

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA
CWPOA No.6127 of 2019
Decided on: 19th September, 2026

Jyoti Sharma and others

...Petitioners

Versus

State of Himachal Pradesh and another

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹ **Yes**

For the petitioners: Mr. Sparsh Bhushan, Advocate.

For the respondents: Mr. R.P. Singh, Deputy Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

By way of present petition, the petitioners have prayed for the following substantive reliefs:-

"(a) That in fact, annexure A-5 dated 6.11.2015, corrigendum and annexure A-6 dated 28.11.2015(Collectively) , show cause notice with respect to all the applicants as appended collectively, may very kindly be quashed and set aside.

(b) That the respondents may very kindly be directed to pay the same emoluments i.e. ₹13,500/- per month with an amount of ₹405(3% of the minimum of pay band plus grade pay) to the applicants as annual increase, in the interests of justice and fair play."

2. The petitioners in sequel to the advertisement dated 20.12.2013 (Annexure A-1) had applied for the post of

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

Junior Scale Stenographer on contract basis (Class-III). At the time of issuing the advertisement to fill up the posts of Junior Scale Stenographer on contract basis (Class-III), the pay scale of Rs.10,300-34,800/- + Rs.3,200/- Grade Pay was mentioned and emoluments for contractual employees were fixed at Rs.13,500/- per month. The petitioners after appearing in the screening test conducted by the respondents had been recommended for appointment to the post of Junior Scale Stenographer on contract basis. The petitioners were offered appointment and copy of appointment in respect of petitioner No.1 dated 20.10.2014 (Annexure A-2), discloses the consolidated fixed contractual amount of Rs.13,500/- minimum of pay band of Rs.10,300-34,800/- + Rs.3,200/- Grade Pay i.e. Rs.13,500/- per month, which was paid to them. However, after a year, respondent No.2 had issued a corrigendum dated 06.11.2015 (Annexure A-5), whereby the pay scale of Junior Scale Stenographer shown in terms and condition No.2 of the office order dated 20.10.2014 (Annexure A-2) was modified and the pay scale was ordered to be read

as Rs.5910-20200+Rs.2800 Grade Pay with initial start of Rs.8,710/- per month instead of Rs.10,300-34,800/- + Rs.3,200/- Grade Pay with initial start of Rs.13,500/- and other terms and conditions remained unchanged. After issuance of aforementioned corrigendum dated 06.11.2015 (Annexure A-5), a show cause notice dated 28.11.2015 (Annexures A-6 colly.) was issued to the petitioners, whereby, it was informed that as per Recruitment and Promotion Rules (in short "R&P Rules") as well as creation order dated 27.09.2011, the emoluments of contract Junior Scale Stenographer were fixed at Rs.8,710/- per month (which was equal to the minimum of the pay band and Grade Pay) and since the petitioners were appointed vide office order dated 20.10.2014, inadvertently mentioning the pay scale as Rs.10,300-34,800/- + Rs.3,200/- Grade Pay and contractual emoluments as Rs.13,500/- per month and on detection of such mistake, the emoluments of contract appointee Junior Scale Stenographer were reduced from Rs.13500/- to Rs.8710/- w.e.f. July, 2015. The excess payment recoverable due to the mistake occurred was

worked out in each case of the petitioners and they were called upon to file their response to the show cause notice.

3. The petitioners instead of responding to the show cause notice issued to them, filed an original application being O.A. No.5376 of 2015 before the Himachal Pradesh Administrative Tribunal (in short "the Tribunal") and the Tribunal, vide order dated 31.12.2015 had stayed the recovery pursuant to the corrigendum dated 06.11.2015 (Annexure A-5) till further orders. However, after abolition of the Tribunal, the original application was transferred to this Court and has been registered as the present petition.

