

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.5138 of 2019

Decided on: 27th July, 2026

Firoj Khan

...Petitioner

Versus

State of H.P. and another

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

Whether approved for reporting?¹

For the petitioner: Mr. Sanjeev Bhushan, Senior Advocate with Mr. Rakesh Chauhan, Advocate.

For the respondents: Mr. Rupinder Singh Thakur, Additional Advocate General and Mr. Hemant Kumar Verma, Deputy Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

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

"(i) Quash letter dated 06-01-2015 i.e. Annexure A-6.

(ii) Direct the out of turn promotion of the present applicant to the post of Deputy Superintendent of Police or in the alternative direct the respondent authorities to consider the case of the present applicant for further out of turn promotion to the post of Deputy Superintendent of Police."

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

2. Shorn of unnecessary details, the key facts of the case are that the petitioner was appointed as a Sub-Inspector in the year 2007 and thereafter promoted to the post of Inspector in the year 2012. In the year 2013, All India Police Games were to be organized and as per communication dated 05.01.2013 (Annexure A-1), the team of Police Handball was selected to participate in All India Police Games (in short "AIP") Volleyball Cluster-12 to be held at Dharamshala and the petitioner was the Captain of the said team. The games were held in the month of March 2013. Earlier, one Sh. Balbir Singh was selected as a Captain, but due to the fact that he could not participate in the games, the petitioner was selected as captain. The team under the leadership of the petitioner participated initially in the coaching camp of the Handball team w.e.f. 07.01.2013 to 10.02.2013 at Police Line Bilaspur and thereafter participated in the games held at Dharamshala from 18.03.2013 to 22.03.2013 representing the Police Force of Himachal Pradesh and the team was awarded Silver Medal, having secured second position in Handball.

3. On account of the performance of the petitioner and his team, which won the silver medal in Hand Ball, all the participants were given promotion one rank out of turn, except the petitioner. As per office order dated 05.08.2014 (Annexure A-3), the persons who had participated in the games were promoted to the posts of Head Constables. However, the candidature of the petitioner was not considered.

4. The petitioner made a representation (Annexure A-4) seeking consideration of his candidature for promotion to the post of Deputy Superintendent of Police (in short "Dy.S.P.") on out of turn basis since he was the Captain of the Hand Ball team, specifically stating that all the team members had been promoted on out of turn basis, except him. The representation so made by the petitioner was rejected on 06.01.2015 (Annexure A-6), noticing that the case of the petitioner was distinguishable from others as he was seeking promotion to the post of Dy.S.P., which is governed under the Himachal Pradesh Police Service Rules, 1973 (in short "HPPS

Rules”) and there is no provision in the said Rules for out of turn promotion.

5. The petitioner feeling aggrieved by the said rejection has approached this Court *inter alia* on the grounds that as per Rule 21 of the HPPS Rules, the power is vested with the State government to relax any of the provisions of these Rules with respect to any class or category of persons and the petitioner is seeking an out of turn promotion from the post of Inspector and there is no justification to reject his representation, especially when the HPPS Rules provide for such relaxation. Further, it has been averred that the case of the petitioner was not properly considered though the Handball team had brought laurels to the State of Himachal Pradesh inasmuch as 15 members, other than the petitioner, belonging to the cadre of Constable, have been promoted to the posts of Head Constables on out of turn basis. It has also been averred that the action on the part of the respondents while rejecting the claim of the petitioner is the result of non-application of mind and as such the petitioner has prayed for

his promotion to the post of Dy.S.P.

6. The respondents filed reply to the petition and raised preliminary submissions that the HPPS Rules do not provide for out of turn promotion to the post of Dy.S.P. The Standing Order under which the distinguished sports persons are being promoted on out of turn basis, does not provide for out of turn promotion to the rank of Dy.S.P. and, therefore, the petitioner has no cause of action to file and maintain the instant petition. It has been admitted that the Constables, who were members of the Handball team were promoted under the Standing Order issued by the respondents-Department dated 23.06.2007. However, the said Standing Order does not provide for out of turn promotion to the post of Dy.S.P.

7. It has further been averred that Sh. Shobh Singh and Sh. Charan Dass, were given relaxation in education qualification for promotion to the rank of Dy.S.P., who had acquired specialization in the fields of drill and band playing and further vide Notification dated 20.03.1998, their names

were cleared provides the relaxation which was one time exception and was personal to both of them till they hold the post and shall not be precedent for future.

