

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 17300 of 2026

Decided on: 01.10.2026

Jitender Thakur and others Petitioners

Versus

State of Himachal Pradesh and others ... Respondents

Coram

Hon’ble Mr. Justice Ajay Mohan Goel, Judge

Hon’ble Mr. Justice Yogesh Jaswal, Judge

Whether approved for reporting?¹ Yes

For the petitioners : Mr. Desh Raj Thakur, Senior Advocate with Mr. Ravneet Kumar, Advocate.

For the respondents : Mr. Pushpender Jaswal, Additional Advocate General for respondents No. 1 and 2.

: Mr. Vikrant Thakur, Senior Advocate with Ms. Shivani Priya, Advocate for respondent No. 3.

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioners have *inter alia* prayed for the following reliefs:-

“(i) declare Rule 8(b) of the Department of Personnel, Secretariat Administration Services-I (Recruitment and Conditions of Service of Steno Typist, Group-C Employees) Rules, 2026 notified on 06.07.2026, entry (b) in column (iii) of Schedule-II, roster points 5 and 10 and the note below the

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

roster in so far as it relates to secondment, ultra vires Articles 14 and 16 of the Constitution of India and the proviso to Article 309 and strike them down.

(ii) issue a writ in the nature of certiorari quashing the letter No. Per (SAS-I) A(3)-3/2025 dated 31.08.2026 (Annexure P-15).

(iii) issue a writ in the nature of mandamus directing the respondents to fill all twenty posts of Steno Typist in the Himachal Pradesh Secretariat by direct recruitment under Rule 8(a) of the Rules.

(iv) In the alternative and without prejudice to the above, declare that no post of Steno Typist in the Secretariat can be filled on secondment except as a temporary arrangement for a fixed period pending direct recruitment and that no person so taken shall acquire any seniority or right in the cadre."

2. The petitioners claim that they are unemployed youth, who hold the requisite qualification for recruitment to the post of Steno-Typist, Group 'C' and their grievance is that, in terms of Notification dated 6th of July, 2026 (Annexure P-9), the Department of Personnel, Secretariat Administration Services-I, Government of Himachal Pradesh, has framed the rules regulating the method of recruitment and conditions of service of Steno-Typists, Group 'C'

employees of the Department of Personnel, Secretariat Administration Services-I, i.e., the Department of Personnel, Secretariat Administration Services-I (Recruitment and Conditions of Service of Steno-Typist, Group 'C' Employees) Rules, 2026, which are violative of Article 14 of the Constitution of India, as there is an arbitrary reservation of 20% of the posts to be filled on secondment basis, in terms of the detailed procedure as indicated in Schedule-II appended thereto, without any rationale.

3. Learned Senior Counsel appearing for the petitioners argued that the petitioners have a right of consideration against the posts in issue and as a result of the curtailment of the posts of Steno Typist Group-C in the H.P. Secretariat, to be filled in by way of direct recruitment to 80%, and further as a result of 20% posts being offered to be filled in on secondment basis, the right of the petitioners stands curtailed, who now will have to compete only against 80% of the total sanctioned strength. He argued that the mode of recruitment prescribed in the Rules, in terms whereof, 20% of the posts are to be filled in on secondment basis, is violative of Article 14 of the Constitution of India as the test of Article 14 of the Constitution, i.e., classification being based on intelligible differentia

and intelligible differentia having a nexus with the object sought to be achieved, is not fulfilled. Learned Senior Counsel also submitted that the Schedule also is conspicuously silent how the 20% posts are to be filled in on secondment basis. He further submitted that as the respondents have not carved out any difference in the qualifications, which are to be possessed/fulfilled by a person to be recruited through direct recruitment and on secondment basis, therefore also, it is not understood as to why 20% posts are reserved to be filled in on secondment basis. Learned Senior Counsel also referred to the judgment of the Hon'ble Supreme Court in *The State of Jammu and Kashmir vs. Shri Triloki Nath Khosa and others*, (1974) 1 Supreme Court Cases 19 to support his contentions.