4. The petitioners, feeling aggrieved by reducing of their emoluments from Rs.13,500/- to Rs.8,710/- and also effecting recovery, have approached this Court *inter alia* on the grounds that the show cause notice to effect recovery on the basis of the reduction of their pay, is not only highly illegal, arbitrary and against the norms of justice, but the same is harsh, oppressive, and against the advertisement and offer of appointment and as such deserves to be quashed

and set aside. It has been averred that the emoluments of the petitioners were fixed as per the Notification dated 27.09.2012 (Annexure A-4), which specifically provides the pay scale of Junior Scale Stenographer as Rs.10,300-34,800/- + Rs.3,200/- Grade Pay with initial start of Rs.13,500/- and once the petitioners were offered the appointment on the basis of the said emoluments, as were depicted in the advertisement issued by the respondents under which the petitioners had applied for the post, the same could not have been reduced subsequently, and the respondents are estopped from decreasing the pay scale and also making recovery of the amount. As such, they have prayed for quashing the corrigendum dated 06.11.2015 as well as the show cause notices issued to effect recovery from them.

5. The respondents filed reply to the petition and averred that the petition does not disclose any enforceable cause of action and as such deserves to be rejected. As per the Notification dated 27.09.2011, amongst others, three posts of Junior Scale Stenographer in the pay scale of Rs.5910-

20,200+Rs.2800 Grade Pay to be filled up by way of direct recruitment on contract basis, were created in the Department of Advocate General. For filling up these newly created Class-III posts, including available vacancies, one-time relaxation was granted to the Department to fill up the same at its own level. Accordingly, Advertisement Notice dated 20.12.2013 (Annexure A-1) was issued wherein due to inadvertent mistake, the pay scale of the post of Junior Scale Stenographer was shown as Rs.10,300-34,800/- + Rs.3,200/- Grade Pay and its fixed contractual emoluments were shown as Rs.13,500/-. The said mistake in the advertisement notice had occurred due to a typographical mistake appearing in the Notification dated 27.09.2012 under Item No.21, wherein the pay scale of Junior Scale Stenographer was mistakenly shown as Rs.10,300-34,800/- + Rs.3,200/- Grade Pay instead of Rs.5910-20200+Rs.2,800/- Grade Pay. The copy of the Notification dated 27.09.2011 has also been placed on record as Annexure R-A in which pay scale of the post of Junior Scale Stenographer has been shown as Rs.5910-20200+Rs.2,800/-

Grade Pay. The mistake occurred in the Notification dated 27.09.2012 (Annexure A-4) was rectified as per corrigendum dated 15.10.2012 (Annexure R-C), whereby the pay scale of Junior Scale Stenographer was fixed/shown as Rs.5910-20,200+Grade Pay of Rs.2800/- and Rs.10,300-34,800/- + Rs.3,600/- Grade Pay to be given after two years of regular service w.e.f. 01.10.2012. As per the R&P Rules, the same pay band for regular incumbents and fixed emoluments for incumbents on contract basis have been shown/notified separately. The *bona fide* mistake which was detected on perusal of the Monthly Administrative Report, as received from the Government, wherein monthly emoluments of this post were shown Rs.8,710/- per month only and on ascertaining the factual position, the pay scale was modified and thereafter the petitioners were issued the show cause notices for making recovery from them.

6. It has further been averred that the typographical error, which had appeared in the Notification dated 27.09.2012 (Annexure A-4) was rectified and in the initial start

under column No.5, it was mentioned as Rs.11,170/-, which was applicable to regular incumbents, that too, who were holding the post prior to 01.10.2012 and thus, prayed for dismissal of the petition.

7. The petitioners did not file rejoinder to controvert the aforementioned submissions made in the reply filed by the respondents.

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

9. Mr. Sparsh Bhushan, learned counsel representing the petitioners has vehemently argued that once the respondents had issued the advertisement depicting a particular scale and the petitioners after noticing the particular scale had applied for the post of Junior Scale Stenographer and thereafter they have been offered the appointment specifically mentioning the pay scale of Rs.10,300-34,800/- + Rs.3,600/- Grade Pay, which was paid to them till July, 2015 as per their appointment orders, the action on the part of the respondents to withdraw the said scale and

also to effect recovery is patently illegal, arbitrary, and unconstitutional. He further canvassed before the Court that it is by now settled in catena of judgments of the Hon'ble Supreme Court that the rules of game cannot be changed in midway and further, once the petitioners have been granted the pay scale of Rs.10,300-34,800/- + Rs.3,600/- Grade Pay, the withdrawal of the same after about a year is unjustified and the respondents are estopped from reducing their pay scale and also from effecting recoveries. He placed reliance upon the judgments of the Hon'ble Supreme Court in **Anil Joshi and others vs. State of H.P. and others**, (2015) 12 SCC 669 and **Tej Prakash Pathak and others v. Rajasthan High Court and others**, (2025) 2 SCC 1.

