

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

CWP No. 10698/2026
Decided on: 05.10.2026

Vishal Sharma

.....Petitioner

Versus

State of H.P. & Anr.

....Respondents.

Coram

Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the petitioner:

**Mr. Sanjeev Bhushan, Sr. Advocate
with Mr. Sparsh Bhushan, Advocate.**

For the respondents:

**Mr. Sikander Bhushan, Deputy
Advocate General, for respondent
No.1.**

**Mr. V.S. Kanwar, Advocate, for
respondent No.2.**

**Ms. Shreya Chauhan, Advocate, for
the applicant/proposed respondent
No.3.**

Jyotsna Rewal Dua, J

Heard, learned Senior Counsel for the petitioner, learned Deputy Advocate General for respondent No. 1, learned counsel for respondent No. 2-Himachal Road Transport Corporation (HRTC), learned counsel for the applicant (proposed respondent No. 3) in CMP No. 25613/2026 and considered the case file.

2. Petitioner joined respondent No. 2-Himachal Road Transport Corporation (HRTC) as Clerk on 26.11.1996. He qualified the Subordinate

¹ Whether reporters of the local papers may be allowed to see the judgment? yes

Accounts Services Examination conducted by the Department and was promoted as Section Officer on 29.06.2006. In accordance with the applicable Recruitment and Promotion Rules, the petitioner was promoted to the post of Assistant Controller (F&A) on 25.04.2015. He was further promoted to the post of Deputy Controller (F&A) under order dated 26.09.2022. The petitioner is currently serving as Deputy Controller (F&A).

2(i) Further promotion from the post of Deputy Controller (F&A) is to the post of Divisional Manager (F&A). It is the case of the petitioner that, in terms of the applicable Recruitment and Promotion Rules (Annexure P-2), for the post of Divisional Manager (F&A), the cadre of Divisional Manager consists of 8 posts in total, including two meant for Category "A", i.e. Divisional Manager (Commerce)/(IT). As per the R&P Rules, the said post is to be filled up 100% by way of promotion as under:

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"RECRUITMENT AND PROMOTION RULES FOR THE POST OF DIVISIONAL MANAGER IN HIMACHAL ROAD TRANSPORT CORPORATION.

1	<i>Name of the Post</i>	<i>Divisional Manager</i>
2	<i>No of posts</i>	<i>Category "A" Divisional Manager. 2 (Comm./IT)</i> <i>Category "B" Divisional Manager. 4 (Non Tech)</i> <i>Category "C" Divisional Manager. 2 (Tech)</i>
3	<i>Classification</i>	<i>CLASS-I</i>
4	<i>Scale of Pay</i>	<i>Level-23 of the Pay Matrix i.e. Rs.83600- 203100/-</i>
5.	<i>Whether selection post or non selection post</i>	<i>Selection Post</i>

10	Method of recruitment, whether by direct recruitment or by promotion, deputation/transfer and the percentage of vacancies to be filled in by the various methods. (The vacancies occurring and proposed to be filled by direct recruitment shall be notified to Employment Exchanges/or other specified agencies as the case may be)	100% by promotion
11	In case of recruitment by promotion, deputation, transfer, grades from which promotion/deputation/transfer is to be made	<u>Category "A" Divisional Manager (Comm./IT)</u> By promotion from amongst the Deputy Controllers, Himachal Road Transport Corporation Finance and Accounts Service having 3 years regular or regular combined with continuous adhoc service rendered, if any, in the grade, failing which by promotion from amongst the Deputy Controllers, Himachal Road Transport Corporation Finance and Accounts Service having six years regular service or regular combined with continuous adhoc service rendered, if any combined as Deputy Controller, Himachal Road Transport Corporation Finance and Accounts Service and Assistant Controller. Himachal Road Transport Corporation Finance and Accounts Service out of which two years service as Deputy controller, Himachal Road Transport Corporation Finance and Accounts Service shall be essential. DM(IT): By promotion from amongst Deputy Divisional Manager (IT) on the basis of merit-cum-seniority with atleast three years service. <u>Category "B" Divisional Manager (Non- Tech)</u> By promotion from Deputy Divisional Manager (Non-Tech) on the basis of merit-cum-seniority interse with three years service failing which from amongst Regional Managers, Manager (Traffic) with six years service. <u>Category "C" Divisional Manager (Tech)</u> By promotion from Deputy Divisional Manager (Tech) on the basis of