8. The petitioner filed rejoinder to the reply and placed on record the appointment orders of Sh. Ajay Thakur, who was directly appointed to the post of Dy.S.P. vide Notification dated 16.05.2017 (Page 100) and Ms. Sushma Devi, who was offered appointment against 3% reservation to the distinguished sportspersons, as per Notification dated 09.10.2017 (Page 120).

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

10. Learned senior counsel Mr. Sanjeev Bhushan duly assisted by Mr. Rakesh Chauhan, learned counsel, has vehemently argued that once in the past, the respondents had promoted two persons namely Sh. Shobh Singh and Sh. Charan Dass, in relaxation of the HPPS Rules, concerning their educational qualifications for promotion to the post of Dy.S.P., the petitioner could not have been treated differently

and the said action on the part of the respondents is arbitrary, discriminatory as well as violative of Articles 14 and 16 of the Constitution of India. He further vehemently argued that the petitioner was captain of the Hand Ball team and the team had won the Silver Medal and once other persons, who were part of the team had been granted one rank out of turn promotion, the petitioner being the captain of the team ought to have been promoted since the HPPS Rules clearly provide that the relaxation can be provided. Learned senior counsel further argued that once the respondents-State had offered appointment to two persons namely Sh. Ajay Thakur and Ms. Sushma Devi, in relaxation of the Rules, the petitioner who had also earned the distinction of winning a Silver Medal, ought to have been extended the same benefit. He further argued that in case the Rules do not provide relaxation, the petitioner's claim could have been ignored, but since the Rules envisage that the State Government can relax the HPPS Rules and in the past the Rules have been relaxed, treating the petitioner differently is not only

arbitrary, but discriminatory too, which has caused grave injustice to him.

11. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

12. It is not in dispute that the respondents-State had granted out of turn promotion to all the members of the team, of which the petitioner was captain, though to the posts of Head Constables. Therefore, the petitioner could not have been denied similar consideration, by relaxing the Rules. Not only this, in case of other distinguished sportspersons, the respondents-State had relaxed the Rules to offer them appointments as direct candidates to the post of Dy.S.P. and, the respondents-State being a model employer, ought to have extended the same benefit to the petitioner, especially when he had also brought laurels to the State Government.

13. The respondents-State has also not denied the appointment of two persons namely Shri Shobh Singh and Charan Dass to the posts of Dy.S.Ps, by relaxing the HPPS Rules and once they have been appointed by relaxing the

Rules, there was no justification to not consider the claim of the petitioner for granting him similar treatment, more particularly when other participants had also been granted one rank out of turn promotion.

14. Learned Deputy Advocate General has vehemently argued that the decision taken vide Notification dated 20.03.1998, was personal to Sh. Shobh Singh and Sh. Charan Dass and the same cannot be made applicable to the case of the petitioner. Though the arguments raised by learned Deputy Advocate General is attractive, but the same cannot be accepted for the reason that once the respondents-State in the past had promoted the persons in relaxation of the HPPS Rules, the said benefit cannot be denied to the petitioner, especially when other persons, who had participated in the game had been promoted to the next higher post on out of turn basis.

15. Thus, the action on the part of the respondents-State in denying the benefit of out of turn promotion to the petitioner to the post of Dy.S.P. on the strength of the Rules

that the same do not provide for out of turn promotion, is illegal, arbitrary and discriminatory. Had the Rules not provided for relaxation and had the respondents-State not relaxed the Rules while making promotion to the post of Dy.S.P., the Court would not have acceded to the prayer of the petitioner. However, once the respondents-State has promoted and appointed the persons while relaxing the Rules, the petitioner cannot be denied the same benefit on the ground that the relaxation/benefit given was personal to them and as such, the decision conveyed to the petitioner vide communication dated 06.01.2015, is quashed and set aside.

16. Consequently, the present petition is allowed and the decision dated 06.01.2015 (Annexure A-6) is quashed and set aside and the respondents-State is directed to promote the petitioner to the post of Dy.S.P. by way of out of turn promotion from the date when other persons, who had participated in the Handball game held in Dharamshala in 2013 were promoted vide office order dated 05.08.2014 with

all consequential benefits. In case, the respondents do not pay the arrears to the petitioner after promotion within a period of three months from today, the petitioner shall be paid the interest on the arrears @6% per annum from today till actual payment to him.

17. The petition is accordingly disposed of. No order as to costs. Pending application(s), if any, shall also stand disposed of.

27th July, 2026
(ankit)

(Jiya Lal Bhardwaj)
Judge