10. So far as the first judgment in **Anil Joshi's** case (supra) is concerned, the Hon'ble Supreme Court has held that the plea of promissory estoppel can be set by employees against State, when there is adequate evidence that State had promised him a particular pay scale, which is based and recognized in the Rules. It has been specifically observed in

the judgment that the service conditions of State employee are governed by the statutory rules framed by the State from time to time and an employee is entitled to enforce his statutory right recognized in the Rules in relation to his service conditions. The relevant paragraph of the judgment is reproduced hereunder:

"16. It is a settled principle of law that the service conditions of a State employee are governed by the statutory rules framed by the State from time to time. An employee is, therefore, entitled to enforce his statutory right recognised in the Rules in relation to his service condition if it is breached due to any action on the part of the State. A plea of promissory estoppel can be set up by a person against the State only when he is able to prove with adequate evidence that the State has promised him in writing in express terms to grant specific benefit and acting upon such promise he has altered his position. In such situation, the State cannot be allowed to go back to the promise made to such person and he can enforce the promise made to him."

11. In the present case, the petitioners were granted the pay scale contrary to the pay scale as notified by the State Government in Notification dated 27.09.2011 (Annexure R-A), which prescribed the pay scale of Rs.5910-20200+Rs.2,800/- Grade Pay for the post of Junior Scale Stenographer. Further, as per the corrigendum issued on 15.10.2012, the pay scale to

Junior Scale Stenographer was notified as Rs.5910-20200+Rs.2,800 Grade Pay and the advertisement dated 20.12.2013 (Annexure A-1), on the basis of which, the petitioners had applied for the post of Junior Scale Stenographer, the pay scale of which was mentioned as Rs.10300-34800/- + 3200 Grade Pay. Had the pay scale of Rs.10,300-34,800/- + Rs.3,200/- Grade Pay being in the R&P Rules and thereafter the petitioners were offered the appointment to the post of Junior Scale Stenographer mentioning the same scale, the petitioners would have been right in saying that the respondents are estopped from reducing their pay scale. However, in the present case, even as per their own documents, which have been placed on record by the petitioners, more particularly, the R&P Rules (Annexure A-3), it is specifically mentioned that the scale for regular incumbents is Rs.5,910-20,200/- + Rs.2,800/- Grade Pay and for contractual employees, it is Rs.8,710/- per month. The petitioners at the time of filing the original application did not place on record the Notification dated 27.09.2011

(Annexure R-A) where the pay scale has been prescribed as Rs.5910-20200+Rs.2,800/- Grade Pay. Even the corrigendum dated 15.10.2012 (Annexure R-C) was not placed on record, whereby the words and figure appearing against Sr. No.21 under Heading 2, Common Categories of the Schedule appended to the Himachal Pradesh Civil Services (Category/Post wise Revised Pay) Rules, 2012 notified vide Department's Notification of even number dated 27.09.2012, were rectified as Rs.5910-20200 +2800/- Grade Pay and Pay Band and Grade Pay of Rs.10,300-34,800/- + Rs.3,600/- Grade Pay was to be given after two years' service instead of Rs.10,300-34,800/- + Rs.3,600/- Grade Pay. The corrigendum dated 15.10.2012 is reproduced as under:

"GOVERNMENT OF HIMACHAL PRADESH
FINANCE (PAY REVISION) DEPARTMENT
No.Fin(PR-B(7)-64/2010 Dated: Shimla-2, the 15th October, 2012
Corrigendum

The words and figures appearing against Sr. No.21 under Heading 2, Common Categories of the Schedule appended to the Himachal Pradesh Civil Services (Category/Post wise Revised Pay) Rules, 2012 notified vide this Department's Notification of even number dated 27.09.2012, may be read as under:

21.	Jr. Scale Stenographer	(i) 5910 – 20200	2800	11170 Initial start	Already existing
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		(ii)10300-34800	3600	This PB & GP will be given after 2 years of regular service	01.10.2012
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12. In case the Notification dated 27.09.2011 and corrigendum mentioned above were not issued by the respondents-State, the petitioners would have been right in claiming that their pay scale could not have been reduced.

