

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.6573 of 2026

Decided on: 06.10.2026

Aman Parmar & others	... Petitioners
Versus	
State of Himachal Pradesh and others	... Respondents

Coram

Hon’ble Mr. Justice Ajay Mohan Goel, Judge.

Hon’ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting?¹Yes

For the petitioners:	Mr. Kul Bhushan Khajuria, Advocate.
For the respondents:	Mr. Pushpinder Jaswal, Additional Advocate General, for respondents No.1 to 3. Mr.Dilip Sharma, Senior Advocate, with Mr.Manish Sharma, Advocate, for respondents No.4 to 16 and 18 to 25. Mr. Vinay Mehta, Advocate, for respondent No.17.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioners have, *inter alia*,
prayed for the following relief:-

“i. That in view of the facts and circumstances mentioned hereinabove in this writ petition, the writ petition may kindly be allowed and "Assistant Engineer (Civil) Class-I (Gazetted) Recruitment and Promotion (2nd Amendment) Rules-2026" may kindly be declared as ultra-virus being violative of Article 14 and 16 of the Constitution of India.”

2. Learned Counsel for the petitioners submitted that the petitioners before this Court were initially appointed as Junior Engineers, on the basis of their qualification of being Diploma

¹ Whether reporters of the local papers may be allowed to see the judgment?

Holders in Civil Engineering on contract basis and thereafter, their services were regularized. While in service, they acquired the higher qualification of graduation and presently, all the petitioners possess the qualification of Bachelor of Engineering except petitioner No.8, who is still pursuing the graduation degree.

3. The grievance of the petitioners is that in terms of Notification dated 06.12.2019 (Annexure P-2), Irrigation and Public Health Department brought into force the Himachal Pradesh Department of Irrigation and Public Health Assistant Engineers (Civil), Class-I (Gazetted) Recruitment and Promotion Rules, 2019 (hereinafter to be referred as "the 2019 Rules"). In terms of these Rules, the post of Assistant Engineer (Civil) was to be filled 25% by way of direct recruitment and 75% by way of promotion. The quota of promotion was to be filled 45% from Junior Engineer (Civil) with 7 years regular or regular combined with continuous *ad hoc* service rendered, if any, in the grade and unqualified Junior Engineer (Civil) with 15 years of regular or regular combined with continuous *ad hoc* service. 10% from amongst Junior Engineer (Civil), who acquired B.E./B.Tech, Civil or AMIE degree during service as Junior Engineer (Civil) with 3 years regular or regular combined service with continuous ad-hoc service rendered, if any, in the grade after acquiring such qualification and 15% from amongst Junior Engineer (Civil), who possess B.E./B.Tech Civil or AMIE degree at the time

of appointment as Junior Engineers with 3 years regular or regular combined service with *ad hoc* service, if any. 4% quota was meant for Planning Officers, who had passed matriculation and possessed 2 years diploma in Draftsmanship etc. and 10% for Planning Officers of Draftsman cadre who acquired B.E./ B.Tech Civil or AMIE degree during service with 3 years regular or regular combined with *ad hoc* service.

4. According to the petitioners, vide impugned Notification dated 11.02.2026 (Annexure P-4), the 2019 Rules have been amended and in terms of the amendment carried out in the 2019 Rules, the quota earlier meant for those Junior Engineers (Civil), who acquired higher qualification while in service and Junior Engineers (Civil), who joined the service with higher qualification, was combined into a joint quota of 29%, to the detriment of the petitioners.

5. Learned Counsel for the petitioners argued that in terms of the 2019 Rules (Annexure P-2), there was a separate and distinct quota for those Junior Engineers like the petitioners, who acquired higher qualification while in service. Without any reason or rationale, this quota was removed and made joint with the quota of Junior Engineers (Civil), who joined the service with higher qualification of graduation or AMIE, as a result whereof, the dedicated quota which was earlier there for those Junior Engineers

(Civil), who acquired higher qualification while in service, stood obliterated to the detriment of the petitioners. Learned Counsel submitted that as the said act on part of the respondents was arbitrary and without any cogent reason, the same is liable to be quashed and set aside. No other point was urged.

