

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.608 of 2019
Decided on: 30.09.2026

Pawan Kumar Thakur

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Karan Singh Parmar, 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 relief:-

“i). that the impugned office order dated 16.6.2011
may kindly be quashed and set aside and
promotion of the petitioner to the post of Excise
and Taxation Inspector may kindly be held for all
intents and purposes.”

2. Shorn of unnecessary details, the key facts of the
case are that the petitioner was appointed as Camp Clerk in
the year 1992, which post was subsequently re-designated
as Steno Typist in the year 1997. The respondents-
Department had framed the Himachal Pradesh Excise and

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

Taxation Department (Inspectorate Staff Class III) Service Rules 1976 (in short 'R&P Rules'), which were notified on 25.03.1976. As per Rule 10 of these Rules, the post of Excise and Taxation Inspector was to be filled up 80% by direct recruitment and 20% by promotion. By way of promotion, the post was to be filled up from amongst Clerks/Camp Clerks in the Excise and Taxation Department with 8 years regular or adhoc service or both in the grade (officiating or confirmed), provided that the post falling under promotion quota which remain unfilled due to non-availability of Clerks/Camp Clerks with requisite qualifications and service will be filled by direct recruitment and post may not be accommodated and carried over to the subsequent years. These Rules were amended vide Notification dated 23.12.1999. Thereafter, the respondents-Department again repealed the R&P Rules vide Notification dated 01.09.2001 (Annexure P-3) and notified new R&P Rules for promotion to the post of Excise and Taxation Inspector. The said Rules remained subject matter of OA No.2970 of 2001 filed before the erstwhile Himachal Pradesh Administrative Tribunal, which was dismissed on 06.05.2005. Thereafter the said order was assailed before this Court and the writ petition

was dismissed on 08.12.2005.

3. The petitioner along with similarly situate persons had represented the State Government for granting them relaxation in the R&P Rules for promotion to the post of Excise and Taxation Inspector, since they had already opted for their promotion to the said post. However, in the meantime, the petitioner was promoted as Junior Scale Stenographer in the month of January, 2005 and he accepted the said post.

4. The matter regarding relaxation in the R&P Rules was taken up with the State Government and vide communication dated 23.06.2010, the State Government granted one time relaxation in respect of 28 Steno-typist (Camp Clerks), who prior to amendment in the R&P Rules for promotion to the post of Excise and Taxation Inspector of 2001, had exercised their option for promotion under the old Rules against the promotion quota lying vacant/fallen vacant. The name of the petitioner also figured in the said list of 28 Steno-typist and the petitioner had exercised the option for his promotion to the post of Excise and Taxation Inspector in the year 1998.

5. After the relaxation granted by the Government

and further consequent upon the recommendations of the Departmental Promotion Committee (in short 'DPC'), the petitioner who was working as Junior Scale Stenographer in the pay scale of Rs. 5910-20200 + Rs. 2800 (Grade Pay) was promoted to the post of Excise and Taxation Inspector in the pay scale of Rs. 10300 - 34800 + Rs. 3600 (Grade Pay) vide office order dated 11.11.2010 (Annexure P-5). However, later on as per office order dated 16.06.2011 (Annexure P-6), the promotion order dated 11.11.2010 was withdrawn in compliance with the order dated 15.12.2010 passed in CWP No.4031 of 2010 and the petitioner was reverted back to the post of Junior Scale Stenographer.

6. The petitioner feeling aggrieved by the office order dated 16.06.2011 (Annexure P-6) has approached this Court *inter alia* on the grounds that since the petitioner had opted for promotion to the post of Excise and Taxation Inspector in the year 1998, which fact is evident from a perusal of communication dated 23.06.2010, in case he was promoted as Junior Scale Stenographer, that promotion is nothing to do with the right of the petitioner to be promoted as Excise and Taxation Inspector from the quota meant for Camp Clerks. It has further been averred that the

respondents-Department had also promoted S/Sh. Sehaj Ram and Kashmir Singh to the post of Excise and Taxation Inspector from feeder category of Junior Scale Stenographers, vide promotion order dated 01.01.2009 (Annexure P-7) and the names of these persons appear in the seniority list of Junior Scale Stenographers, as evident from perusal of office order dated 08.04.2008 (Annexure P-6/A). The name of the petitioner also figures as Junior Scale Stenographers. It has further been averred that after the promotion of the aforesaid persons, the petitioner was the senior-most incumbent from the feeder category of Junior Scale Stenographers for promotion to the post of Excise and Taxation Inspector and his reversion as per office order dated 16.06.2011 is not only illegal, but is also against the instructions of the Government and as such, prayed for quashing the order and further the promotion of the petitioner to the post of Excise and Taxation Inspector may kindly be held for all intents and purposes.

