dated 07.07.2014, it was clarified that once an employee has got three enhancements/financial upgradations i.e. grant of progression under the new or old ACPS or promotion or any other financial enhancement except the annual increment or general pay revision based on the pay commission in fourteen years or more of his/her entire service, thereafter, he/she will not be entitled for placement in next higher grade pay in the ACPS introduced vide instructions dated 09.08.2012. Since the petitioner was granted three financial upgradations during his entire service, therefore he is not

entitled to the benefit of ACPS on completion of 14 years. The petitioner was granted first upgradation on completion of eight years of service on 01.11.1996 and second upgradation on completion of 16 years of service on 01.11.2004. It has also been averred that the petitioner has been granted third upgradation by enhancing his grade pay to Rs.4400/- w.e.f. 01.10.2012, therefore, he has got three financial upgradations in his service career and is not entitled for the benefit under the ACPS.

10. The petitioner has filed rejoinder to the reply and controverted the averments made therein.

11. I have heard the learned counsel for the parties and also perused the record carefully.

12. Learned counsel for the petitioner has vehemently argued that once the petitioner was not granted three upgradation under the old ACPS, after introduction of the new ACPS, as per instructions dated 09.08.2012, the petitioner was entitled to get the same w.e.f. 01.11.2002, since the petitioner had completed 14 years of service. He

further argued that the instructions dated 07.07.2014 (Annexure A-2) were not in place when the instructions dated 09.08.2012 (Annexure A-1) were issued and the petitioner had already become eligible and thus, the said instructions dated 07.07.2014 cannot be applied retrospectively.

13. The submission made by the learned counsel for the petitioner deserves to be accepted for more than one reason. Firstly, the State Government had introduced the new ACPS, as per instructions dated 09.08.2012 and the petitioner had not received the benefit under the old ACPS of third upgradation and he was thus entitled to get the benefit w.e.f. 27.08.2009 on notional basis in view of the fact that the said date was fixed in the instructions dated 09.08.2012 and on actual basis from the date of issuance of the instructions on 09.08.2012. Secondly, the benefit of enhancement in the grade pay cannot be construed to be a benefit under the new ACPS and when the instructions were issued on 09.08.2012, it was nowhere mentioned that in case an employee had been granted the benefit of enhancement in grade pay, he/she

would not be entitled to the benefit under the new ACPS. Thirdly, the clarification dated 07.07.2014 (Annexure A-2) cannot be made applicable in the case of the petitioner for the reason that he was entitled to the third upgradation as per the new ACPS prior to issuance of the said instructions, in terms of the earlier instructions dated 09.08.2012, since he had completed 14 years of service on 01.11.2002, taking the date of his joining as a Language Teacher w.e.f. 01.11.1988. Fourthly, he was not granted the third upgradation even by enhancing the grade pay of Rs.4400/- as on 09.08.2012 which was granted w.e.f. 01.10.2012.

14. Not only this, even as per the instructions issued on 09.09.2014, the earlier instructions dated 07.07.2014 were made applicable with immediate effect and the said instructions cannot be made applicable retrospectively. Even if the said instructions were made effective retrospectively, it cannot take away the valuable rights of the petitioner, who was entitled to get the third upgradation, in view of the instructions dated 09.08.2012 as on 01.11.2002.

15. Learned Additional Advocate General has vehemently argued that as per the instructions dated 07.07.2014, more particularly, condition No.5 of the said communication, clearly reveals that in case an employee has already got three enhancements/financial upgradation i.e. grant of progression under the new or old ACPS or promotion or any other financial enhancement except the annual increment or the general pay revision based on the pay commission, the employee is not entitled to get third upgradation. However, the said submission deserves to be rejected for the reason that the instructions dated 09.08.2012 do not stipulate that the person, who has been granted the enhancement in the grade pay is not entitled to the upgradation as per the new ACPS. As already observed above, the petitioner was not granted the enhancement in the grade pay as on 09.08.2012 and thus even granting grade pay subsequently cannot take away the benefit of third upgradation which had accrued to the petitioner on 01.11.2002 as per instructions dated 09.08.2012. Even

otherwise, the grant of enhancement in grade pay cannot take away the benefit under the new ACPS and thus the submission made by the learned Additional Advocate General deserves to be rejected.

16. Learned Additional Advocate General has submitted that a similar issue is now pending adjudication before the Hon'ble Supreme Court and, therefore, in view of this, the petition may be kept pending. However, the said contention is rejected in view of the fact that there is no stay granted by the Hon'ble Apex Court in the case of CWPOA No. 5536 of 2020, titled, ***Sanjay Kumar versus State of H.P. and others***, and a coordinate Bench of this Court has already taken note of the said fact in CWP No. 11520 of 2025, titled, ***Praveen Kumar Gupta versus State of H.P. and others*** and connected petitions, which were disposed of on 18.07.2025, wherein the respondents had informed the Court that the State has taken a policy decision to implement the decision rendered in ***Sanjay Kumar's*** case (supra), subject to final outcome of the SLP filed by them. In view of this, the present

petition is allowed, however, with the observation that the benefit granted to the petitioner would be subject to the final outcome of the proceedings in ***Sanjay Kumar's*** case (supra).

17. Consequently, the present petition is allowed and the respondents are directed to grant the petitioner third upgradation under the new ACPS to the petitioner along with next higher grade pay, on completion of 14 years of service from the due date, with all consequential benefits. In case, the respondents do not pay the arrears on account of the grant of the said benefit under the new ACPS within three months from today, the respondents shall pay the interest on the arrears to him at the rate of 6% per annum from today till actual payment.

18. The petition is accordingly disposed of. Pending application(s), if any, shall also stand disposed of.

13th August, 2026

(ankit)

(Jiya Lal Bhardwaj)
Judge