6. On the other hand, learned Additional Advocate General argued that this writ petition was not maintainable, as the petitioners did not had any locus to file and maintain the same. He argued that it was settled law that the framing of Recruitment & Promotion Rules including power of amendment was within the exclusive domain of the employer and the Court was not to interfere with the said domain of the employer, unless and until there was either *malafide* writ large in the State action or the action was a motivated one. He submitted that in the present case many of the petitioners were not even eligible for promotion under the 10% quota when they filed the writ petition and the petition deserved to be dismissed on this ground alone. He also submitted that the reasons that necessitated the amendment have been clearly spelled out in the reply filed by the State. By referring to the reply, learned Additional Advocate General submitted that as far as on 31.05.2013, All India Council for Technical Education (AICTE) and UGC de-recognized the AMIE degree through distance education mode. In view of this change effected by the Regulatory Authorities, it was necessary to

amend the Rules and needful was done. Learned Additional Advocate General further submitted that in the last many years, no eligible person was available from the Planning Officer category for the purpose of promotion and besides this, 10% quota in respect of AMIE category was also lying vacant for some time on account of non-availability of eligible candidates. In this backdrop, the Government decided to modify said quota as was done by way of the amended Rules, which has increased the overall quota of degree holders Junior Engineer, be it a degree holder who acquired higher qualification while in service or who joined the service as such.

7. Learned Additional Advocate General further submitted that necessary amendment was incorporated in the Rules after the concurrence of all the concerned Departments and in light of the fact that the decision to amend the Rules was taken in the larger interest of the Institution and as it is not the case of the petitioners, that it was a motivated decision or that the Rules were amended so as to make them tailor-made to suit a few. Therefore, the present writ petition was liable to be dismissed.

8. Learned Senior Counsel for the private respondents adopted the arguments addressed by the learned Additional Advocate General and in addition, submitted that the present petition was completely misconceived. Learned Senior Counsel submitted that it is evident from the reply filed by the State that the

2019 Rules, as they were existing in terms of Annexure P-2, were requiring an amendment as the Rules provided a quota in favour of Junior Engineers who acquired higher qualification while in service, including the qualification of AMIE, which qualification was de-recognized by AICTE and UGC as from the year 2013 onwards. He submitted that in terms of the amended Rules, the AMIE degree now has been made recognizable for the purpose of promotion, provided it was obtained before the cut-off date or the enrollment was before the cut-off date, to bring the Rules in sync with the changes made by the Regulatory Authorities. He further submitted that it is not as if the chances of those Junior Engineers who acquired the higher qualification of graduation while in service have been taken away by the amendment. He submitted that the chances still remain and in fact, they have been enhanced from a fixed quota of 10% to an overall quota of 29%, which is not to the detriment of the petitioners, but may be to the detriment of the private respondents. He submitted that be that as it may, in light of the fact that the amendment incorporated in the Rules is neither arbitrary nor attributable to reasons beyond administrative reasons as have been spelled out in the reply, the present writ petition being without any merit is liable to be dismissed.

9. We have heard learned Counsel for the parties and have also carefully gone through the pleadings as well as the documents

appended therewith.

10. The moot issue involved in this petition whether the amendment incorporated in the 2019 Rules, relating to the 75% quota promotion to the post of Assistant Engineers by virtue of Annexure P-4, i.e. Notification dated 11.02.2026, is sustainable in law or not.

11. As per Annexure P-2, i.e. the Notification dated 06.12.2019, in terms whereof, the Rules were promulgated for promotion to the post of Assistant Engineer, 25% of the posts of Assistant Engineer were to be filled in by way of direct recruitment on regular basis or by recruitment on contract basis and 75% by promotion. The promotion quota as was mentioned in the said Rules, read as under:-

11.	In case of recruitment by promotion/ secondment/ transfer, grade for which promotion/ Secondment/ transfer is to be made.	By Promotion amongst: (i) Junior Engineer (Civil) with seven years' regular or regular combined with continuous adhoc service rendered, if any, in the grade and unqualified Junior Engineer (Civil) with atleast 15 years' regular or regular combined with continuous adhoc service rendered, if any, in the grade 45%; (ii) Junior Engineer (Civil) who acquire BE/B.Tech. (Civil) or AMIE degree during service as Junior Engineer (Civil) with three years regular or regular combined with continuous adhoc service rendered, if any, in the grade after acquiring such qualification 10%; (iii) Junior Engineer (Civil) who possess BE/B.Tech (Civil) or AMIE degree at the time of appointment as Junior Engineer (Civil) with three years' regular or regular combined with continuous adhoc service rendered, if any, in the grade.....15%;
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		(iv) Planning Officers who have passed Matriculation and possess two years' Diploma in Draughtsmanship from a recognized Institution and having three years' regular or regular combined with continuous adhoc service rendered, if any, as Circle Head Draughtsman and Planning Officer combined out of which one year service rendered as Planning Officer must be essential .04%; and (v) Planning Officer/Officer(s) of Draughtsman cadre who acquire BE/B.Tech(Civil) or AMIE degree during service with three years' regular or regular combined with continuous adhoc service rendered, if any, in the grade after acquiring such qualification 01%;
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12. In terms of Notification dated 11.02.2026, Column-11 of the 2019 Notification has been amended. After amendment, the same reads as under:-

