

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**CWPOA No.862 of 2019****Decided on: 8th September, 2026**

Ranjeet Singh Rana

....Petitioner

versus

State of H.P. and Others

...Respondents

*Coram****Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.******Whether approved for reporting?¹ Yes.***

For the petitioner: Mr. Dilip Sharma, Senior Advocate with Mr. Manish Sharma and Ms. Anjali Chauhan, Advocates.

For the respondents: Mr. Balwinder Singh, Deputy Advocate General for respondents No.1 and 2-State.

Respondent No.3 ex-parte.**Jiya Lal Bhardwaj, Judge (Oral)**

By way of present petition, the petitioner has prayed for the following substantive relief:-

"(i) That the respondents No.1 &2 may be directed to treat the petitioner as Assistant Librarian w.e.f. 9.11.2005 with all consequential benefits;

Or in the alternative;

The respondents No.1 &2 may be directed to consider the petitioner for promotion to the post of Assistant Librarian w.e.f. February, 2009, when respondent No.3 was so

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

promoted with all consequential benefits including assigning him seniority above respondent No.3 and arrears of salary etc;”

2. Shorn of unnecessary details, the key facts of the case are that the petitioner was initially appointed as Library Restorer on regular basis in privately managed Maharaja Sansar Chand Memorial Degree College, Thural, (Kangra) (in short 'MSCM Degree College') vide order dated 18.03.1996, which college was in receipt of 95% grant-in-aid from the State Government. After joining as Library Restorer, the petitioner obtained Diploma in Library Science in the year 1997. As per the Recruitment and Promotion Rules (for short 'R&P Rules') notified by the State Government of Himachal Pradesh on 24.05.2000 (pages 40-42), 25% posts of Assistant Librarian are to be filled up by promotion and 75% by the direct recruitment. Out of 75% direct recruitment, 40% by direct recruitment and 35% by batchwise recruitment through Department. The post of Assistant Librarian to be filled up by promotion is from amongst the Restorers/Library Attendants, who possess Certificate/Diploma in Library Science and also possess five years regular service or regular combined with continuous ad hoc service (rendered up to 31st of March, 1998).

3. The State Government had issued the Notification dated 18.10.2006, when it had taken over the services of teaching and non-teaching staff of the erstwhile MSCM Degree College, with effect from 09.11.2005 i.e. the date of taking over of the college as per UGC guidelines, R&P Rules and terms and conditions of taking over of staff of private college notified vide Notification dated 25.08.1994. Since the petitioner was also serving in the aforementioned college, his services were also taken over, but as Library Restorer.

4. The grievance of the petitioner, as highlighted in the petition, is that the respondents-State had promoted respondent No.3 as Assistant Librarian on 24.01.2009. It has been averred that respondent No.3 was transferred from District Mandi to District Kangra on his request in March, 2007, and therefore, his past service could not have been counted for the purpose of seniority in District Kangra. The petitioner had made representation dated 26.07.2010 for making promotion to the post of Assistant Librarian stating therein that his past services in the college may be counted. However, the said request was not considered and the petitioner was not granted the benefit of the past service rendered by him in the privately managed college and he was promoted to the post of Assistant Librarian, vide office order dated 18.08.2011 (Annexure

P-5), on the recommendations of the DPC, when he had completed five years service.

5. The petitioner feeling aggrieved by the action on the part of the respondents in not counting the services rendered by him in the erstwhile college after acquiring the qualification for being promoted as Assistant Librarian has approached this Court inter alia on the grounds that earlier Directorate did not give approval for considering him for promotion in the year 2002 on the ground of financial stringency. However, when his services were taken over w.e.f. 09.11.2005, he ought to have been appointed as Assistant Librarian w.e.f. 09.11.2005. It has further been averred that as per the R&P Rules for the post of Assistant Librarian, his case was not considered for promotion in January, 2009, on the plea that he did not have five years service as Library Restorer. His services in the erstwhile college have wrongly been ignored and as such, has prayed that he may be promoted at least from the date when respondent No.3 has been promoted, with all consequential benefits, including assigning him seniority above respondent No.3, arrears and salary, etc.

