

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.2712 of 2019

Reserved on: 18.08.2026

Decided on: 07.10.2026

Uploaded: 07.10.2026

Er. Sharad Bhandral & Ors.

...Petitioners

Versus

State of H.P. and Ors.

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioners: Mr. K.D. Shreedhar, Senior Advocate with
Ms. Shreya Chauhan, Advocate.

For the respondents: Mr. Vishav Deep Sharma, Additional
Advocate General, for respondent No.1-
State.

Mr. Vivek Negi, Advocate, for
respondent No.2.

Mr. Ankush Dass Sood, Senior Advocate
with Mr. Karan Singh Parmar, Advocate,
for respondents No.3 to 33.

Mr. Surinder Kondal, Sr. Manager,
HPPCL, Mr. Amit Sharma, Manager,
HPPCL, Mr. Dharam Prakash, AOCP,
HPPCL, Corporate Office, Shimla, Mr.
Naresh Thakur, Junior Officer (R&R),
HPPCL, BCS, New Shimla and Mr. Manoj
Kumar, Assistant Officer (P&A), BCS,
New Shimla, present in person with
record.

Jiya Lal Bhardwaj, Judge

The petitioners by way of present petition have

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

prayed for the following substantive reliefs:-

“(i) That a writ in the nature of certiorari be issued and the final seniority list of Assistant Engineer (Civil) and Assistant Engineer (Mechanical) E1 level as on 28.2.2013 issued vide letter dated 14.11.2013, Annexures P-7 may very kindly be quashed and set aside.

(ii) That a writ in the nature of Mandamus be issued and the promotions of the respondent No. 3 to 33, carried out vide office order dated 18.11.2013, annexure P-8, be quashed and set aside.

(iii) That after quashing the seniority list (annexure P-7) and promotion orders (Annexure P-8) petitioners be directed to be shown senior to respondent No.3 to 33 and ordered to be promoted on and with effect from the date i.e. 18.11.2013, when the respondent No. 3 to 33 had been promoted to the E2 level.”

2. Shorn of unnecessary details, the key facts of the case are that respondent No.2-Corporation had advertised 15 posts of Assistant Engineer (Civil) to be filled up on contract basis as per Advertisement No. HPPCL/Appt./1/08 (Annexure P-1) on fixed remuneration of Rs.16,000/- per month at E0 level for one year training and Rs.20,000/- per month thereafter at E1 level. The petitioners who were eligible did not choose to apply. However, respondent No.2-Corporation appointed respondents No.5 to 25 as Assistant Engineers

(Civil) on contract basis in terms of the advertisement, for which the last date for submission of application form was 10.07.2008. It has been averred that though 15 posts were advertised, however, respondent No.2-Corporation had filled up 26 posts. Thereafter, again respondent No.2-Corporation issued similar advertisement for filling up various posts, including 10 posts of Assistant Engineer (Mechanical) on contract basis, clearly providing that in first year fixed remuneration of Rs.16,000/- per month shall be paid and thereafter a fixed remuneration of Rs.20,000/- per month shall be paid on satisfactory performance for the next three years and the last date for submission of the application was stated to be 20.11.2008 (Annexure P-2).

3. In sequel to the said advertisement, respondent No.2-Corporation had offered appointments to respondents No.26 to 33, on contract basis. The mention of the advertisements (Annexures P-1 and P-2) has been made since promotion is made on the basis of seniority of integrated cadre of both Civil and Mechanical Engineers.

4. The petitioners who were eligible to hold the post of Assistant Engineer (Civil) had applied for the posts advertised by the Himachal Pradesh Public Service Commission (in short "HPPSC") as per advertisement notice dated 07.10.2009 (Annexure P-3), whereby it had advertised 25 posts of Assistant Engineer (Civil). The petitioners undertook a written examination on 31.12.2009 and thereafter interviews were conducted between 04.03.2010, 05.03.2010, 09.03.2010 and 10.03.2010 and the HPPSC had recommended the names of the petitioners to the Government for their appointment and, thereafter, they were offered appointment by respondent No.2-Corporation as Assistant Engineer (Civil) in the year 2010.