4. On the other hand, learned Additional Advocate General and the learned Senior Counsel appearing for the respondent-Himachal Pradesh Public Service Commission have submitted that the present writ petition is completely misconceived, and the petitioners have no locus standi to file and maintain this petition. Learned Additional Advocate General argued that neither has any process been initiated to fill up any post in terms of Annexure P-9 by way of direct recruitment, nor the petitioners have applied for

appointment against the posts in issue. He submitted that simply because the petitioners possess the qualifications, which are otherwise mentioned in Annexure P-9 for direct recruitment to the post in issue, this does not confer upon them any locus standi to challenge the Recruitment and Promotion Rules in the mode and manner, in which, the same stand assailed by way of this writ petition. The learned Additional Advocate General further submitted that it is well-settled law that the framing of Recruitment and Promotion Rules, including conditions of service and qualifications, is a matter of policy and lies within the domain of the State. Hon'ble Supreme Court has categorically held that unless and until there is a flagrant violation of the provisions of the Constitution, the Courts are not to interfere with this domain of the employer. Learned Additional Advocate General argued that the foundation of the argument of the petitioners is totally ill-founded. He submitted that if the contention of the petitioners is accepted, then there will be no discretion vested with the Employer to choose more than one source of recruitment and every time, each post will have to be prescribed for direct recruitment only, at 100%. On the basis of these submissions, he submitted that since the present writ petition is

completely misconceived and the petitioners have no locus standi to file and maintain the present petition, the same deserves to be dismissed.

5. The learned Senior Counsel appearing for the respondent- Public Service Commission, while adopting the arguments of the learned Additional Advocate General, further argued that the method of recruitment prescribed in the notification under challenge is that 80% of the posts in issue are to be filled in by way of direct recruitment and 20% on secondment basis. By referring to the 2nd Schedule appended to the said Rules, learned Senior Counsel submitted that this 20% recruitment on secondment basis is to be drawn from amongst Steno Typists having five years of regular service, or regular combined with continuous *ad hoc* service, working in H.P. Government departments, Boards, or Corporations, failing which, by way of direct recruitment, meaning thereby that in terms of the Rules (Annexure P-9), 20% of the posts in issue, are to be filled in on secondment basis from amongst experienced incumbents, who have five years of regular service or regular combined with continuous *ad hoc* service. Thus, it cannot be said that the mode of recruitment to the posts in issue by way of 20% on

secondment basis is either arbitrary or violative of Article 14 of the Constitution. He submitted that the department has the discretion to determine the sources of recruitment and appointment on secondment basis, is a valid source of recruitment.

6. We have heard learned Senior Counsel appearing for the petitioners as also the learned Additional Advocate General and learned Senior Counsel for the respondent-Commission and carefully gone through the writ petition as well as documents appended therewith.

7. The petitioners aver that they are unemployed youth, holding Bachelor's degrees from a recognized University and are trained in shorthand and typing in English and Hindi. It is further their contention that they are eligible for direct recruitment to the post of Steno-Typist in the Himachal Pradesh Secretariat and will apply for the posts as and when advertised. Their grievance is with regard to Rule 8(b) of the impugned rules, in terms whereof, the post of Steno-Typist in the Secretariat is to be filled in 80% by way of direct recruitment and 20% on secondment basis.

8. The contention, as was raised by the learned Senior Counsel on behalf of the petitioners is that the filling up of 20% of

the posts of Steno-Typists on secondment basis is arbitrary and that 100% of recruitment should be made by way of direct recruitment.

9. We are of the considered view that this writ petition is completely misconceived. The petitioners, simply on the basis of the qualifications possessed by them, have no locus to file and maintain this writ petition, assailing the Recruitment and Promotion Rules to the extent that 20% of the posts prescribed therein are to be filled on secondment basis.

10. It is not in dispute that 80% of the posts, i.e., the post of Steno-Typist in the H.P. Secretariat, as per the rules, are to be filled in by way of direct recruitment. Meaning thereby that all eligible persons, which includes the petitioners also, have a right to compete for appointment from the open market as far as these 80% of posts are concerned.

11. The petitioners, however, are concentrating on this aspect of the matter that 20% of the posts stand prescribed to be filled in on secondment basis, which, according to the petitioners, cannot be done by the department and the department is bound to fill all the cadre posts by way of direct recruitment.

