IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.1767 of 2019
Decided on: 18th November, 2026

Narinder Singh ...Petitioner

versus

State of H.P. and others ...Respondents

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?[1] Yes.

For the petitioner:	**Mr. Dheeraj K. Verma, Advocate.**
For the respondents:	**Mr. Amandeep Sharma, Additional Advocate General.**

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner by way of present petition has prayed for the following substantive reliefs:-

> *"i. That in view of the Provisions of Notification/letters dated 01-09-1998* ***Annexure P-14, Annexure P-16****, dated 13-12-2000,* ***Annexure P-17*** *dated 9-01-2007 and* ***Annexure P-18*** *dated 11-4-2007 the orders passed by the Respondents vide impugned* ***Annexure P-15*** *dated 21-09-2010 may kindly be quashed and set aside and respondents may kindly be directed to place the Petitioner in the higher Scale of Rs. 4550-7220 with the designation as Technician Gd-1 w.e.f. 01-01-1996.*
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> *ii. That the office order dated 02-07-2002* ***Annexure P-23*** *issued on the basis of combined seniority list of different trades* ***Annexure P-24*** *may kindly be quashed and set aside as this seniority list has wrongly been drawn in contravention of the Notification issued on 30-08-1997* ***Annexure P-12****, and Notification dated* ***01-09-1998Annexure P-14 and 14A*** *as* ***Annexure P-12*** *provides that the trade/Job specification of the Mechanics were to be shown separately in the bracket and* ***Annexure P-14 and 14A*** *provides that the ratio as mentioned*

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

in column 5 of the Notification was to be applied trade wise separately for the placement in the higher scale.

iii. *That the Respondents may kindly be directed to draw the trade wise seniority separately as per the notification dated 01-09-1998* ***Annexure P-14 and 14A*** *and place the Petitioner in the higher scale of Rs. 4550-7220 w.e.f. 01-01-1996 in pursuance of the provisions of* ***Annexure P-16,P-17 and P-18*** *as he was the senior most in the trade of Mechanic cum Fitter of Machinery.*

iv. *That alternatively, if the joint Seniority of mechanic-cum-fitter is to be taken into account, in that event the Petitioner humbly prays that the respondents may kindly be directed to place the Petitioner in the higher scale from the date his junior was allowed the pay scale of Rs. 4550-7220 or at least from the date Shri Nihal Chand Mechanic-cum-fitter was retired from service w.e.f. 31-7-2004.Because as per combined seniority list the Petitioner is at serial No.4 and first 3 persons above him have already been granted the scale of Rs. 4550-7220. Therefore, on the retirement of Sh. Nihal Chand he was the senior most to be placed in the scale of Rs. 4550-7220.*

v. *That the Respondents may kindly be directed to grant all the consequential benefit to the petitioner i.e. Pay and allowance in accordance with law after fixing the Pay of the petitioner w.e.f.1-1-1996 or from the date Shri Nihal chand has been retired i.e. 31-07-2004."*

2. Shorn of unnecessary details, the key facts of the case are that the petitioner did his diploma in the trade of Turner in the year 1974. Thereafter, he was appointed on daily wage basis as Mechanic/Fitter in the Mechanical Sub-Division HPPWD Chamba, as is evident from a perusal of Annexure P-2. The petitioner being qualified for the post of Mechanic-cum-Fitter was recommended by the Departmental Promotion Committee (in short 'DPC') in its meeting held on 28.06.1978 for the post of Mechanic-cum-Fitter, as is evident from a perusal of letter dated 30.06.1978 (Annexure P-4) issued by respondent No.3 and appointment was offered to him vide

office order dated 12.07.1978 (Annexure P-5) on regular/work charge basis in the pay scale of Rs.100-160/- plus usual allowances. The petitioner was asked to look after and repair the various bulldozers, JCBs and air compressors vide office order dated 26.10.2006 (Annexure P-6).