5. Respondent No.2-Corporation has framed for its employees, the Employment and Service Conditions, which are called as the Himachal Pradesh Power Corporation Limited Service Rules. It has been averred that though respondents No.3 to 33 had been appointed purely on contract basis in terms of the advertisements, but in the

seniority circulated vide letter dated 14.11.2013, these respondents have been shown senior to the petitioners. Not only this, as per office order dated 18.11.2013 (Annexure P-8), they have further been ordered to be promoted to E2 level.

6. The petitioners feeling aggrieved by regularizing the services of the private respondents; assigning them seniority; counting their period of contract service as well as showing them senior to the petitioners and thereafter promoting them to E2 level, vide order dated 18.11.2013, have challenged the action of respondent No.2-Corporation *inter alia* on the grounds that the services of respondents No.3 and 4, who were initially appointed on contract basis with the H.P. State Electricity Board Limited (in short "HPSEBL") on 04.02.2008 and 03.02.2008, had joined as such on 17.03.2008 where they were deputed on secondment basis (on contract basis), with respondent No.2-Corporation and thereafter they were absorbed initially on contract basis on 10.03.2009 vide office order dated 18.06.2009 and later on vide order of the same day i.e. 10.03.2009, they were

permanently absorbed in respondent No.2-Corporation, which is a fraud committed on the Constitution and the law.

7. Respondent No.2-Corporation had advertised only 15 posts, yet it illegally filled up 26 posts and further these posts were initially advertised on contract basis, but thereafter their services were regularized within one year and respondents No.1 and 2 have committed grave and serious illegalities and irregularities, firstly, in regularizing the services of respondents No.3 to 33 and thereafter they have been assigned seniority above the petitioners. It has further been averred that respondents No.1 and 2 cannot appoint more than the number of posts advertised. The select list got exhausted when 15 posts were filled up and the candidates below 15 selected candidates had no right to claim appointment to any vacancy for which selection was not held. It has been settled that the select list cannot be treated as a reservoir for the purpose of appointment and respondents No.3 to 25 were required to be appointed strictly in accordance with the Advertisement (Annexure P-1) on

contract basis, where the remuneration for the first year was Rs.16,000/- per month as E0 level, which would be counted as training period and thereafter for the remaining period on contract, they were required to be paid Rs.20,000/- per month at E1 level. Similarly, respondent No.2-Corporation had appointed numbers of Assistant Engineers (Mechanical) purely on contractual basis, who are respondents No.26 to 33, that too, on fixed remuneration of Rs.16,000/- per month for the first year and thereafter at a fixed remuneration of Rs.20,000/- per month. The contractual appointment could not have been illegally converted into regular appointment. It has further been averred that the HPPSC had issued the advertisement for filling up the posts of Assistant Engineer (Civil) on regular basis on 07.10.2009, while the process of regularization of the Engineers, who were recruited on contract basis by respondent No.2-Corporation was initiated on and after 19.10.2010. Thus, in no event, respondent No.2-Corporation could have regularized the services of the private respondents prior to the petitioners. Respondents No.1 and 2

have ignored the fact that adherence to the rule of equality in public employment is a basic feature of the Constitution and once the private respondents were appointed on contract basis, in terms of the advertisement, they cannot be assigned seniority above the petitioners.

8. It has also been averred that as per the terms of the Employment and Service Conditions read with HPPCL Service Rules, there is no provision for regularizing the services of temporary/contract employees. A regular employee means an employee, who has been engaged in a vacancy in regular establishment of the Corporation and a contract employee means an employee, who has been engaged on a temporary basis or against a temporary post for a specified period. Since private respondents were appointed on contract basis on fixed remuneration, describing them as being in the first year of training at E0 level, then it was absolutely clear that they were being appointed as trainee for the first year and the said period cannot legally and arbitrarily be described as probation

period. As per Clause 3.1 of the Pay and Allowances of the HPPCL Policy, there is a gradation of employees. The appointment of the private respondents has been made by respondent No.2-Corporation through backdoor entry and as such their services could not have been regularized and, therefore, the petitioners have prayed for quashing the final seniority list of the Assistant Engineers (Civil) and Assistant Engineers (Mechanical) E1 level as on 28.02.2013, issued vide dated 14.11.2013 (Annexure P-7) and also prayed for quashing the promotions of respondents No.3 to 33, carried out vide office order dated 18.11.2013 (Annexure P-8) and the petitioners may be shown senior to respondents No.3 to 33 and further ordered to be promoted on or w.e.f. 18.11.2013, when respondents No.3 to 33 had been promoted to E2 level.