6. Respondents No.1 and 2 filed reply to the petition and averred that neither any legal and fundamental right of the petitioner has ever been infringed in any manner nor any cause of

action has accrued in his favour. The petitioner was working as Library Restorer in erstwhile MSCM Degree College, Thural and his services were taken over with effect from 09.11.2005 and the past services rendered by him in the erstwhile college cannot be taken into consideration for promotion. His services were taken over as Library Restorer w.e.f. 09.11.2005 as per Notification dated 18.10.2006. As per Annexure P-4 condition No. 9, the staff including Principal after taking over is to be treated as fresh entrant, and they will be placed at the bottom of seniority list maintained in respect of Government employees in their respective cadre from the date of taking over. The petitioner in terms of the said condition w.e.f. 09.11.2005 became a fresh entrant to the cadre of Library Restorer, which is a feeder category to the post of Assistant Librarian to be promoted and recruited in the ratio of 25% by promotion and 75% by direct recruitment, as mentioned in the R&P Rules. Therefore, for all intents and purposes for promotion as Assistant Librarian, the petitioner firstly was to render five years regular service in the cadre of Library Restorer as per provision of Rule 11 of the R&P Rules (Annexure P-1). The petitioner had completed the said condition only on 08.11.2010, and as such when the DPC was convened, the case of the petitioner was also considered and he was promoted on the basis of the recommendation made vide order dated 18.08.2011

(Annexure P-5). The past service rendered by the petitioner cannot be counted as the same is not permissible under the Rules/guidelines, Annexure P-4, which provides him to be treated as fresh entrant nor he could have been promoted earlier to respondent No.3 and as such, has prayed for dismissal of the petition.

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

8. The respondents while filing reply to the petition have not disputed the fact that the petitioner was appointed in the erstwhile college, where he joined his service as Library Restorer on 18.03.1996. It is also not in dispute that the said college was in receipt of 95% grant-in-aid by the respondent-State. The claim of the petitioner for consideration of promotion to the post of Assistant Librarian was not considered only for the reason that the past service rendered by him cannot be counted for the purpose of promotion.

9. The Hon'ble Supreme Court in the judgment passed in **Vikram Bhalchandra Ghongade versus Headmistress Girls High School and Junior College, Anji (Mothi), Tahsil and District Wardha and others**, (2025) 10 SCC 248, has held that a teacher in an aided school for all practical purposes is akin to a post under the State Government. The posts in the aided Schools are

either sanctioned by the Government or approved in accordance with the Rules. The aided school teachers are also entitled to some of the conditions of service as are applicable to Government teachers, with entitlement of pension, provident fund and gratuity, as applicable. Though strictly speaking, the teacher may not be holding a post under the State Government, it is akin to a post under the State Government, at least in the monetary benefits of pay and allowances, while in service, as also pension and other benefits on a retirement. The relevant paras of the judgment read as under:-

"7. On the question of the teacher's entitlement to the provisions of the Gratuity Act, it has to be held that the decision in Birla Institute of Technology puts to rest any such controversy. The question here would be not so much the entitlement to gratuity but as to whether the legal heirs of a deceased teacher in an aided school would be entitled to gratuity under the 1972 Act or under the 1982 Rules. The argument of the State is that an aided school employee, including a teacher would be exempted from the definition of an employee under the Act. Per contra it is argued that the exemption is only to a person who holds a post under the Central Government or State Government. An aided school teacher does not hold a post under the State Government, contends the appellant.

8. It must be observed that a teacher in an aided school for all practical purposes is akin to a post under the State Government. Pertinent is the fact that the posts in aided schools are either sanctioned by the Government or approved in accordance with the Rules and pay and allowances are also paid by the Government. The aided school teachers are also entitled to some of the conditions of service as are applicable to Government teachers, with entitlement of pension, provident fund and gratuity as applicable, in accordance with the Rules brought out under

*Article 309 of the Constitution of India. **Though strictly speaking the teachers may not be holding a post under the State Government, it is akin to a post under the State Government, at least for the monetary benefits of pay and allowances, while in service, as also pension and other benefits on retirement.***

10. A perusal of the aforementioned paras of the judgment clearly reveals that the teachers in the aided school may not be holding a post under the State Government, but it is akin to a post under the State Government, at least entitled for the monetary benefits of pay and allowances, while in service, as also pension and other benefits after retirement.

11. In the present case, the petitioner was appointed in the erstwhile college, which was taken over by the State Government and thus, the service rendered by him in the private college cannot be wiped out atleast for the purpose of grant of the benefit of promotion, more particularly, when the respondents are not denying the fact that the petitioner had acquired the qualification making him eligible for promotion to the post of Assistant Librarian in the year 1997. The only plea, which has been taken by the respondents is that the past service rendered by him could not have been counted for the purpose of promotion, in view of the Notification dated 25.08.1994 and he was to be treated as fresh entrant. However, the said submission deserves to be rejected in view of the

authoritative pronouncement of the Hon'ble Supreme Court in the aforementioned case. No doubt, in the aforementioned case, the Hon'ble Supreme Court has come to the conclusion that the teacher is entitled to the counting of past service for the purpose of pension. Since the petitioner was also performing the duties against the sanctioned post and thereafter his services were taken over by the respondents-State as per Notification dated 18.10.2006 (Annexure P-2) w.e.f. 09.11.2005, the service rendered by him in the erstwhile college cannot be ignored, especially for the purpose of promotion.