3. The Government of Himachal Pradesh issued office Memorandum dated 14.01.1981 (Annexure P-8), whereby the Schedule earlier issued was amended and pay scale of the post of General Mechanic/Mechanic/Fitter, was revised from Rs.100-160/- to Rs.400-660/- and the nomenclature of the post was also changed as 'Mechanic'. Thereafter, the pay scale was again revised as per Notification dated 30.08.1997 (Annexure P-12) to Rs.950-1800/- with initial start of Rs.1000/- with effect from 01.01.1986. As per this Notification, various posts of skilled and semi-skilled categories including the post of Mechanic were designated as Junior Technician and further the irrespective trade/job specification were to be indicated in bracket i.e. Junior Technician (Plumber), (Painter) and so on.

4. The Government of Himachal Pradesh issued Notification on 01.09.1998 (Annexure P-14), when the Himachal Pradesh Civil Services (Revised Pay) Rules, 1998 were amended and the skilled and semi-skilled categories of Junior Technician,

Technician Grade-III and Technician Grade-II were granted the pay scale of Rs.3120-5160/-, Rs.4020-6200/- and Rs.4550-7220/- in the ratio of 50:30:20 respectively. Further, as per the ratio given in the second schedule mentioned in column No.5 against each category was to be followed for having posts of different levels of Technicians in each trade separately. If in a cadre, the existing posts of higher level/levels fall short of the norms, upgradation shall be done, so as to satisfy the general norms without exceeding the total strength.

5. The precise grievance of the petitioner is that he had joined the services on 12.07.1978 and was initially appointed as Mechanic-cum-Fitter in September, 1974 and deployed to lookafter the machinery with job specifications of fittings of parts and repair of machinery and since he was the senior most in his trade of Mechanic-cum-Fitter of light and heavy machinery, he was entitled to be placed in the pay scale of Rs.4550-7220/- instead of Rs.4020-6200/- as on 01.01.1996.The respondents did not place him in the pay scale of Rs.4550-7220/- and the placement of Mechanic-cum-Fitter with the trade of Motor Mechanic and Blacksmith in the scale of Rs.4550-7220/- is wrong and further the persons, who had joined after him such as S/Sh. Satish Kumar and Mahima Nand, Mechanic-cum-Fitter, having trade of Motor Mechanic with job specification as Motor Mechanic on 30.06.1987 and 26.10.1987 respectively were

placed in the pay scale of Rs.4550-7220/- on 01.08.2004 and 01.01.1996 and one Shri Atma Ram, who was in the trade of Blacksmith with job specification as Blacksmith and joined the regular service on 21.02.1992 has also been placed in the higher grade of Rs.4550-7220/- with effect from 01.01.1996. Since the petitioner was not given the benefit as per his trade/job specification, though he was senior most in the cadre of Mechanic-cum-Fitter of light and motor machinery, he was deprived of his placement in the higher pay scale of Rs.4550-7220/- with effect from 01.01.1996. Further, he has been discriminated by respondents No.3 and 4 by wrongly applying the provisions of the Notifications dated 30.08.1997 and 01.09.1998 (Annexures P-12 and P-14) respectively.

6. The petitioner feeling aggrieved by the action on the part of the respondents, had made a representation highlighting his grievances. However, the representation made by him was rejected by respondent No.3, vide letter dated 21.09.2010 (Annexure P-15), on the ground that as per the seniority list of Mechanic-cum-Fitter received from the Division, Shri Pritam Singh, Mechanic-cum-Fitter had joined the service on 11.07.1978, whereas the petitioner joined his service on 12.07.1978. Shri Pritam Singh was allowed the benefit of pay scale of Rs.4550-7220/- with effect from 01.01.1996 and the

petitioner was allowed the benefit of pay scale of Rs.4020-6200/- in the ratio of 20:30:50and there is no irregularity in the pay scale. It has further been averred that the respondents have wrongly rejected the representation and the placement in the pay scale of Rs.4550-7220/- cannot be treated as promotion.

