

**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWPOA No.3351 of 2020
Decided on: 03.09.2026

Shet Ram

.....Petitioner

Versus

Himachal Road Transport Corporation
and another

....Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting? Yes*

For the petitioner: Mr. Vinod Sharma and Ms. Mamta K.
Bhatwan, Advocates.

For the respondents: Mr. Abhijeet Singh Chauhan, Advocate
vice Mr. Raman Jamalta, Advocate.

Ranjan Sharma, Judge

Petitioner-Shet Ram, filed an Original Application No.6689 of 2017, before Learned State Administrative Tribunal and after the abolition of Tribunal, the matter stood transferred to this Court as *CWPOA No.3351 of 2020*, seeking the following relief:-

- “7 (i) That the impugned office order dated 21.09.2016 (Annexure A-3) may kindly be quashed and set aside with the direction to the respondents to grant the benefit of two additional increments to the applicant after completion of 20 years' service as well as the respondents may further be directed to grant the benefit of proficiency increment after completion

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

of 32 years' service with all consequential benefits."

2. At the very outset, Learned Counsel for the petitioner states on Instructions that the petitioner is not pressing the relief with respect to the benefit of proficiency increment after completion of 32 years' service but has confined his claim only with respect to grant of two additional increments after completion of 20 years' service. *[Statement is taken on record]*.

FACTUAL MATRIX:

3. Case set up by Learned Counsel is that the petitioner was appointed as Conductor on daily waged basis w.e.f. 14.03.1983 and his services were regularized as such w.e.f. 09.12.1983 *[Annexure A-1]*. It is averred that the petitioner retired on attaining the age of superannuation on 30.06.2015. It is averred that the Respondent-Corporation has issued a Notification dated 10.09.2015 *[Annexure A-2]*, wherein, the Respondent-Corporation has decided to grant two additional increments to the Conductors working in Himachal Road Transport Corporation ['HRTC'] who had completed 20 years' service as Conductors, without availing any further promotion. It is further averred that as per Clause-IV of the Notification

dated 10.09.2015 [Annexure A-2], the petitioner having completed 20 years of service as a Conductor, was entitled to be considered and granted two additional increments from the date of completion of 20 years of service 'notionally' and the actual benefits were to accrue to the petitioner w.e.f. 01.07.2015. It is averred that the petitioner submitted a representation dated 22.08.2016 but the claim of the petitioner was rejected on 21.09.2016 [Annexure A-3] on the ground that two additional increments after completion of 20 years' service cannot be granted to the petitioner, as the petitioner stood retired on 30.06.2015, whereas, the Notification granting these benefits were issued only on 10.09.2015 [Annexure A-2]. It is in this backdrop, the petitioner has prayed for grant of two additional increments on completion of 20 years' service w.e.f. 08.12.2003 on 'notional basis' and thereafter with all consequential benefits.

STAND OF RESPONDENTS-CORPORATION:

4. Pursuant to the issuance of notice on 08.01.2018, the Respondent-Corporation was directed to file Reply. However, the matter was admitted on 27.10.2020. Post-admission, the matter was again listed on 23.02.2021,

when the Respondents-Corporation were granted last opportunity to file Reply-Affidavit. Material on record indicates that the Respondents-Corporation chose not to file the Reply-Affidavit, despite stop order passed by this Court on 23.02.2021.

5. Heard, Mr. Vinod Sharma, Advocate assisted by Ms. Mamta K. Bhatwan, Advocate, for the petitioner and Mr. Abhijeet Singh Chauhan, Advocate vice Mr. Raman Jamalta, Advocate, for the respondents-HRTC.

6. *For appreciating the claim,* it is necessary to have a recap of the Notification dated 10.09.2015 [Annexure A-2] prescribing the grant of two additional increments to the Conductors, alike the petitioner, *in the following terms:-*

Annexure A-2 Dated 10.09.2015

“HIMACHAL ROAD TRANSPORT CORPORATION,
SHIMLA-171003

No. HO.9E-1084/Conductor-20 Year Increment/
2015 Dated: 10.09.2015

NOTIFICATION

In accordance with the decision taken by the Board of Directors of HRTC in its 130th meeting held on 17.07.2015 to allow two additional increments to the conductors working in HRTC, who have completed 20 years of service as conductor without availing any further promotion. I, Ashok Tewari, Managing Director, Himachal Road Transport Corporation, on behalf of the

Board of Directors of HRTC, do hereby notify under Section 13 of Road Transport Corporations Act, 1950 as follows:-