9. Respondent No.2-Corporation filed reply to the petition and raised preliminary submissions that it is a State Owned Power Generation Company incorporated under the Companies Act, 1956 on 18.12.2006, with main objectives to plan, promote, organize and execute power projects and to

undertake construction of transmission lines and ancillary works for evacuation and distribution of power in a time bound manner. With the opening of power sector for private investment, competition for engaging and retaining quality manpower has been increased, posing a serious challenge of retaining qualified, experienced and properly oriented manpower. In view of acute shortage of qualified engineers, particularly Civil Engineers and with the entry of CPSU's as well as private players in hydro power sector, the retention of already engaged employees was of paramount importance. The power projects being executed by respondent No.2- Corporation on behalf of the State Government are being funded through State equity and loan from Asian Development Bank. In accordance with terms of loan agreement, these projects are required to be executed in a time bound manner as any delay may cause huge financial loss to the State in terms of loss of generation and interest on belated repayment of the said loan. The Government of Himachal Pradesh vide letter dated 23.04.2008 had

sanctioned 963 numbers of posts of various categories for respondent No.2-Corporation. In order to fulfill its objective, it was imperative to have qualified and reliable manpower in the Corporation, which was lacking in view of the fact that the manpower it got through merger of two subsidiaries of erstwhile HPSEB, namely Pabbar Valley Power Corporation and Kinnar Kailash Power Corporation did not fully satisfy its organizational requirements of professional personnel as per actual need, besides falling short of the guidelines of the Asian Development Bank. Accordingly, the Government of Himachal Pradesh permitted respondent No.2-Corporation to recruit qualified personnel for various categories i.e. Engineering, Finance and Personnel, etc., initially on contract basis. Subsequently, it was found that personnel so appointed on contract basis in various categories were leaving the Corporation after joining and initial orientation/experience in favour of other similar organizations offering regular appointments. The management of respondent No.2-Corporation thus

regularized the services of respondents No.3 to 33. Respondent No.2-Corporation is engaged in highly competitive power sector, where it is required to match with power sector CPSU's and Independent Power Producers (in short "IPPs"). It has further been averred that unless desired professional quality manpower is assured, it is not possible to complete the task of setting up of power projects assigned to it and run economically and effectively.

10. Respondent No.2-Corporation also raised preliminary objections that the petition is not maintainable in the present form as the petitioners have no locus standi to file the same, since no injustice has been caused to them. The petitioners were appointed as Assistant Engineers in the year 2010, whereas the decision of the Board of Directors (in short "BOD") to regularize the services of the private respondents was taken on 20.01.2009 i.e. much prior to the date of appointment of the petitioners. It has further been averred that some of the petitioners had already participated in the process in response to advertisement dated 11.06.2008.

Hence, on this ground also the petition is liable to be dismissed. The private respondents were to be regularized after successful completion of one year at E0 level. The petitioners have concealed the material facts from this Hon'ble Court that the decision to regularize the services of the private respondents after completion of one year of service at E0 level was taken much before (i.e. more than a year) to the appointment of the petitioners in the organization. The private respondents were recruited during the period from February 2008 to June 2009 and the decision regarding regularization of contractual employees of the Corporation was taken on 20.01.2009. The petitioners were appointed as Assistant Engineers at E0 level between March-June 2010 and hence on this ground also the petition deserves dismissal.

