

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.3904 of 2019
Decided on: 05.08.2026

Dr. T.R. Sharma (since deceased) through his legal representatives

...Petitioner

Versus

Dr. Y.S. Parmar University of Horticulture and Forestry

...Respondent

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Suneet Goel, Senior Advocate,
with Mr. Vivek Negi and Mr. Aman
Hansretta, Advocates.

For the respondent: Mr. Ramesh Sharma and Mr. Kulbir
Thakur, Advocates.

Jiya Lal Bhardwaj, Judge (Oral)

The original petitioner, by way of present petition, had prayed for the following substantive reliefs:-

- “(a) *The the impugned Annexure P-12, dated 23rd May, 2009 i.e. recommendations of Assessment Committee of the respondent as well as approval of Board of Management dated 20.07.2009, communicated vide Annexure P-10, may be quashed and set aside, consequently directing the respondent-University to reconsider the case of the petitioner in accordance with the Rules contained in Annexure P-1;*
- (b) *That the petitioner may be held entitled for promotion to the next higher rank i.e. Professor/Equivalent in the pay scale of Rs16400-*

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

22400 w.e.f. 1st July, 2002;

- (c) *That the respondent-University may be directed to make payment of the arrears along with interest at the rate of 18% per annum."*

2. Since the petitioner had died on 03.01.2026, his legal representatives were ordered to be brought on record, vide order dated 20.07.2026.

3. For convenience, the parties to the writ are hereinafter referred to as they were in the petition, before demise of the petitioner.

4. Shorn of unnecessary details, key facts of the case are that the petitioner had earlier approached this Court by way of CWP No. 1146 of 2004, titled, **T.R. Sharma vs. Dr. Y.S. Parmar University and others**, challenging the legality of the order dated 15.10.2004, passed by the erstwhile H.P. State Administrative Tribunal (in short 'the Tribunal'), whereby his Original Application No.954 of 2004, for quashing Annexures A-4 dated 17.12.2003 and A-5 dated 17.02.2004, thereby rejecting his request for being considered for promotion to the post of Professor/equivalent, under the Career Advancement Scheme (in short 'CAS'), was dismissed. This Court, after considering the eligibility criteria laid down in the CAS,

came to the conclusion that the petitioner had been an Associate Professor/equivalent for eight years, when he had applied for promotion as Professor/equivalent and as such, fulfilled the eligibility conditions. Further, the petitioner was having the qualification of Ph.D. and thus fulfilled the condition as prescribed in the CAS. The another condition, which was with respect to attending a refresher course was also considered and it was found that the condition stipulated in the CAS does not prescribe the period of refresher course and simply says that the candidate should have attended a refresher course. For the another condition which was with respect to attending of two seminars/conferences, it was held that the said condition is not for promotion of Associate Professor to the post of Professor/equivalent and the respondent-University has misled by Rule 3(i)(d), while rejecting the candidature of the petitioner and thus, vide judgment dated 24.12.2008 (Annexure P-5), set aside the order passed by the Tribunal and the orders passed by the respondent-University, whereby the claim of the petitioner came to be rejected for promotion to the post of Professor/equivalent, with a direction to consider him for promotion to the post of

Professor/equivalent, with retrospective effect taking him to be eligible for the said post and to give him all monetary and other consequential benefits.

5. The respondent-University, feeling aggrieved by the judgment dated 24.12.2008 passed by the Division Bench of this Court, had preferred a review petition, which came to be dismissed on 27.05.2009 (Annexure P-6). It is very shocking that, before passing the order in the review petition on 27.05.2009, the Assessment Committee of the respondent-University, rejected the claim of the petitioner, on the basis of work done, annual confidential reports and performance in personal discussion and did not recommend the promotion of the petitioner to the post of Senior Horticulture Technologist in the pay scale of Rs.16,400-450-20,900-500-22,400/- on 23.05.2009 (Annexure P-12). The decision, so arrived at by the Assessment Committee, came to be communicated to the petitioner vide communication dated 30.07.2009 (Annexure P-10), stating that the recommendations of the Assessment Committee were further placed before the Board of Management in its meeting held on 20.07.2009, which accepted and approved the recommendations and he has not been found fit for

promotion to the next higher post by the Assessment Committee. The petitioner has also placed on record the decision of the Board of Management along with communication dated 30.07.2009 (Annexure P-10).