“Short title and commencement	1	(1)	These rules may be called the Himachal Pradesh, Jal Shakti Vibhag, Assistant Engineer (Civil), Class-1 (Gazetted), Recruitment and Promotion (2 nd Amendment) Rules, 2026.
		(2)	These rules shall come into force from the date of publication in the Rajpatra (e-Gazette), Himachal Pradesh.
Amendment of annexure “A”			In Annexure-"A" to the Himachal Pradesh, Department of Irrigation & Public Health, Assistant Engineer (Civil), Class-I (Gazetted), Recruitment and Promotion, Rules, 2019
			for the provisions against column No. 11 (1), (ii), (iii), (iv), (v), the following shall be substituted, namely:- 66 (i) Junior Engineer (Civil) having 07 (seven) years regular or regular combined with continuous adhoc service rendered, if any, in the grade and unqualified Junior Engineer(s) (Civil) with 15 (fifteen) years regular service or regular combined with continuous adhoc service, if any, in the grade. ...45%; (ii) Junior Engineer (Civil) who possess

		BE/B.Tech. (Civil) or AMIE degree from an Institute/ University duly approved/ recognized by the AICTE/UGC or AMIE enrolled upto on or before 31.05.2013 from Institute of Engineers (India), Ludhiana Punjab at the time of appointment as Junior Engineer (Civil) with three years regular or regular combined with continuous adhoc service rendered or acquire BE/B.Tech. (Civil) or AMIE degree from an Institute/ University duly, approved/recognized by the AICTE/ UGC or AMIE enrolled upto on or before 31.05.2013 from Institute of Engineers (India), Calcutta and Institute of Civil Engineers (India), Ludhiana Punjab during the service as Junior Engineer (Civil) with three years regular or regular combined with continuous adhoc service rendered, if any, in the grade, after acquiring such qualification. 29%; (iii) Planning Officer(s) who have passed Matriculation and possess a recognized two years' Diploma/Certificate in Draughtsmanship and having 03 (three) years' regular service regular combined with continuous adhoc service rendered, if any, as Circle Head Draughtsman and Planning Officer combined which include one year's essential service as Planning Officer. or 01%; In case of non-availability of incumbents, posts will be filled up from amongst the candidates of category (ii) above.

13. A comparison of Column-11 of the 2019 Rules, as it existed before amendment and after amendment demonstrates that earlier 10% quota was there for Junior Engineers, who acquired the higher qualification of B.E./B.Tech or AMIE while in service and 15% quota was lying in favour of Junior Engineers, who joined the service with the qualification of B.E./B.Tech or AMIE. Thus, in all, the accelerated quota of promotion which was available to these two

categories was 25%. In terms of the impugned Notification, this 10% and 15% quota has been combined and made into an overall 29% quota, which is now available for the purpose of promotion, both to the Junior Engineers, who joined the service with the qualification of B.E./B.Tech or AIME or those who acquired the higher qualification while in service, with the rider that as far as AIME qualification is concerned, it should either have been obtained before 31.05.2013 or enrollment at least should have been before 31.05.2013.

14. Therefore, it is apparent and evident from the comparison of the two Rules, i.e. the unamended Rules and the amended Rules, that the quota which was available to the said two categories has overall increased from 25% to 29%. The 4% increase thereto is from the cadre of Planning Officers and as per the reply filed by the State, this was necessitated on account of the reason that eligible Officers from the feeder category of Planning Officers were not available for the purpose of promotion to the post of Assistant Engineer.

15. Be that as it may, in terms of the unamended Rules, Junior Engineers who joined the service as diploma holders but acquired the higher qualification of B.E./B.Tech or AMIE while in service had a quota of 10% and they became eligible for being considered under this quota after they had put in three years of service after acquiring the qualification in issue.

16. Now, in terms of the amended Rules, such Junior Engineers who earlier were confined only to 10% quota, get a right to be considered for promotion under the accelerated quota of 29% on the same terms and conditions which were earlier there. Meaning thereby that there is an overall increase in their quota from 10%, though it is along with those Junior Engineers who joined the service with the qualification of B.E./B.Tech or AMIE. However, fact of the matter still remains that they now have a right to compete under the 29% quota as far as promotion is concerned. This, of course, is in addition to the 45% quota which is prescribed at the macro level for all Junior Engineers having seven years regular or regular-combined service, provided they are qualified Junior Engineers, which includes the petitioners and the private respondent.

