

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.647 of 2019

Decided on: 27th July, 2026

Sushila Thakur and others

...Petitioners

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioners:

Mr. Dilip Sharma, Senior Advocate
with Ms. Ridhima Karol, Advocate.

For the respondents:

Mr. Rupinder Singh Thakur, Additional
Advocate General, for respondents
No.1 and 2-State.

None for respondents No.3 and 5.

Ms. Nidhi Verma, Advocate, vice Mr.
Vasu Sood, Advocate, for respondent
No.4.

Jiya Lal Bhardwaj, Judge (Oral)

By way of present petition, the original petitioners
have prayed for the following substantive reliefs:-

- "i) That the promotion of respondents No.3 to 5 as Under Secretary on regular basis vide notification dated 5.1.2011, Annexure P-3 may kindly be quashed and set aside;*
- ii) That the respondents may kindly be directed to hold review DPC for the vacancies from the year 2007 onwards on*

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

the basis of relevant instructions with respect to year-wise DPC and time schedule for holding such DPC, and the ACRs of petitioners and private respondents may be directed to be considered for the relevant period with respect to the vacancies of each of the previous year. As a result of recommendations of review DPC, the petitioners may be held entitled for regular promotion as Under Secretaries from the date(s) they actually joined on adhoc basis against the said posts, with all consequential benefits."

2. During the pendency of the petition, petitioner No.1, namely Sh. Gian Chand, had died and his legal representatives were brought on record. Thereafter, petitioner No.2 had also died, but no one came forward to substitute his legal representatives in his place. His name was ordered to be deleted from array of parties vide order dated 06.07.2026.

3. The claim of the original petitioners in the writ petition was that they were to be promoted to the posts of Under Secretaries on regular basis and they sought direction to hold a Review Departmental Promotion Committee (in short "DPC") for the vacancies from the year 2007 onwards, on the basis of relevant instructions with respect to year-wise DPC and time schedule for holding such DPC.

4. The original petitioners No.1 and 2 were promoted on an adhoc basis, vide Notifications dated 11.05.2010 (Annexure P-1) and 04.09.2010 (Annexure P-2), respectively, such promotions were made only because of the pendency of the writ petition before the Hon'ble Supreme Court of India relating to the challenge to the 85th Constitutional Amendment Act. In the writ petition, the original petitioners also impleaded the private respondents, questioning their appointments as Under Secretaries, on regular basis, vide Notification dated 05.01.2011 (Annexure P-3).

5. Respondents No.1 and 2 filed reply to the petition and averred that the cadre of Under Secretaries, Himachal Pradesh Secretariat Services consists of 17 sanctioned posts and that adhoc promotions of the petitioners were made vide Notifications dated 11.05.2010 (Annexure P-1) and 04.09.2010 (Annexure P-2), with a rider that the adhoc promotion would not confer any right on the officers for regular promotion, continuation of seniority against the post of Under Secretary.

The adhoc promotions were made in pursuance of the Department of Personnel's instructions No.Per(AP)-C-F(1)-1/2002 dated 06.10.2006, issued during pendency of litigation going on before the different Hon'ble Courts over the 85th Constitutional Amendment Act, 2001, till final decision therein.

6. It has further been averred that the meeting of DPC for considering regular promotions for filling up the vacancies of Under Secretaries w.e.f. 2007 to 2010, was held on 23.12.2010, when year-wise vacancy position was taken into consideration by the DPC. A similar stand has been taken by respondent No.4 while filing its reply.

7. The original petitioners did not file any rejoinder to the replies filed by the respondents.

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

9. The plea taken by the original petitioners in the writ petition is that since DPC was not actually held during the years 2007 to 2010, the DPC was required to prepare a year-

wise panel as per the instructions contained in para 16.29 of the Handbook on Personnel Matters. However, once, as per the reply filed by the respondents, the adhoc promotions were made in pursuance of the Department of Personnel instructions dated 06.10.2006, during the pendency of litigation, therefore, it cannot be said that the action on the part of the respondents-State was erroneous.

10. It has also been averred in the reply that the meeting of DPC for considering regular promotions for filling up the vacancies of Under Secretaries w.e.f. 2007 to 2010 was held on 23.12.2010, when year-wise vacancy position was taken into consideration by the DPC. It has further been averred in the reply that the contention of the petitioners that the ineligible officers were also considered, has been specifically denied and since there is no rebuttal to the plea taken by the respondents in their reply, as no rejoinder has been filed by the petitioners, no relief can be granted to them more particularly, when the original petitioners have now died and name of petitioner No.2 has been deleted.

11. Consequently, I do not find any merit in the present petition and the same is dismissed. No order as to costs. Pending application(s), if any, shall also stand disposed of.

27th July, 2026
(*ankit*)

(Jiya Lal Bhardwaj)
Judge