6. The petitioner, feeling aggrieved by the non-grant of his promotion to the post of Professor/equivalent under CAS, has approached this Court *inter alia* on the grounds that the recommendations of the Assessment Committee are against law and facts of the case, besides being based upon mere conjectures and surmises. The impugned decision dated 23.05.2009, taken by the Assessment Committee, is a non-speaking. It has further been averred that the recommendations made by the Assessment Committee are no recommendations in the eyes of law, in as much as the Assessment Committee has not followed the procedure laid down under Rule 5(B) of Rules regarding grant of Senior Scale, appointment of teachers by promotion to the posts of Associate Professors/equivalent and Professors/equivalent under Career Advancement Scheme (in short 'CAS'), which were made effective from 27.07.1998, as per Notification dated 16.01.2001 (Annexure P-1). One of the members of the

Assessment Committee was a person junior to the petitioner and under law, a junior person cannot be made to sit or assess the capability of a person, who is senior and is placed in a higher pay scale. It has been specifically averred that one of the members of the Assessment Committee, namely Dr. R.C. Sharma, who was Fruit Technologist, has been shown as Food Technologist and was in the lower pay scale than that of the petitioner. The petitioner was fulfilling all the eligibility criteria envisaged under Rule 5(B) and was not only eligible, but ought to have been promoted, keeping in view the fact that he was wrongly declared ineligible by the respondents as far back as in the year 2000. Reference of the judgment passed by this Court in CWP No. 1146 of 2004 has also been given and it has further been averred that, since the petitioner had retired on 31.05.2004, he was not expected to recollect each and every thing. The Assessment Committee, was not within its jurisdiction to have acted upon any Annual Confidential Reports (in short 'ACRs'), which were never communicated. Only one ACR for the year 2001-2002, ought not to have been made basis for not finding the petitioner fit for promotion. It has also been averred that the ACRs, were required to be communicated

every year, which were not communicated to him and as such, the entries contained in the said ACRs of adverse remarks cannot be acted upon for denying the promotion. The respondent-University was not happy with the conduct of the petitioner, who had approached this Court by filing the petition and they had a grudge against him and as such, had influenced the Assessment Committee, which has not followed the Rules meant for assessment of the candidates for promotion to the higher post and as such, prayed for quashing the said orders, whereby the petitioner's claim for promoting him to the post of Professor from the due date was rejected.

7. The respondent-University filed reply and raised preliminary objections that the petition revolves around three grounds, first, work done during the assessment years under review; second, annual confidential reports; and third, performance in personal discussion. The evaluation report of three external experts in respect of research report/work done by the petitioner during the assessment year, are annexed as Annexures R-3 (a, b and c), wherein two out of three external experts, had not recommended the candidature of the petitioner for the post of Senior

Horticultural Technologist. Furthermore, the ACRs of the petitioner clearly speak and establish that he could not get the prescribed benchmark. The Assessment Committee consisting of two member experts outside the University, besides the Vice-Chancellor, Director of Research and Head of Department, did not recommend his promotion to the post of Senior Horticultural Technologist.

8. Further the petition is averred to be not maintainable, in view of the fact that the petitioner began finding fault with the selection process, when he could not get selected by the Selection Committee. The petitioner is estopped by his own acts and conduct to impugn the selection process. Once the petitioner had appeared before the Assessment Committee without any protest, now he is estopped by his conduct from challenging the same. The selection of the petitioner for the promotion to the rank of Senior Horticultural Technologist has not been approved by the experts as well as by the Assessment Committee and, therefore, the writ petition is not maintainable.

9. It has further been averred that the case of the petitioner for promotion has rightly been rejected by the competent authority in accordance with the CAS Rules, to

be approved by the Board of Management. As a matter of fact, pursuant to judgment passed in CWP No. 1146 of 2004 on 24.12.2008, the re-prints of three major publications along with bio-data of the petitioner were sent to three external experts to review before selection in terms of Rule 5(iii)(B)(c), which inter alia speak that the re-prints of three major publications of which one could be the book or research report, were sent in advance to three external experts to review before selection. Out of three, two experts did not recommend his case. As per the eligibility criteria, the petitioner was eligible to apply for promotion to the post of Professor/equivalent after having completed 8 years service as Associate Professor. However, his eligibility for promotion was to be determined by the Assessment Committee constituted for the purpose, by the respondent-University. Though the petitioner possesses a Ph.D. degree, which is one of the conditions as provided under Rule 3(iii), yet he lacked the required number of research publications in terms of Rule 3(iii)(c) read with Rule 5(iii)(B)(c), during the period of assessment i.e. 01.07.1994 to 30.06.2002 and as such, prayed for rejection of his claim.