- i) That the serving conductors who have completed 20 years of the continuous service as on 01.07.2015 without availing any promotion to the next promotional post during this period shall be allowed two additional increments.
- ii) The benefit of two additional increments shall also be admissible to those conductors in future who are going to complete 20 years of continuous service as a conductor without availing any promotion to the next promotional post, shall be allowed on two dates only i.e 1st January of the years and 1st July of the year.
- iii) The serving conductors who will complete 20 years of continuous service after 1st July of the year will get two additional increments on 1st January of the next years and those conductors who will complete 20 years of continuous service after 1st January till 1st July will get this benefit on 1st July of the year.
- iv) In case of those conductors who have already completed 20 years of service before issue of this notification, however did not get any promotion till 01.07.2015 shall also be granted two additional increments **on completion of 20 years service as on 01.07.2015 on actual basis and notionally w.e.f. the date of completion of 20 years of service.**
- v) The grant of two additional increments shall not be treated as gain for purpose of benefit under ACP Scheme.
- vi) The criteria and other conditions for allowing the

benefit of two additional increments shall be same as followed during grant of higher scales or as in ACP Scheme and will be evaluated by committee consisting of RM/AC(F&A)/SO(SAS) and Superintendent.

- vii) The financial benefit of additional two increments shall be applicable only to those conductors who have rendered 20 years continuous service with actual bus operation only and the remaining conductors/TMPAs will not be entitled for this benefit.

By order and in the name of Board of Directors (HRTC)

Sd/-
(Ashok Tewari) IPS
Managing Director,
Himachal Road Transport Corporation,
Shimla-171003.”

ANALYSIS:

7. Taking into account the entirety of facts and circumstances, this Court is of the considered view, that the rejection order dated 21.09.2016 [Annexure A-3] disallowing the claim of the petitioner for two additional increments on completion of 20 years’ service as Conductor w.e.f. 08.12.2003 cannot stand the test of judicial scrutiny, *for the following reasons:-*

7(i). Respondents-Corporation issued a Notification dated 10.09.2015 [Annexure A-2] deciding to grant two

additional increments to the Conductors working in HRTC who had completed 20 years' service as Conductors, without availing any further promotion; *and secondly*, perusal of Clause-IV of Notification dated 10.09.2015 [Annexure A-2] expressly provided that, in case, those Conductors, who have already completed 20 years of service and who did not get any promotion during this period of 20 years shall be granted two additional increments from the date of completion of 20 years' service on notional basis and an on actual basis w.e.f. 01.07.2015; *and thirdly*, indisputably, once the petitioner had rendered 20 years of service as Conductor on regular basis from 09.12.1983 to 08.12.2003 i.e. prior to the cut-off date i.e. 01.07.2015 in the Notification dated 10.09.2015, then, the petitioner is certainly entitled for the benefit of two additional increments from the date of completion of 20 years' service as Conductor notionally w.e.f. 08.12.2003 and in terms of the said Notification; *and fourthly*, Notification dated 10.09.2015 [Annexure A-2] carves out ineligibility for granting two additional increments, *in case*, a person has not earned promotion to the higher post during a span of 20 years

or prior to 01.07.2015 in terms of the Notification dated 10.09.2015 [Annexure A-2] and the factual matrix does not indicate that the petitioner stood promoted from the post of Conductor to a higher post in instant case; and fifthly, mere placement of the petitioner, if any, as an *Adda Incharge* or otherwise, shall not disentitle the petitioner for grant of two additional increments in terms of Notification dated 10.09.2015 [Annexure A-2] and sixthly, disentitlement or ineligibility cannot be carved out dehors the Scheme-Notification, shall defeat the object and rationale of giving these additional increments in lieu of prolonged stagnation on post of Conductor coupled with performance of duties in peculiar conditions; and seventhly, once Clause-IV of Notification dated 10.09.2015 [Annexure A-2] confers eligibility and entitlement on the petitioner for grant of two additional increments, on completion of 20 years of service as a Conductor 'notionally', from the date of completion of 20 years [w.e.f. 08.12.2003] and on actual basis w.e.f. 01.07.2015 and Clause-IV entitles those Conductors who have completed 20 years of service on a date prior to the issuance of Notification dated 10.09.2015 [Annexure A-2], alike the

petitioner, therefore, this Court has no hesitation to hold that the petitioner is eligible and entitled for grant of two additional increments in terms of the Notification dated 10.09.2015 [Annexure A-2]; and lastly, the rejection order dated 21.09.2016 [Annexure A-3] is vitiated by non-application of mind, *for the reason*, denial of two additional increments by ignoring Clause-IV of Notification dated 10.09.2015 [Annexure A-2], which entitles the petitioner for grant of benefits notionally from the date of completion of 20 years' service as Conductor w.e.f. 08.12.2003 on notional basis and on actual basis w.e.f. 01.07.2015 cannot sustain. An acquired right and entitlement cannot be scuttled or negated, on the plea that petitioner stood retired on 30.06.2015. Plea of retirement cannot be invoked so as to deny the legal entitlements which became due notionally w.e.f. 08.12.2003 and an actual basis from 01.07.2015. Rejection of claim reveals non-application of mind leads to perversity in decision making process and consequently, the rejection order dated 21.09.2016 [Annexure A-3] cannot sustain and is declared inoperative and is set aside.