7. The respondents filed reply to the petition and averred that the State of Himachal Pradesh vide letter dated 23.06.2010 (Annexure P-4) had granted one time relaxation in the R&P Rules for Excise and Taxation Inspectors, 2001,

for promoting 28 Steno-typists who prior to the aforesaid Rules had exercised their option for promotion to the post of Excise and Taxation Inspector under the old R&P Rules of 1976 against the posts (promotion quota) lying vacant/falling vacant in future. Against the decision of the Government, one Sh. Ashok Kumar, Junior Assistant, had filed CWP No. 4031 of 2010, titled, **Ashok Kumar & Ors. vs. State of HP & Ors.** before this Court and this Court vide interim order dated 15.07.2010 stayed the operation of the decision dated 23.06.2010 (Annexure P-4) taken by the Government. In the meantime, one post of Excise and Taxation Inspector (ministerial quota) got vacant in October, 2010 and the petitioner being top most in the list of ministerial staff (Junior Scale Stenographer/Junior Assistant) in combined seniority list, was promoted to the post of Excise and Taxation Inspector vide order dated 11.11.2010 (Annexure P-5), subject to the final outcome of CWP No.4031 of 2010, referred to above. This Court had dismissed the writ petition on 15.12.2010 and the interim order granted by this Court was also vacated. Since the petitioner was promoted to the post of Excise and Taxation Inspector subject to the final outcome of aforesaid writ petition, the petitioner has

rightly been reverted to the post of Junior Scale Stenographer, vide order dated 16.06.2011 (Annexure P-6).

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

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

10. It is not in dispute that the petitioner was promoted to the post of Excise and Taxation Inspector after the recommendations of the DPC vide office order dated 11.11.2010 (Annexure P-5) against a vacancy without availing relaxation in the R&P Rules granted by the Government on 23.06.2010 (Annexure P-4). As per the list accompanying the letter dated 23.06.2010, the petitioner was at serial No.22, who had given his option in the year 1998, for his promotion to the post of Excise and Taxation Inspector. The State of Himachal Pradesh had granted one time relaxation in the R&P Rules for promotion to the post of Excise and Taxation Inspectors, 2001 for promoting 28 Steno-typists, who prior to the aforesaid R&P Rules had exercised their option for promotion to the post of Excise and Taxation Inspector under the old R&P Rules of 1976, against the posts lying vacant/falling vacant in future. The

name of the petitioner was found amongst 28 Steno-typists, but he was promoted as Excise and Taxation Inspector without availing the relaxation after the recommendations made by the DPC, vide office order dated 11.11.2010. The writ petition preferred by Ashok Kumar, Junior Assistant was dismissed on 15.12.2010, upholding the action of the State Government by relaxing the R&P Rules as communicated vide letter dated 23.06.2010. However, since the petitioner was promoted without any relaxation and further against the vacant post after staying the relaxation order on 15.07.2010, there was no question of recalling the promotion order dated 11.11.2010 as has been done in the case of the petitioner, that too, without hearing him, which is totally against the principles of natural justice.

11. This Court while dismissing the writ petition filed by Ashok Kumar had not expressed any opinion that the promotions if made during the pendency of the writ petition shall be withdrawn and thus, there was no occasion for the respondents to withdraw the promotion order of the petitioner since he was promoted against the vacant post as per the Rules and on the basis of the recommendations of the DPC. No doubt the office order dated 11.11.2010 reveals

that the promotion is subject to the final outcome of the petition filed by Ashok Kumar and others, but the right of the petitioner has not been annulled by this Court when the writ petition was dismissed. Further before withdrawing the order, the petitioner has not been heard in the matter and, therefore, the office order dated 16.06.2011 does not meet the principles of natural justice and thus, not sustainable in law.

12. Learned counsel for petitioner vehemently argued that the respondents in the past had promoted the persons from the category of Junior Scale Stenographer, which fact has not been denied by the respondents and once the petitioner was also promoted to the post of Excise and Taxation Inspector from the category of Junior Scale Stenographer against the vacant post of Excise and Taxation Inspector, after dismissal of the writ petition, the promotion order dated 11.11.2010 could not have been withdrawn. As already observed above, once the petitioner was promoted after the recommendations made by the DPC against the post of Excise and Taxation Inspector, lying vacant as per the Rules and after the recommendations by the duly constituted DPC and the said order was not quashed, the

action on the part of the respondents to withdraw the promotion order dated 11.11.2010 is violative of Articles 14 and 16 of the Constitution of India and also arbitrary and discriminatory.

13. Consequently, the present petition is allowed and the impugned office order dated 16.06.2011 (Annexure P-6) is quashed and set aside and the petitioner is held for all intents and purposes to be an Excise and Taxation Inspector as per the office order dated 11.11.2010. No order as to costs. Pending applications, if any, stand disposed of.

30th September, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**