		<i>merit-cum-seniority interse with three years service failing which from Mgrs. (Tech) with six years service as such on the basis of merit-cum-seniority interse.....</i>
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2(ii) It has further been pleaded that the incumbent holding the post of Divisional Manager (Commerce) was promoted to the post of General Manager (Commerce) in October 2024. Resultantly, the post of Divisional Manager (Commerce) became available. The petitioner, having completed two years of regular service as Deputy Controller (F&A), with the requisite qualifying service in the feeder category post, became eligible for promotion to the post of Divisional Manager (Commerce) in October 2024, viz. when the post also fell vacant. The petitioner has also placed on record the final seniority list of Deputy Controllers (F&A), as it stood on 30.11.2024 (Annexure P-4), wherein his name figures at serial No. 1.

2(iii) Petitioner's grievance is that, despite the promotional post of Divisional Manager (Commerce) becoming available in October 2024 and in spite of the petitioner being eligible for being considered for promotion against the aforesaid vacancy, the respondent-Corporation took no steps for making promotion against the post. A meeting of the Departmental Promotion Committee (DPC) for making promotion to the post of Divisional Manager (Commerce) was convened by the respondent on 24.06.2025, but the result thereof was not declared, the recommendations were not made public. With this grievance, the

petitioner instituted this writ petition on 29.06.2026, seeking following substantive relief:

“That order or an appropriate writ, directions may kindly be issued and the respondents may kindly be directed to immediately and forthwith promote the petitioner to the post of Divisional Manger (Commerce) from December, 2024 OR in the alternative respondents may be directed to finalize the DPC conducted for the post of Divisional Manager (Commerce) in June, 2024 immediately and forthwith by further directing to promote the petitioner from the date of convening of the DPC with all consequential benefits of pay, arrears, seniority etc. etc and the arrears may be ordered to be paid along with interest @ 9% per annum in the interest of law and justice.”

3. Notice of this writ petition was issued on 01.07.2026, which was waived by respondents No. 1 and 2. Reply was directed to be filed within two weeks and the matter was ordered to be listed on 22.07.2026.

On 22.07.2026, reply was not filed. At the request of learned counsel appearing for the respondents, further time was granted and the case was scheduled for hearing on 05.08.2026. Replies were not filed by the respondents even on the third date, i.e., 05.08.2026, when further period of four weeks was granted for doing the needful and the case was ordered to be listed on 08.09.2026. In terms of the following order passed in this writ petition on 08.09.2026, final opportunity of two weeks was granted to the respondents to file reply/instructions: -

“Petitioner seeks declaration of the result of the Departmental Promotion Committee (DPC) held in June, 2024.

The respondents have not yet filed their reply.

Final opportunity of two weeks' time is granted to the respondents to file reply/instructions. In case there is no impediment in declaring the result of the DPC, the same be also declared by the next date.

List on 30.09.2026."

In the aforesaid order, there was also a direction that, in case there was no impediment in declaring the result of the DPC, the same be also declared by the next date. On the next date, i.e. 30.09.2026, replies were still not filed by the respondents, though learned counsel appearing for respondent No. 2 placed on record office instructions dated 29.09.2026. The said order reads as under: -

"Despite grant of final opportunity of two weeks to the respondents to file reply on 08.09.2026, reply has still not been filed.

Learned counsel for respondent No.2 has placed on record office instructions dated 29.09.2026.

List on 05.10.2026."

Reply has still not been filed by the respondents. Learned Deputy Advocate General has placed on record office letter dated 17.07.2026 by the Additional Chief Secretary (Transport) to the Government of Himachal Pradesh addressed to respondent No. 2, requesting the said respondent to file reply to the writ petition.

As noted earlier, respondent No. 2 has not filed reply despite grant of final opportunity. The matter has, accordingly, been heard at this stage.