11. On merits, it has been averred that respondents No.3 and 4 were initially appointed on contract basis in HPSEBL in February 2008 through HPPSC and their services were placed with respondent No.2-Corporation vide letter

dated 12.03.2008 on secondment basis. Respondent No.2-Corporation proceeded to make recruitment in the month of June 2008 and issued advertisement for recruitment of various posts on contract basis on fixed remuneration of Rs.16,000/- per month at E0 level for one year training and Rs.20,000/- per month thereafter at E1 level. Respondents No.3 and 4, who were on secondment basis with the replying respondent were on fixed remuneration of Rs. 12,825/- per month, while the engineers recruited pursuant to above-mentioned advertisements were being paid fixed remuneration of Rs.16,000/- per month initially. In order to mitigate this anomaly in payable remunerations to similarly situated persons, the Board of Directors of respondent No.2-Corporation in its 12th meeting held on 16.09.2008 decided to take respondents No.3 and 4 on contract basis after interview/selection, provided they were willing to resign from HPSEB. Pursuant to advertisement for various posts on contract basis, respondent No.2-Corporation made recruitment against various posts on contract basis

through due selection process. It has further been submitted that owing to operational requirement and the fact that contract appointees were leaving the organization for regular jobs elsewhere, respondent No.2-Corporation decided to regularize the services of contractual employees after completion of one year probation from the date of initial appointment as per the decision taken by the competent authority. The recruitment for the posts of Assistant Engineer (Civil) was made as per the decision of the State Government, who had permitted respondent No.2-Corporation to follow the designation of Satluj Jal Vidyut Nigam Limited (in short "SJVNL") and relevant personnel policies. Respondent No.2-Corporation adopted the Policy Statement of Manpower Recruitment, Direct Recruitment Procedural Manuals and Service Rules, etc., almost on similar lines of SJVNL. As per Clause 16 of the Policy Statement on Manpower Recruitment, the approved panel of candidates by the Selection Board will remain valid for initial period of one year. Respondent No.2-Corporation was in its initial stage after incorporation and

was in dire need to strengthen manpower position in order to ensure timely commissioning of ADB funded power projects. Respondent No.2-Corporation had issued the advertisement initially for various posts, including 15 posts of Assistant Engineers (Civil), and recruited the duly selected personnel in accordance with the terms of advertisement. The recruitment process took almost twelve months as per the said advertisement. Since there was acute shortage of Assistant Engineer (Civil) in the Corporation and in order to achieve the targets in a time bound manner, the BOD of respondent No.2-Corporation in its 12th meeting held on 16.09.2008, approved to fill additional posts of Assistant Engineer (Civil) from amongst the existing panel drawn for the selected candidates. Respondent No.2-Corporation, in order to meet with its *bonafide* manpower requirement, with the approval of competent authority had recruited additional employees from the existing panel in the interest of the organization. It has further been averred that respondents No.26 to 33 were offered appointment only after following due selection

process. The provisional seniority list of Assistant Engineers (Civil/Mechanical) was circulated by the respondent-Corporation vide letter dated 10.11.2013, seeking objections, if any. The final seniority list of Assistant Engineers (Civil/Mechanical) has been prepared after duly considering the objections received and thereafter the said list was circulated to all concerned for their information vide letter dated 14.11.2013. Private respondents were promoted to the next higher level of E2 as per the approved HR policy of respondent No.2-Corporation and as such, prayed for dismissal of the writ petition.

12. Respondents No.3 to 12 also filed reply to the petition and raised preliminary objections that the petition is neither competent nor maintainable and hence the same is liable to be dismissed. No injustice has been done to the petitioners and seniority of the petitioners vis-a-vis private respondents has been fixed strictly in accordance with law. The petitioners have joined the post of Assistant Engineer in 2010, whereas the private respondents were regularized in

pursuance of the decision of the BOD of the Corporation dated 20.01.2009. It has further been averred that the private respondents have become substantive members of the cadre much earlier than the appointment of the petitioners and the petitioners have not disclosed all these material facts necessary for the adjudication of the lis and as such, prayed for dismissal of the writ petition.

