

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.372 of 2026

Reserved on : 17.08.2026

Decided on : 21.08.2026

Uploaded on : 21.08.2026

Deepak Thakur

..... Appellant

Versus

Union of India and another

..... Respondents

Coram:

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?¹

For the appellant : Mr. M.L. Sharma, Advocate.

For the respondents : Mr. Nand Lal Thakur, Senior Panel Counsel,
for respondent No.1/Union of India.

Ms. Devyani Sharma, Senior Advocate with
Mr. Shivam Sharma, Advocate, for
respondent No.2.

Bipin Chander Negi, Judge

By way of the present appeal, challenge has been laid to the impugned judgment dated 07.05.2026, passed by learned Single Judge, in **CWP No.15374 of 2025**, titled **Deepak Thakur vs. Union of India and another**, whereby the writ petition preferred by the present appellant/writ petitioner has been dismissed.

2. On 30.08.2024, respondent No. 2 had issued an advertisement for filling up posts of Assistant Registrar. In all, there were

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

six posts. Three posts were to be filled from the General Category, two from the OBC Category, and one from the Scheduled Caste Category. The post in question is a Group 'A' post. The rules applicable to the same are the Non-Faculty Staff Restructuring and R&P Norms, 2016. The present appellant/writ petitioner had applied for the aforesaid post under the General Category.

3. Vide letter dated 13.01.2025, the appellant/writ petitioner received a call letter for appearing in the written test for the post in question. The written test was held at IIT Mandi on 27.01.2025. Ten candidates, including the appellant/writ petitioner, qualified the written examination. Subsequent thereto, the candidates who had qualified the written examination were assessed in the next round of selection process, i.e., interview, which included presentation etc., by the Selection Committee.

4. Thereafter, based on the assessment of the candidates, the Selection Committee forwarded the result to the Director. The same was placed before the Chairman. The Board of Governors was the appointing authority qua the posts in question. The result of the selected candidates, post completion of the selection process, was published on the website of respondent No. 2-Institute on 06.02.2025.

5. Three candidates who ranked highest in the General Category were declared selected, in addition to one OBC candidate. In so far as the post reserved for the Scheduled Caste category was concerned, no candidate was found suitable. Out of the three selected

candidates in the General Category, to whom an offer of appointment was made, only one candidate had joined. The other two candidates did not join.

6. It is in the aforesaid circumstances that the appellant/writ petitioner, being next in the order of merit, staked a claim to the two vacant General Category posts in the case at hand. However, when no offer of appointment was forthcoming from respondent No. 2, the appellant/writ petitioner filed the writ petition, wherein a writ of mandamus was sought against respondent No. 2 to offer appointment to the appellant/writ petitioner to the post of Assistant Registrar on account of posts lying vacant due to non-joining of the candidates to whom offers of appointment had been made.

7. In the writ petition, it was averred that the decision not to fill posts cannot be exercised arbitrarily or in an unguided manner, and that the decision not to fill vacancies has to be informed by reason. The writ petition so preferred was vehemently opposed by respondent No. 2. In the reply filed, respondent No. 2 took a categorical stand that the writ petition filed by the appellant/writ petitioner was not maintainable, as no indefeasible right for appointment accrued in favour of the appellant/writ petitioner by merely participating in the selection process.

8. Other than the aforesaid, it was contended that under the rules where-under the selection process had been conducted, there was no provision for a waiting list. Besides the aforesaid, it was contended that the appellant/writ petitioner had visited the campus of respondent No. 2-

Institute after completion of the selection process and had insisted upon an appointment being offered to him. In the process, he had misbehaved, a fact which is stated to be admitted in the representation made by the appellant/writ petitioner dated 02.07.2025 (Annexure P-7 to the writ petition, at page 57), attention whereof has specifically been invited to paragraph No. 1, wherein the appellant/writ petitioner admitted his misconduct.

9. In the rejoinder filed, the contents of the writ petition were reiterated, those to the contrary were denied, and an attempt was made to justify/explain the misconduct admitted by the appellant/writ petitioner in Annexure P-7.

10. Heard learned counsel for the parties and perused the pleadings and record.

11. Learned counsel appearing on behalf of the appellant has not been able to point out any rule applicable to the selection process, in the case at hand, which contemplated the preparation/operation of a waiting list, or that if a post is left unfilled on account of non-joining by a selected candidate, then the same could be claimed by the appellant/writ petitioner as a matter of right from the same selection process.

12. In this respect, the learned Single Judge has correctly concluded that in the absence of any statutory provision, the employer is not bound to prepare a waiting list in addition to the panel of selected candidates. In this regard, reliance has correctly been placed by the learned Single Judge on the decision of the Hon'ble Apex Court, in **Bihar**

State Electricity Board vs. Suresh Prasad and others, (2004) 2 SCC 681; Vallampati Sathish Babu vs. State of Andhra Pradesh and others, (2022) 13 SCC 193; Uttar Pradesh vs. Karunesh Kumar, (2022) SCC Online, SC 1706; and SLP(C) 35896, titled State of Karnataka & Ors. vs. Santosh Kumar C (2026 INSC 276), decided on 23.03.2026.

No infirmity or illegality in the finding so returned has been pointed out calling for interference by this Court.

13. Learned counsel appearing on behalf of the appellant has placed reliance upon the judgment of the Hon'ble Apex Court in ***Shankarsan Dash vs. Union of India, (1991) 3 SCC 47***, to submit that the decision not to fill vacant posts must be informed by reason. Based on the same, it is submitted that in the case at hand in not filling the two vacancies, respondent No. 2 cannot act in an arbitrary manner. As has already been observed supra, in the case at hand, there exists no rule for the preparation of a waiting list. Even otherwise, the process of selection has to be closed at some stage. In the case at hand, it was closed upon the publication of the result on the website of the respondent-Institute on 06.02.2025. In this respect, reference can be made to Paragraph-10 of the judgment in ***Shankarsan Dash's case*** (supra). The two vacancies, which are subject matter of the present appeal, had been re-advertised. Moreover, the conduct (mis-conduct) of the appellant/writ petitioner after completion of the selection process when the appellant/writ petitioner visited the campus of respondent No. 2-Institute and had insisted upon an appointment being offered to him as admitted by the appellant/writ

petitioner in the representation dated 02.07.2025 (Annexure P-7 to the writ petition, at page 57, specifically paragraph No. 1 thereof) is a relevant fact which cannot be ignored while considering the present appeal .

14. For the aforesaid reasons, the appeal being devoid of any merit, is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

August 21, 2026 (KS)