10. The petitioner filed rejoinder to the reply and

controverted the averments made therein and along with the rejoinder, he has also placed on record the reply filed by the respondent-University in the earlier proceedings instituted by the petitioner before the Tribunal, to show that one Sh. B.C. Thakur, who was non Ph.D. and not fulfilling the eligibility criteria under CAS, was promoted to the post of Professor and similarly, one Dr. Nathu Ram Bhardwaj was also promoted to the post of Professor in the year 2001, who had no published work to his credit including the period of assessment. The said facts were admitted by the respondent-University in the reply.

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

12. Before proceeding further in the matter, it would be relevant to reproduce the relevant para of the decision rendered by the Division Bench of this Court in the earlier Civil Writ Petition No.1146 of 2004, filed by the petitioner, which came to be disposed of on 24.12.2008.

“8. As already noticed, the only ground on which the petitioner stands non-suited by the Tribunal is that he had attended a Refresher Course of 10 days duration only, whereas he was supposed to have attended the Course of three weeks duration. This reasoning of the Tribunal is not in conformity with the eligibility criteria laid down in the Career Advancement Scheme. Rule 3(iii) of Career Advancement Scheme deals with the eligibility criteria for promotion to the post of Professor/equivalent. According

to this Rule, an Associate Professor/equivalent is eligible for promotion to the post of Professor/equivalent, if he/she-

- (a) has completed 8 years of service as Associate Professor/equivalent;*
- (b) has obtained a Ph. D degree or has equivalent published work;*
- (c) made some work in the areas of scholarship /research/extension as evidenced;*
- (d) may have opted to attend two seminars/conferences in their subject area and presented paper as one aspect of their promotion/selection to higher level or attended a refresher course to be offered by ASC's for this level.*

9. Admittedly, the petitioner had been Associate Professor/equivalent for 8 years, when he applied for promotion as Professor/equivalent. So, he fulfilled the eligibility condition (a) aforesaid. He was also a Ph. D and, therefore, he fulfilled the eligibility condition (b) also. He being Ph. D was eligible, even if he had not published any work equivalent to Ph. D, which is the alternative for Ph. D, per eligibility condition (b).

10. It is not the case of the respondents that the petitioner did not fulfill the condition (c). Their contention is that he had attended a Refresher Course of 10 days duration, whereas for eligibility Refresher Course of 3-4 weeks was required to be attended. Condition (d) aforesaid, nowhere speaks of the duration of Refresher Course. It simply says that the candidate should have attended a Refresher Course.

11. Condition of 3-4 weeks Refresher Course is prescribed for eligibility of Assistant Professors to the post of Associate Professors, vide Rule 3(i)(d) of the aforesaid CAS Rules and not for promotion of Associate Professor to the post of Professor/equivalent. It appears that the respondents were misled by the aforesaid Rule 3(i)(d), while rejecting the candidature of the petitioner. Since the petitioner fulfilled the eligibility criteria, as prescribed under Rule 3(iii)(b)(d), the respondents were not justified in rejecting his claim.

12. In Annexure A-5 respondents made mention of

Rule 5(iii) (B) (c) saying that he had not submitted the reprints of three major publications. This ground for rejection of claim of the petitioner is unfounded for two reasons. First, Rule -5 pertains to the procedure for assessment of the merit of a candidate for promotion and not to the eligibility criteria, and secondly, there are documents on record showing that when objection regarding submission of reprints was raised, vide letter dated 23.10.2002, Annexure R-5, petitioner submitted the reprints, vide letter dated 8.11.2002, Annexure R-6, which were forwarded to the respondents, by his Controlling Officer (Associate Director), vide Annexure R-7.

13. In view of above stated position, we have no hesitation in holding that the Tribunal has not taken into consideration the Rules of Career Advancement Scheme, while deciding the Original Application and has committed serious illegality in coming to the conclusion that the petitioner having not attended any Refresher Course of 3-4 weeks duration was ineligible. Therefore, the writ petition is allowed and impugned order of the Tribunal is set aside. Consequently, annexures A-4 and A-5, whereby application of the petitioner for promotion to the post of Professor/equivalent was rejected, are quashed and the respondents are directed to consider the petitioner for promotion to the post of Professor/equivalent, with retrospective effect taking him to be eligible for the said post and to give him all monetary and other consequential benefits. Two months time is given to the respondents comply with the order. No order as to costs.

The writ petition stands disposed of."