13. On merits, it has been averred that most of the staff posted with respondent No.2-Corporation was on secondment basis from other Departments, including that from HPSEBL. Respondents No.3 and 4 were initially appointed on contract basis in HPSEBL in February 2008 and thereafter their services were placed with respondent No.2-Corporation, vide office order dated 12.03.2008 on secondment basis. They were paid fixed remuneration of Rs.12,825/- per month while the engineers recruited pursuant to advertisement No. HPCL/Appt./1/2008 were being paid fixed remuneration of Rs. 16,000/- per month. The BOD of respondent No.2-Corporation in its 12th meeting held on

16.09.2008 had taken a decision to fill up 963 posts of various categories and respondent No.2-Corporation made recruitment against various posts on contract basis through due selection process. The recruitment for the post of Assistant Engineer (Civil) was made in the year 2008 by respondent No.2-Corporation as per the decision of the State Government dated 31.07.2007 vide which the Corporation was permitted to follow the designations of SJVNL and relevant personnel policies. Further, the averments as have been made by respondent No.2-Corporation have been made in the reply and to avoid repetition, the same are not being reiterated.

14. The petitioners filed rejoinder to the reply filed by respondent No.2 and respondents No.3 to 12 and controverted the averments made therein and also placed on record the copies of agreements executed between respondent No.2-Corporation and the employees, who were recruited on contract basis as Engineer Trainee, whereby their pay was fixed as Rs.16,000/- per month for one year.

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

16. As per the Minutes of 12th Meeting of the BODs of respondent No.2-Corporation held on 16.09.2008, under the Chairmanship of the Chief Secretary to the Government of Himachal Pradesh, a proposal was accepted to select the candidates through interview and recruited into respondent No.2-Corporation as a special case, if they are willing and agreed to resign from HPSEB. Thereafter, as per the Minutes of 14th Meeting of the BOD of respondent No.2-Corporation held on 20.01.2009, a decision was taken to regularize the contract employees of respondent No.2-Corporation, vide Item No. 14.11. The relevant Item No. 14.11 is reproduced hereunder:

"Item No.14.11 Regularization of Contractual Employees of the Corporation:

The issue of regularization of all categories of contractual employees, was discussed. The Managing Director informed that in view of insecurity among the contract employees, efficiency and effectiveness in day to day working may not contribute to the entire satisfaction of the organization and advocated for their regularization after completing one year of their contract period. He informed that some newly recruited

persons have resigned only because they felt that they are not regular employees. All pros. and cons. of the issue were discussed in detail. Thereafter, the Board approved the proposal to regularize the services of Assistant Engineers (Civil), 25 Nos, Assistant Engineer (Electrical) 10 Nos, Asstt. Engineers (Mech.) 10 Nos, Asstt. Engineer (Environment) 5 Nos, Asstt. Engineers (IT) 3 Nos, Assistant Officer (R&R) 5 Nos, Assistant Finance Officer 10 Nos., Assistant Personnel Officer 10 Nos., Assistant Manager (Law) 1 No., Assistant Public Relation Officer 1 No., Junior Engineer (Electrical) 3 Nos, Junior Engineer (Civil) 12 Nos and Junior Officer (Geology) 2 Nos i.e. total 97 numbers (Ninety seven) in the first instance."

17. A perusal of the aforesaid decision clearly reveals that the BOD of respondent No.2-Corporation had approved the proposal to regularize the services of Assistant Engineer (Civil), 25 numbers, Assistant Engineer (Electrical) 10 numbers, Assistant Engineer (Mechanical) 10 numbers etc., who had completed one year of their contract period. This decision was taken by the BOD on 20.01.2009. The petitioners as per the pleadings had applied to the post of Assistant Engineer (Civil), in pursuance of the advertisement dated 07.10.2009 (Annexure P-3), which was issued by the HPPSC. The decision of the BOD of respondent No.2-Corporation has not been challenged by the petitioners.

18. No doubt, the petitioners have been appointed on the basis of the recommendations made by the HPPSC after clearing the written examination and interviews to the posts of Assistant Engineer (Civil). But in the case of the private respondents too, respondent No.2-Corporation had advertised the posts and they were recruited after notifying the posts. When the petitioners were not borne in the cadre, respondent No.2-Corporation had taken a conscious decision to regularize the manpower, who were recruited by them, in view of the fact as emerged from the pleadings by the respondents that some newly recruited persons have resigned only because they felt that they are not regular employees. Keeping in view the said fact, a decision was taken by the BOD of respondent No.2-Corporation to regularize the services of such persons after completion of one year of service as can be seen from a perusal of the decision. All the private respondents have been offered appointments either to the post of Assistant Engineer (Civil) or Assistant Engineer (Mechanical) prior to the appointment

of the petitioners.