8. Even the issue regarding the admissibility of

two additional increments on completion of 20 years ' service as Conductor stands adjudicated by the Hon'ble Division Bench of this Court in ***Civil Writ Petition No.4167 of 2019***, titled as ***Himachal Road Transport Corporation Versus Suresh Kumar***, decided on 29.11.2021, approving the entitlement of an Conductor for two additional increments, which cannot be negated, merely, on the ground, that an incumbent was re-designated as Conductors-*Adda Incharge* by the Respondents-Corporation, as re-designation of an incumbent does not amount to promotion, *in the following terms:-*

- “6. Insofar as the relief (i) in the O.A. No. 797 of 2016 was concerned, the same was allowed and the petitioner herein was directed to **grant two additional increments to the respondents herein on notional basis with effect from the respective dates of completion of their 20 years of service as Conductor.**
11. Perusal of above noticed notification especially Clause (iv) thereof does not justify the stand taken by the petitioner herein, rather plain reading of such Clause reveals that it applied to all Conductors, who had not been promoted till 01.07.2015 even after rendering 20 years of service before issuance of the notification. **Admittedly, respondents herein had completed 20 years of service much before the issuance of this notification and had also not got any promotion before 01.07.2015,** therefore, the denial of benefit of two additional increments as per notification

dated 10.09.2015 to them cannot be justified. **Merely because the respondents herein were re-designated as Conductors-Adda Incharge cannot be a ground to deny them the benefit as aforesaid. It is settled that re-designation of a post does not amount to promotion especially in the case of respondents herein where the order of re-designation specifically provided that such re-designation did not involve assumption of duties and responsibilities of higher nature and as such, FR 22-1(a) (i) was not to be attracted.**

12. Learned Tribunal has passed the impugned order by taking into consideration all the relevant material. The reasons assigned by the learned Tribunal are based on facts available on record, therefore, **we do not find any illegality or perversity in the impugned order passed by the learned Tribunal.**
14. In light of above discussion, **we find no merit in the instant petition and the same is dismissed with no order as to costs."**

CONCLUSION:

9. Considering the material on record, *pertinently*, instant petition was filed on 14.12.2017 and since then, the Respondents-Corporation have chosen not to file a response thereto for last about nine years, therefore, considering the facts and Notification dated 10.09.2015 [Annexure A-2] and the judgment passed by Hon'ble Division Bench of this Court in the case of **Suresh Kumar and others [supra]**, the petitioner is held entitled for

two additional increments as Conductor, as he had not earned any promotion during the aforesaid period. Mere placement, if any, as Conductor-Adda Incharge shall not be construed as an ineligibility for granting two additional increments, which had accrued to the petitioner notionally from the date of completion of 20 years' service w.e.f. 08.12.2003 and on actual basis w.e.f. 01.07.2015. However, in facts of instant case, since the petitioner stood retired on 30.06.2015, therefore the benefit shall be construed notionally as on 01.07.2015 and these notional increments shall be taken into account for giving revised retiral benefits of the petitioner.

DIRECTIONS:

10. In view of above discussion and for the reasons recorded hereinabove, the instant petition is ***allowed, in the following terms:-***

- (i) Rejection order dated 21.09.2016 [Annexure A-3] is quashed and set aside;
- (ii) Respondents-Corporation shall consider and upon consideration, to release two additional increments as Conductor from the date of completion of 20 years' service as Conductor on 'notional basis' w.e.f. 08.12.2003 and on actual basis w.e.f. 01.07.2015 [even though retired on 30.06.2015] by counting said increments

for all retiral benefits w.e.f. 01.07.2015 with all consequential benefits, including revised retiral benefits, four weeks from today;

(iii) In case, benefits are not released within four weeks, Respondents-Corporation shall be liable to pay interest at the rate of 6% per annum thereafter till realization; and

(iv) Parties to bear their own costs.

In aforesaid terms, the instant petition stands disposed of alongwith all pending miscellaneous application(s), if any.

(Ranjan Sharma)
Judge

September 03, 2026

[Bhardwaj]