12. Learned senior counsel representing the petitioner has placed reliance upon the judgment of the Hon'ble Supreme Court in ***Union of India and others versus C.N. Ponnappan***, (1996) 1 SCC 524 to contend that the services rendered by an employee at a place where from he was transferred has to be counted for the purpose of promotion and other benefits. The relevant para of the judgment reads as under:-

"4. The service rendered by an employee at the place from where he was transferred on compassionate grounds is regular service. It is no different from the service rendered at the place where he is transferred. Both the periods are taken into account for the purpose of leave and retrial benefits. The fact that as a result of transfer he is placed at the bottom of the seniority list at the place of transfer does not wipe out his service at the place from where he was transferred. The said

service, being regular service in the grade, has to be taken into account as part of his experience for the purpose of eligibility for promotion and it cannot be ignored only on the ground that it was not rendered at the place where he has been transferred. In our opinion, the Tribunal has rightly held that the service held at the place from where the employee has been transferred has to be counted as experience for the purpose of eligibility for promotion at the place where he has been transferred."

13. He further placed reliance upon the judgment of the Hon'ble Supreme Court in ***Scientific Advisor to Raksha Mantri and another versus V.M. Joseph***, (1998) 5 SCC 305, wherein the similar view has been reiterated and held that the service rendered by the person in the earlier Department has to be counted for the purpose of promotion. The relevant para of the judgment reads as under:-

"6. From the facts set out above, it will be seen that promotion was denied to the respondent on the post of Senior Store keeper on the ground that he had completed 3 years of regular service as Store keeper on 7-6-1980 and, therefore, he could not be promoted earlier than 1980. In coming to this conclusion, the appellants excluded the period of service rendered by the respondent in the Central Ordnance Depot, Pune, as a Store Keeper for the period from 27-4-1971 to 6-6-1977. The appellants contended that, since the respondent had been transferred on compassionate ground on his own request to the post of Store Keeper at

Cochin and was placed at the bottom of the Seniority list, the period of 3 years of regular service can be treated to commence only from the date on which he was transferred to Cochin. This is obviously fallacious inasmuch as the respondent had already acquired the status of a permanent employee at Pune where he had rendered more than 3 years of service as a Store Keeper. Even if an employee is transferred at his own request, from one place to another on the same post, the period of service rendered by him at the earlier place where he held a permanent post and had acquired permanent status, cannot be excluded from consideration for determining his eligibility for promotion, though he may have been placed at the bottom of the seniority list at the transferred place. Eligibility for promotion cannot be confused with seniority as they are two different and distinct factors."

14. From the aforementioned judgments, the only conclusion, which can be drawn is that the service rendered by the petitioner in the erstwhile college has to be counted for the purpose of promotion and since respondents No.1 and 2 had promoted respondent No.3, whose services were also counted after his transfer from Mandi to District Kangra, the petitioner is entitled to be promoted from the date when respondent No.3 was promoted i.e. with effect from 24.01.2009. It is apt to note that respondent No.3, though served in the present proceedings, but he did not come present and the petitioner, who had been appointed in the erstwhile

college vide office order dated 18.03.1996 is thus entitled to be considered senior to respondent No.3 as Assistant Librarian w.e.f. 24.01.2009. It is not in dispute that the respondents had the vacancies when the petitioner had become eligible and respondent No.3 was promoted to the post of Assistant Librarian.

15. Consequently, the present petition is allowed and the respondents-State is directed to promote the petitioner to the post of Assistant Librarian with effect from 24.01.2009, with all consequential benefits. The respondents-State is directed to pay all consequential benefits to the petitioner such as seniority, increments, promotion, etc. and he will be assigned seniority above respondent No.3. The arrears on account of promotion shall be paid to the petitioner within six months from today, failing which, the respondents shall pay the interest @ 6% per annum from today till actual payment. No order as to costs. Pending applications, if any, also stand disposed of.

8th September, 2026
(naveen)

(**Jiya Lal Bhardwaj**)
Judge