19. Learned senior counsel representing the petitioners had vehemently argued that the private respondents were appointed by respondent No.2-Corporation at their own, whereas the petitioners have been offered the appointment after clearing the written examination and facing the interview, respondent No.2-Corporation could have regularized their services, but they cannot be placed above the petitioners. However, the said contention cannot be accepted for the reason that the petitioners once not borne in the cadre and further the conscious decision taken by the BOD of respondent No.2-Corporation to regularize the services of the private respondents after completion of one year of service, their initial period of service cannot be ignored for the purpose of assigning them seniority before regularization, in view of the fact that respondent No.2-Corporation, being a company, had taken a policy decision to regularize their services and further their appointments were made after issuance of the advertisement.

20. As already observed above, the petitioners have not challenged the decision of the BOD of respondent No.2-Corporation, even when they have filed the rejoinder. Once the decision taken by the BOD of respondent No.2-Corporation is not set at naught, no relief can be granted to the petitioners.

21. Learned senior counsel for the petitioners had relied upon the judgment of the Hon'ble Supreme Court in Civil Appeal No.13783 of 2015, titled, ***Union of India and others versus Baliram No.850808321***, to contend that even when there is no specific prayer made in the petition, this Court is not powerless to grant the relief. I have gone through the said judgment. However, the ratio laid down in the said judgment is not applicable to the facts of present case for the reason that, firstly, the petitioners have been appointed after the private respondents and once they were not borne in the cadre, they cannot question the regularization of the private respondents; secondly, until and unless the decision taken by BOD of respondent No.2-Corporation to regularize the

services of the private respondents is not quashed, which otherwise has not been challenged/questioned before this Court, the judgment referred to above is not attracted to the facts of the present case.

22. Learned senior counsel for the petitioners further argued that the decision of respondent No.2-Corporation in recruiting more than the persons than the advertised posts is bad and illegal. However, the said contention cannot be accepted, since the private respondents were appointed in the year 2009 and the petitioners joined respondent No.2-Corporation during the months of March, 2010 to June, 2010 and did not challenge the said action and they approached this Court only when the private respondents were promoted to E2 level and further they were assigned seniority above the petitioners counting the contract service rendered by the private respondents after their regularization for the purpose of promotion and seniority. Since the petitioners did not come to the Court immediately after joining respondent No.2-Corporation to question the action of recruiting more persons

than the advertised post, the plea raised at this stage cannot be entertained and thus rejected.

23. Learned senior counsel for the petitioners further vehemently argued that once the HPPSC had taken a call to fill up the posts of Assistant Engineers on regular basis, respondent No.2-Corporation should not have taken steps to regularize the services of the private respondents. However, the said contention cannot be accepted for the reason that respondent No.2-Corporation had already taken a decision in the meeting of the BOD of respondent No.2-Corporation held on 20.01.2009 to regularize the services of all the employees, who were recruited since some newly recruited persons had resigned only because they felt that they are not regular employee. It is not only the Assistant Engineers of Civil and Mechanical Wing, who have been regularized, but other categories of the employees of respondent No.2-Corporation were also regularized. It is only after taking the decision, the process for filling up the posts on regular basis was initiated and the advertisement was issued on 07.10.2009. No doubt,

some of the private respondents had not completed one year of service when the petitioners were offered appointments, but once these respondents have been recruited after issuance of the advertisement, which was after the decision taken by the BOD of respondent No.2-Corporation to fill up the posts, and respondent No.2-Corporation had issued the advertisement to fill up the posts and thereafter they were offered appointments though on contract basis, but keeping in view the fact that some of the newly recruited persons had resigned only because they felt that they were not regular employees, the BOD of respondent No.2-Corporation had taken a conscious decision to regularize the services of the private respondents, who were offered the appointment on contract basis after completion of one year and thus, no illegality can be found with the said decision. The period of contract service has been followed by regularization and thus the contract service cannot be ignored for the purpose of service benefits, including seniority.