13. A perusal of the judgment clearly reveals that in the earlier round of litigation, when the decision passed by the respondent-University was upheld by the learned Tribunal, which decision had challenged before this Court, the Division Bench of this Court had succinctly dealt with the issue and had come to categorical conclusion that the

reasoning given by the Tribunal is not in conformity with the eligibility criteria laid down in the CAS. This Court after considering the entire matter, had come to the conclusion that the rejection of the claim of the petitioner for promotion to the post of Professor/equivalent is illegal and further, the order passed by the Tribunal rejecting his claim was quashed and set aside, with a specific direction to the respondent-University to promote him to the post of Professor/equivalent with retrospective effect taking him to be eligible for the said post and to give him all monetary and other consequential benefits. This Court had only given two months' time to the respondent-University to comply with the order.

14. The respondent-University, feeling aggrieved by the said order passed by the Division Bench, had preferred a civil review, which came to be dismissed on 27.05.2009. Once the respondent-University had already filed a review petition and the same was pending, there was no question of considering the case of the petitioner by the Assessment Committee. A perusal of the recommendations of the Assessment Committee does not reveal that the judgment passed by this Court was brought to the notice of the said

Assessment Committee. Once this Court, in the earlier round of litigation had given the specific direction to the respondents to promote the petitioner to the post of Professor/equivalent with retrospective effect, taking him to be eligible for the said post and to give him all monetary benefits, the respondent-University, by referring the matter before the Assessment Committee and thereafter rejecting his claim, have virtually tried to overreach the judgment passed by this Court. The respondent-University had taken a chance to get the judgment reviewed. However, when the University failed in its attempt and despite dismissal of its review petition, it had rejected the claim of the petitioner, which was not within its power, in view of the fact that this Court had already adjudicated upon the issue with respect to the promotion of the petitioner and found that he fulfills the criteria and thus directed the respondent-University to promote him with retrospective effect taking him to be eligible for the post of Professor/equivalent.

15. The respondent-University, if aggrieved by the decision passed by the Division Bench of this Court, could have challenged the same before the Hon'ble Supreme Court, but cannot sit over the decision passed by this Court

and if it is permitted to do so, it will lead to chaos. Every person, including the statutory authorities, are under obligation to obey the decision passed by the competent Court of law, and once in the present case the claim of the petitioner was accepted by this Court and direction was given to grant him promotion to the post of Professor/equivalent within two months, which has not been done by the respondent-University, the petition deserves to be allowed.

16. This Court is pained to note that despite categorical directions given by the Court to implement the judgment within two months from 24.12.2008, the respondent-University did not comply with the judgment and rejected the claim of the petitioner forcing him to again approach this Court. Once this Court had categorically held that the petitioner was eligible on all four and further, the direction was given to promote him with retrospective effect, the respondent-University could not have taken other material, more particularly when the petitioner was never communicated about his ACRs, which fact has not been denied by the respondent-University, except the ACR for the year 2001-2002, which was supplied to him.

17. The respondent-University had no authority to sit over the directions issued by this Court to promote the petitioner with retrospective effect considering him eligible. Once this Court had directed the respondent-University to promote the petitioner, it had no authority to sent his publications for examination and further to hold that he lacked number of publications. This process could have been adopted only if this Court had given direction to consider him for promotion and place the matter before the competent authority. Thus, the impugned orders are unsustainable and as such quashed and set aside.

18. It is apt to note that the petitioner was retired from service on 31.05.2004. He had been pursuing his litigation. Earlier he had challenged the orders passed by the respondent-University before Tribunal, however, his Original Application was dismissed. This Court had allowed his petition on 24.12.2008, but despite that his claim was again rejected for his promotion to the post of Professor. He again approached this Court by way of instant petition and now expired on 03.01.2026 and his legal representatives have been brought on record. He could not reap the fruits of the decision earlier given by this Court when after

considering the matter very meticulously, direction was given to the respondent-University to promote him with retrospective effect with all monetary and consequential benefits.

19. Consequently, the present petition is allowed and the impugned order dated 23.05.2009 (Annexure P-12), as well as approval of the Board of Management dated 20.07.2009, (communicated vide Annexure P-10) are quashed and set aside, with a further direction to the respondent-University to promote the petitioner to the post of Professor with retrospective effect, with all monetary and other consequential benefits.

20. Keeping in view the fact that the petitioner had retired on 31.05.2004 and thereafter died on 03.01.2026, the respondent-University is directed to release all the financial benefits in favour of the legal representatives of the petitioner, within three months from today, failing which, the respondent-University shall pay the interest at the rate of 6% per annum from the due date, till actual payment. If there is any delay in paying the consequential benefits, the interest component shall be recovered from the erring officers/official of the respondent-University. No order as to

costs. Pending applications, if any, also stand disposed of.

05th August, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**