4. Office instructions dated 29.09.2026, placed on record by learned counsel for respondent No. 2, read as under (relevant portion): -

".....Subject: Regarding CWP No. 10698 of 2026, titled Vishal Sharma Vs. State of H.P& Anr.",

It is submitted that CWP No. 10698 of 2026, titled "Vishal Sharma Vs. State of H.P. & Anr." was listed before the Hon'ble High Court on 08.09.2026, wherein the Hon'ble of Court directed as under:

"Petitioner seeks declaration of the result of the Departmental Promotion Committee (DPC) held in June, 2024. The respondents have not yet filed their reply. Final opportunity of two weeks' time is granted to the respondents to file reply/instructions. In case there is no impediment in declaring the result of the DPC, the same be also declared by the next date list on 30.09.2026"

In this regard, it is submitted that the Departmental Promotion Committee was held on 24.06.2025 for considering the promotion of the petitioner, Shri Vishal Sharma, from the post of Deputy Controller (F&A) to the post of Divisional Manager (Commerce).

The proceedings of the said DPC were forwarded to the Hon'ble Chairman of HRTC for approval. However, the same have not yet been approved. The matter was returned with the observation that the entire issue be re-examined in view of the ensuing court cases and representations submitted by different officials seeking review of the DPC.

Further, it is submitted that Sh. Rajesh Kumar has filed CWP No. 6345 of 2026 titled Rajesh Kumar Vs. HRTC & Others, before the Hon'ble High Court, seeking promotion to the next higher post of Deputy Controller (F&A) w.e.f. 26.09.2022 and thereafter to the post of Divisional Manager (Commerce) and the petitioner has also been impleaded party as respondent No.3 in the petition. He has also submitted a representation regarding seniority of this category.

In view of the above facts and circumstances, it is requested that the aforesaid factual position may kindly be brought to the notice of the Hon'ble High Court while defending the matter, particularly with regard to the fact that the DPC proceedings are

presently under re-examination and have not yet received approval from the competent authority.

This is submitted for information and necessary action , please.”

The aforesaid office instructions do not dispute petitioner's eligibility, as on date, for promotion from the post of Deputy Controller (F&A) to the post of Divisional Manager (Commerce). The office instructions do not dispute the fact that a meeting of the Departmental Promotion Committee (DPC) was convened on 24.06.2025 for considering the promotion of the petitioner from the post of Deputy Controller (F&A) to the post of Divisional Manager (Commerce). The only reason assigned for not acting upon the recommendations of the DPC is the non-approval of the proceedings of the DPC by the Chairman of respondent No. 2-Corporation. In terms of the office instructions: - The proceedings of the DPC were forwarded to the Chairman of respondent No. 2-Corporation for approval, however, the same had not been approved; The DPC proceedings were deferred with an observation to examine the entire issue in view of the ensuing court cases and representations submitted by different officials seeking review of the DPC. An instance has also been quoted in the office instructions regarding the case of Shri Rajesh Kumar (applicant in CMP No. 25613/2026), having instituted CWP No. 6345 of 2026, **(Rajesh Kumar Vs. HRTC & Ors.)**, seeking promotion to the next higher post of Deputy Controller (F&A) with effect from 26.09.2022 and, thereafter, to the post of Divisional Manager

(Commerce). Present petitioner is stated to have been impleaded as respondent No. 3 in the aforesaid writ petition.

There appears to be seniority dispute raised in CWP No. 6345 of 2026, instituted by Shri Rajesh Kumar (applicant in CMP No. 25613/2026), wherein the present petitioner has been impleaded as respondent No. 3. During hearing of this petition, learned counsel appearing for the applicant/Rajesh Kumar candidly admitted that there is no interim order operating against effecting promotion to the post of Divisional Manager (Commerce) on the basis of the current seniority list in the aforesaid writ petition. Merely on account of there being a dispute relating to seniority between the petitioner and the applicant in CMP No. 25613/2026, or merely on account of the applicant having staked his claim for promotion to the post of Deputy Controller (F&A) with effect from 26.09.2022 and thereafter to the post of Divisional Manager (Commerce), there would be no justification for not taking action on the recommendations made by the DPC in its meeting convened on 24.06.2025 for making promotions to the post of Divisional Manager (Commerce). The functioning of the Road Transport Corporation and the filling up of functional posts cannot be halted merely on account of the pendency of seniority disputes or inter-related issues of promotion which are pending adjudication in a writ petition instituted by the applicant in CMP No. 25613/2026, wherein no interim order has been passed restraining respondent-Corporation from acting upon recommendation of the DPC or making promotion to the post of Divisional Manager