12. During the course of his submissions, the learned

Senior Counsel for the petitioners could not point out to any law which mandates that an Employer is under a legal obligation to fill up a post 100% by way of direct recruitment only and it does not has the prerogative to make recruitment against a post from more than one source.

13. An Employer has the prerogative to fill posts available with it either by way of direct recruitment or by way of promotion, or both by way of direct recruitment and promotion. Similarly, an Employer also has the prerogative to fill up the posts on secondment basis, provided the Rules so provide.

14. It is not the case of the petitioners that the Employer herein does not has any right in law to fill up the posts on secondment basis. Therefore, in light of this fact, in our considered view, the act of the respondent-department, of not offering 100% of the posts of Steno-Typists by way of direct recruitment, on this very count alone, is not amenable to any challenge. However, we may add a caveat here that if any rule is framed by the Government or the Employer whereby it introduces a mode of appointment to a post which is completely arbitrary, or which pricks the judicial conscious of the Court, then obviously, the Court can look into the matter and

quash such a rule. For example, if there is a rule that deals with the appointment of Doctors in the Health Department of the State and for that, the Government prescribes the qualification of L.L.B., then, obviously, the Court can intervene in the matter, because, by no stretch of imagination, a degree holder in law can be recruited against a post requiring a degree of MBBS.

15. Be that as it may, it is not the case here. In the present case, in terms of the Rules under challenge, 80% of the posts are to be filled in by way of direct recruitment as per Schedule-II, i.e., from amongst those who have a Bachelor's degree from a recognized University and possess the prescribed speed in shorthand and typing on Computer.

16. Incidentally, in terms of this rule, the posts to be filled on secondment basis, are to be filled in from amongst Steno-Typists, having five years of regular service, or regular combined with continuous ad-hoc service, working in H.P. Government Departments, Boards, and Corporations, who also possess the requisite qualifications. This means that the intent of the Employer is to have at least 20% of the posts to be filled from amongst persons who already have experience of five years of regular service or

regular combined with continuous ad-hoc service rendered as a Steno-Typist in Government Departments, Boards, or Corporations.

17. We do not find any arbitrariness or illegality in this act of the Government, as the rationale behind this 20% quota meant to be filled on secondment basis is amply clear and the intent and rationale is that the Government wants at least 20% of the posts to be manned by experienced hands.

18. This satisfies the test of Article 14 of the Constitution of India because there is an intelligible differentia between those who are recruited by way of direct recruitment and those who are appointed on secondment basis. The intelligible differentia is that whereas persons from the open market may be raw and without experience, the persons coming on secondment basis, will be having experience of working against the post in issue. Obviously, this intelligible differentia has a rationale and nexus with the object sought to be achieved, which is to have at least some staff in the office with prior experience.

19. Now, coming to the judgment relied upon by the learned Senior Counsel for the petitioner, i.e., *The State of Jammu and Kashmir vs. Shri Triloki Nath Khosa and others*, (1974) 1 Supreme

Court Cases 19. Learned Senior Counsel referred to paragraphs 31 to 33 thereof to substantiate his contentions. The basic premise of the arguments learned Senior Counsel was that because the educational qualifications both for direct recruitment and appointment on secondment basis are the same, therefore, there is no intelligible differentia between these two sources of recruitment.

20. Paras 31 to 33 of the judgment of the Hon'ble Supreme Court (*supra*) are being quoted herein below:-

“31. Classification, however, is fraught with the danger that it may produce artificial inequalities and therefore, the right to classify is hedged in with salient restraints; or else, the guarantee of equality will be submerged in class legislation masquerading as laws meant to govern well-marked classes characterized by different and distinct attainments. Classification, therefore, must be truly founded on substantial differences which distinguish person persons grouped together from those left out of the group and such differential attributes must bear a just and rational relation to the object sought to be achieved.

32. Judicial scrutiny can therefore extend only to the consideration whether the classification rests on a reasonable basis and whether it bears nexus with the object in view. It cannot extend to embarking upon a nice or mathematical evaluation of the basis of classification, for were such an inquiry permissible it would be

open to the Courts to substitute their own judgment for that of the legislature or the rule-making authority on the need to classify or the desirability of achieving a particular object.