24. Learned senior counsel representing the private

respondents had placed reliance upon the judgment passed by a Division Bench of this Court in CWP-T No.2199 of 2008, titled, ***Dr. Ashu Bhardwaj and another vs. State of H.P. and others***, to contend that once respondent No.2-Corporation had taken a conscious decision to meet out the exigency of service as well as to retain the employees in view of the fact that some of the contract employees had left the job, the private respondents who were senior to the petitioners, had rightly been assigned the seniority.

25. The Division Bench of this Court in CWP No.3361 of 2025, titled ***Devinder Kumar and others vs. State of Himachal Pradesh and another*** and connected petitions, has held that where an employee, though appointed on contract basis, was appointed by following the procedure prescribed in the statutory R&P Rules, after advertising the post and undergoing the rigour of the said process by competing in the open market in the test/interview conducted by the prescribed agency, i.e. Public Service Commission, and where the process adopted for their appointment was identical to

the procedure prescribed and adopted for regular appointment, they were held entitled to all service benefits including seniority like regular appointees, but after regularization.

26. In the present case, no doubt, the appointment has not been made through the HPPSC, but at the same time, respondent No.2-Corporation had issued the advertisements (Annexures P-1 and P-2) for filling up the posts and thus, it cannot be said that the appointment of the private respondents is de hors the Rules. No doubt, the private respondents have not been recruited as per the procedure adopted while making recruitment of the petitioners, but it can also not be denied that respondent No.2-Corporation was at the initial stages and to cope up with the shortage of staff, had taken a decision to fill up the posts by advertising the same at their own level as per the decision of BOD of respondent No.2-Corporation taken on 16.09.2008, which has not been challenged. Respondent No.2-Corporation after following the proper selection process had offered

appointments to the private respondents, which action cannot be held to be bad or illegal.

27. The plea taken by the petitioners that there were initially only 15 posts advertised, but respondent No.2-Corporation had taken the decision to recruit 10 more persons from the panel cannot be questioned at this belated stage as already held above, more particularly when the decision was taken by the BOD of respondent No.2-Corporation in its meeting held on 16.09.2008, whereby it was decided to fill up additional posts of Assistant Engineer (Civil) from amongst the existing panel drawn from the selected candidates. The petitioners who had not participated in the selection process initiated vide advertisements (Annexures P-1 and P-2), cannot question the said decision taken in the meeting on 16.09.2008, especially when there is no such prayer having been made in the writ petition. Not only this, the decision was taken on 16.09.2008, when the additional posts of Assistant Engineer (Civil) were filled up from the existing panel drawn. The decision, which was taken to

regularize the services on 20.01.2009 was not questioned by the petitioners. For the first time, they have come to the Court only after assigning the seniority to the private respondents above them and further promoting the private respondents to E2 level. Since the private respondents have been regularized after completion of one year of service and as already observed above, they were appointed prior to the petitioners, hence no illegality has been committed by respondent No.2-Corporation, when it has assigned the seniority to them taking into account their appointment on contract basis.

28. Learned senior counsel for the petitioners had vehemently argued that since the private respondents were appointed initially as trainee on fixed remuneration, the period rendered by them on fixed remuneration cannot be counted for the purpose of assigning the seniority. However, the said contention cannot be accepted in view of the fact that respondent No.2-Corporation had taken a conscious decision to regularize the services of the private respondents

keeping in view the fact that few of the recruits, who were appointed, were leaving the job and once the services of the private respondents have been regularized considering the service rendered by them on contract basis, the service rendered by the private respondents on contract basis has to be counted for all service benefits after regularization. Thus, no illegality has been committed by respondent No.2- Corporation, while assigning them the seniority above the petitioners, who admittedly have been appointed after the private respondents.

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

07th October, 2026

(ankit)

**(Jiya Lal Bhardwaj)
Judge**