13. The learned counsel for the petitioners has also placed reliance upon the judgment of this Court, passed in CWP No.4556 of 2023, titled, ***Harshvardhan vs. Central University of H.P.***, to contend that since the petitioners have been issued appointment letters, the terms and conditions cannot be changed. However, keeping in view the fact that the respondents had issued the Notification dated 27.09.2011 and corrigendum dated 15.10.2012 before issuing the advertisement dated 20.12.2013 and wrongly mentioned the pay scale, both in the advertisement as well as in the appointment orders, the respondents are not precluded from rectifying their mistake and hence the aforesaid judgment is

not attracted to the facts of the present case.

14. Mr. Sparsh Bhushan, learned counsel representing the petitioners has laid emphasis on Notification dated 27.09.2012 (Annexure A-4), issued by the respondents, wherein the pay scale has been prescribed for the post of Junior Scale Stenographer as Rs.10,300-34,800/- + Rs.3,200/- Grade Pay with an initial start of Rs.13,500/-, but the said Notification cannot be made applicable to govern the service conditions of the petitioners, in view of the corrigendum dated 15.10.2012 (Annexure R-C).

15. The other judgment cited by learned counsel representing the petitioners passed by the Hon'ble Supreme Court in **Tej Prakash Pathak's** case (supra) is not attracted to the facts and circumstances of the present case, for the reason, that in the said judgment, it has been held that the rules of the game cannot be changed midway.

16. In the present case, the respondents did not change the rules in the midway. The respondents had

wrongly mentioned the pay scale while issuing the advertisement, unnoticed of the fact that earlier to the issuance of the advertisement notice, a corrigendum dated 15.10.2012 was issued, specifically prescribing the pay scale of Rs.5910-20200 + Rs.2800 Grade Pay for the post of Junior Scale Stenographer. Since the petitioners were subsequently issued the appointment orders unnoticed of the aforementioned pay scale as shown in the corrigendum, the petitioners cannot take any benefit of the fact that in the appointment letter, their pay scale has been mentioned as Rs.10,300-34,800/- + Rs.3,200/- Grade Pay. In case, the plea as advanced by learned counsel for the petitioners is accepted that the respondents on account of the promissory estoppel are estopped from rectifying the mistake, it will lead to chaos and the petitioners, who were not held entitled to the pay scale of Rs.10,300-34,800/- + Rs.3,200/- Grade Pay, will enjoy the benefits without any legal sanctity.

17. Learned counsel for the petitioners further argued that since there is no mistake on the part of the petitioners,

the recovery as contemplated and shown in the show cause notices cannot be effected from them. So far as this submission is concerned, it deserves merit for the reason that since there is neither any misrepresentation on the part of the petitioners nor they had played any fraud, the respondents cannot make any recovery from them. However, the respondents are right in reducing their pay scale and further granting them the fixed emoluments of Rs.8,710/- and the petitioners are not entitled for protection of their pay scale, which was wrongly mentioned in the advertisement as well as in their appointment orders.

18. It is not in dispute that the petitioners were offered the appointment on contract basis and as per the corrigendum dated 15.10.2012, the pay scale of the Junior Scale Stenographer has been fixed as Rs.5910-20200+Rs.2800 Grade Pay and as such the petitioners are not entitled to protect their pay scale.

19. Consequently, the present petition is partly

allowed to the extent that the respondents are restrained from making recovery of the amounts as shown in the show cause notices (Annexures A-6 colly) from the petitioners.

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

19th September, 2026

(ankit)

**(Jiya Lal Bhardwaj)
Judge**