17. The contention, raised by the learned Counsel for the petitioners that there is no rationale why this amendment has been carried out, according to us, has no force. The reasons leading to the amendment that stands incorporated in the Rules have been spelled out by the Department in its reply. It has been clearly and categorically mentioned in the reply that the reasons which have led to the promulgation of the Notification of the amended Rules are on the one hand, that AICTE and UGC de-recognized AMIE qualification by way of distance education with effect from 31.05.2013 and

further, the promotional posts which were belonging to the AMIE category and Planning Officers were lying vacant on account of non-availability of eligible candidates.

18. During the course of the arguments before us, it could not be demonstrated that the stand which taken in the reply by the State was incorrect. Besides this, it could not be demonstrated before us that the amendment incorporated in the Rules was not on account of administrative reasons, but was a motivated act of the Department and the Rules in fact were amended to suit the favored few.

19. That being the case, otherwise also, in terms of the law laid down by the Hon'ble Supreme Court of India, there is no occasion for us to interfere with the amendment which has been incorporated in the Rules by the State.

20. Hon'ble Supreme Court in *P.U. Joshi and Others Vs. Accountant General, Ahmedabad and Others*, (2003) 2 Supreme Court Cases 632, has been pleased to *inter alia* hold that prescription of qualification and other conditions of service, including avenues of promotion and criteria to be fulfilled for such promotion, pertain to the field of Policy which is within the exclusive discretion and jurisdiction of the State, subject to limitations or restrictions as envisaged in the Constitution. It is not for the Statutory Tribunal, at any rate, to direct the Government to have a particular method of

recruitment or eligibility criteria or avenues of promotion, or impose itself by substituting its views for that of the State. Hon'ble Supreme Court has categorically held in this judgment that it is well open and within the competency of the State to change the Rules relating to a service and alter or amend and vary by addition, subtraction the qualifications, eligibility criteria and other conditions of service including **avenues of promotion from time to time as the administrative exigencies may need or necessitate.**

21. Thereafter, in *Chandigarh Administration through the Director Public Instructions Versus Usha Kheterpal Waie and Others*, (2011) 9 Supreme Court Cases 645, Hon'ble Supreme Court has reiterated this position in Para-22 of the judgment, which reads as under:-

“... 22. It is now well settled that it is for the rule-making authority or the appointing authority to prescribe the mode of selection and minimum qualification for any recruitment. The courts and tribunals can neither prescribe the qualifications nor entrench upon the power of the authority concerned so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of the Constitution, statute and rules. (See *J. Ranga Swamy v. Govt. of A.P.* and *P.U. Joshi v. Accountant General*.) In the absence of any rules, under Article 309 or statute, the appellant had the power to

appoint under its general power of administration and prescribe such eligibility criteria as it is considered to be necessary and reasonable. Therefore, it cannot be said that the prescription of PhD is unreasonable.”

22. A five Judge Bench of the Hon’ble Supreme Court of India in *The State of Jammu and Kashmir Versus Shri Triloki Nath Khosa and Others*, (1974) 1 Supreme Court Cases 19, has been pleased to hold that the Government can alter the terms and conditions of its employees unilaterally and though, in modern times, consensus in matters relating to public services is often attempted to be achieved, consent is not a pre-condition for the validity of rules of service.

23. A five Judge Bench of the Hon’ble Supreme Court of India in *Mohammad Shujat Ali and Others Versus Union of India and Others, along with connected matter*, (1975) 3 Supreme Court Cases 76, has been pleased to hold that if on account of the act of the employer, the right to be considered for promotion was not affected, but may be the chances of promotion were reduced, the same did not constitute variation in the conditions of service.

24. A four Judge Bench of Hon’ble Supreme Court of India in *N. Lakshmana Rao and Others Versus State of Karnataka and Others*, (1976) 2 Supreme Court Cases 502, has been pleased to hold by reiterating the law laid down by the Hon’ble Supreme Court earlier in *Roshan Lal Tandon Versus Union of India*, AIR 1967

Supreme Court 1889, that the terms of service are governed by statute or Statutory Rules which may be unilaterally altered by the Government without the consent of the employee.

25. Therefore, in light of the above discussion and law laid down by Hon'ble Supreme Court of India, this Court has no hesitation in holding that there is neither any arbitrariness in the issuance of Notification dated 11.02.2026 (Annexure P-4) by the respondent-Department, nor it can be said that the amendment which has been carried out in the 2019 Rules, by virtue of Notification dated 11.02.2026, is unconstitutional or calls for any interference by this Court.

26. Accordingly, in light of above discussion as we do not find any merit in this petition, the same is dismissed, so also pending miscellaneous application(s), if any.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

October 06, 2026
(Rishi)