(Commerce). The interest of the applicant in CMP No. 25613/2026 can be safeguarded by observing that, in case the petitioner is found eligible in terms of the recommendations of the DPC convened on 24.06.2025 for promotion to the post of Divisional Manager (Commerce), his such promotion shall remain subject to the outcome of CWP No. 6345 of 2026. In this regard, it will be in place to quote hereinafter observation of Hon'ble Apex Court from **Arjun Murmu Vs. State of Odisha & Ors.**² that normally when seniority list is in challenge, promotions would be permitted to be effected subject to result of the writ petition carrying such challenge. Relevant paras from the said judgment read as under: -

"13. The interim order passed by the Division Bench of the High Court dated 24.02.2021 itself would reveal the availability of a number of vacancies in the promotional post of ASOs/Section Officer and that they are not being filled up solely due to the pendency of W.P. (C) No.24191 of 2020.

14. The fact is that those vacancies in the promotional post are still lying vacant. Certainly, non-filling of vacancies in the promotional post would be prejudicial to the interests of the administration of any service.

15. The Writ Petition is pending before the learned Single Judge and on its disposal, the party or parties aggrieved would be having a remedy to file intra Court appeal. Taking note of all the aforesaid aspects, we think it wholly appropriate to desist from making any observation touching the merits of the rival contentions and at the same time to emphasize on the expediency of an early disposal of the Writ Petition, which would be in the interest of all concerned. Normally, when the seniority list is in challenge and a number of vacancies are available in the promotional post, promotions would be permitted to be effected subject to the result of the Writ Petition

² Special Leave Petition (C) No. 14996/2021 decided on 23.09.2022

carrying challenge against the seniority list. The learned Single Judge of the High Court had actually passed such an order taking note of the balance of convenience. In other words, as an interim measure it was ordered by the learned Single Judge that promotion pursuant to the final gradation list would be subject to the result of the Writ Petition. In froth, as per the original order dated 24.02.2021, Writ Appeal No.612 of 2020 itself was disposed of maintaining the interim order passed by the learned Single Judge dated 24.09.2020 in I.A. No.10848 of 2020. That order was admittedly varied by the Division Bench time and again, as explained earlier. As per order dated 08.10.2021, this Court stayed the operation of the order dated 14.07.2021 in I.A.No.1000 of 2021 in Writ Appeal No.612 of 2020 passed by the High Court.

16. *Taking note of the totality of the circumstances and also the balance of convenience, we dispose of these Civil Appeals with request to the High Court of Orissa to dispose of the Writ Petition No.24191 of 2020 as expeditiously as possible, preferably, within a period of two months from the date of receipt of a copy of this judgment. All the parties to the Writ Petition shall cooperate for the early disposal of the Writ Petition, within the stipulated time. If for any reason, the disposal of the Writ Petition is not possible within the stipulated period of time, it would be open for the Respondent authorities to fill up vacancies in the promotional post of ASOs from the final gradation list of ASOs, referred to as Annexure 13 in the interim order dated 24.09.2020 in I.A. No.10848 of 2020 in Writ Petition (C) No.24191 of 2020, provisionally and subject to the result of the Writ Petition.”*

Accordingly, the present writ petition is disposed of with a direction to respondent No. 2-Himachal Road Transport Corporation to take the minutes of the meeting of the Departmental Promotion Committee convened on 24.06.2025 to their logical conclusion within two weeks from today, i.e. on or before **20.10.2026**. In case the name of the

petitioner is found to have been recommended by the DPC for promotion to the post of Divisional Manager (Commerce), appropriate orders in this regard shall also be passed within the aforesaid period. Such promotion, however, shall remain subject to the outcome of CWP No. 6345 of 2026 and it shall be so mentioned in his promotional order.

With above directions, CMP No. 25613/2026 also stands disposed of. Pending miscellaneous applications, if any, shall also stand disposed of.

Jyotsna Rewal Dua
Judge

5th October, 2026_(rohit)