33. *Judged from this point of view, it seems to us impossible to accept the respondents' submission that the classification of Assistant Engineers into degree-holders and diploma-holders rests on any unreal or unreasonable basis. The classification, according to the appellants, was made with a view to achieving administrative efficiency in the Engineering services. If this be the object, the classification is clearly co-related to it, for higher educational qualifications are at least presumptive evidence of a higher mental equipment. This is not to suggest that administrative efficiency can be achieved only through the medium of those possessing comparatively higher educational qualifications but that is beside the point. What is relevant is that the object to be achieved here is not a mere pretence for an indiscriminate imposition of inequalities and the classification cannot be characterized as arbitrary or absurd. That is the farthest that judicial scrutiny can extend."*

21. As far as the law laid down by the Hon'ble Supreme Court of India in the judgment relied upon by learned Senior Counsel for the petitioners is concerned, there is no dispute at all. However, we are afraid that the law laid down by the Hon'ble Supreme Court in the judgment being relied upon by learned Senior

Counsel for the petitioners does not come to the rescue of the petitioners.

22. In this case, 20% of the posts are not reserved to be filled in by way of promotion etc.. They are reserved to be filled in on secondment basis and that too from other departments, Boards and Corporations and obviously, until and unless, the qualifications being possessed by those who are to be appointed by way of direct recruitment and those who are to be appointed on secondment basis is not the same, there will be a qualitative difference in educational qualifications of said two categories, which otherwise would be violate Article 14 of the Constitution of India.

23. Here, as we have already observed herein above and was also submitted on behalf of the respondents, as the intent behind filling 20% of posts on secondment basis is to ensure that at least some of the posts are manned by persons with prior experience, therefore, this 20% quota, which is to be filled in on secondment basis, is not violative of Article 14 of the Constitution.

24. Before parting, we refer to the judgment of the Hon'ble Supreme Court in *P.U. Joshi and Others vs. Accountant General, Ahmedabad and others* reported in (2003) 2 SCC 632, In said

judgment, Hon'ble Supreme Court of India has, *inter alia*, held that questions relating to the constitution, pattern, nomenclature of posts, cadre, category, their creation, abolition, prescription of qualifications and other conditions of service, including avenues of promotion and criteria to be fulfilled for such promotion, pertain to the domain of policy. These fall within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India. It is not for statutory Tribunals to direct the State Government to adopt a particular method of recruitment, eligibility criteria, or avenues of promotion, nor to impose themselves by substituting their view for that of the State. Hon'ble Supreme Court also held that it is well open to and within the competence of the State to change the rules relating to service and to alter, amend, or vary by addition or subtraction the qualifications, eligibility criteria and other conditions of service, including avenues of promotion, from time to time as administrative exigencies may need or necessitate.

25. In *Chandigarh Administration through the Director Public Instructions (Colleges) Chandigarh vs. Usha Kheterpal Wale and others* (2011) 9 SCC 645, the Hon'ble Supreme Court held as under:

“22. It is now well settled that it is for the rulemaking authority or the appointing authority to prescribe the mode of selection and minimum qualification for any recruitment. The courts and tribunals can neither prescribe the qualifications nor entrench upon the power of the authority concerned so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of the Constitution, statute and rules. (See J. Ranga Swamy v. Govt. of A.P. and P.U. Joshi v. Accountant General). In the absence of any rules, under Article 309 or statute, the appellant had the power to appoint under its general power of administration and prescribe such eligibility criteria as it is considered to be necessary and reasonable. Therefore, it cannot be said that the prescription of PhD is unreasonable.”

26. Thus, it is evident from the said judgments of the Hon'ble Supreme Court that the framing of rules and their alteration etc. falls within the exclusive domain of the State and it is not for the Courts ordinarily to interfere with the domain of the State and unless the Court comes to the conclusion that a policy framed by the State in this regard is ultra vires.

27. In the present case, as already observed herein above, we do not find the Rule under challenge to be ultra vires or violative of Article 14 of the Constitution of India. According to us, the Rules

are self speaking and self explanatory with regard to the justification for filling up 20% of the posts in issue on secondment basis. We reiterate that according to us, otherwise also, the petitioners do not have any locus to file and maintain the present writ petition.

Accordingly, in light of the above discussion, we do not find any merit in the present petition and the same is dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

October 01, 2026
(narender)