7. The petitioner has placed on record the combined seniority list of Mechanic-cum-Fitters, wherein the employees have been allowed the pay scale of Rs.4550-7220/- to first three persons in the seniority and pay scale of Rs.4020-6200/- to next four persons having the designation of Mechanic-cum-Fitter. The respondents have drawn combined seniority list of Mechanic-cum-Fitters with different trades, which is against the orders issued by the respondents. Since the petitioner has not been granted the higher pay scale of Rs.4550-7220/- preferred the present petition.

8. The petitioner feeling aggrieved by non-grant of the pay scale of Rs.4550-7220/- to him has approached this Court by way of instant petition *inter alia* on the grounds that as per the Notification dated 30.08.1997, each category shall be followed for having posts of different levels of Technicians in each grade separately and the respondents have not followed the said norms. The petitioner has wrongly been paid the pay scale of Rs.4020-6200/- instead of Rs.4550-7220/-. He has further averred that S/Sh.Satish Kumar and

Mahima Nand, Technicians with Motor Mechanic trade, who had joined the services on 30.06.1987 and 26.10.1987 respectively and Shri Atma Ram Blacksmith, who had joined the service in the year 1992 were allowed the benefit of higher pay scale of Rs.4550-7220 with designation as Technician Grade-I, whereas, the petitioner, who was appointed as Mechanic-cum-Fitter on 12.07.1978, has been denied the said pay scale, which is illegal and as such prayed for the abovesaid reliefs.

9. The respondents filed reply to the petition and in preliminary submissions averred that the petitioner was engaged with the respondent-Department during the year 1974 as daily waged Mechanic-cum-Fitter having a diploma of Turner from Industrial Training Institute, Chamba and continued as such till his regularization on 30.06.1978 in the pay scale of Rs.100-160/- and thereafter, in the revised corresponding pay scales revised by the Government of Himachal Pradesh from time to time. After the implementation of pay revision in 1996, several skilled and semi-skilled categories were re-designated as Junior Technician, Technician Grade-III and Technician Grade-II and 29 such categories were given ascending pay scale in the ratio of 50:30:20 and 20% employees of the cadre in the pyramid receiving highest pay scale. As per Notification of the Finance Department

No.Fin(PR)B(7)-1/98 dated 01.09.1998, the Junior Technicians, who were getting the pay scale of Rs.950-1800/- were granted the pay scale of Rs.3120-5160/-, Technician Grade-III pay scale of Rs.4020-6200/- and Technician Grade-II pay scale of Rs.4550-7220/- in the ratio of 50:30:20 respectively. Rules notified on 05.05.1995 with respect to Mechanic-cum-Fitter Grade-I (Fitter Grade-IV, Diesel Auto Motor Mechanic, Mechanic-cum-Fitter) were repealed and new Rules were framed under category of Junior Technician, vide Notification dated 02.08.2011 and the mode of promotion under the Rules has been provided 40% by direct recruitment on regular basis or on contract basis and 60% by promotion. Thus, with effect from 01.01.1996, the cadre of Junior Technician (Mechanic-cum-Fitter Grade-I) has been bifurcated in the ratio of 20:30:50. According to the Notification, 20% Technicians shall be placed in the pay scale of Rs.4550-7220/- with designation as Technician Grade-I, 30% in the higher scale of Rs.4020-6200/- with designation as Technician Grade-II and remaining 50% in the pay scale of Rs.3120-5160/- with designation as Junior Technician in the trade. The placement is to be done strictly on the basis of seniority of the incumbent as Junior Technician (Mechanic). As per the seniority list of Mechanic-cum-Fitter drawn on 01.01.1996, the petitioner in fact is junior to one Shri Pritam Singh Mechanic-cum-Fitter, because he has joined

the respondent-Department on 12.07.1978 and Shri Pritam Singh joined on 11.07.1978. As per the Notification of 01.01.1996, Shri Pritam Singh has been allowed the pay scale of Rs.4550-7220/- being senior to the petitioner, whereas, the petitioner has been placed in the pay scale of Rs.4020-6200 in the ratio of 20:30:50. The petitioner is not entitled to the post of Mechanic-cum-Fitter Grade-I, because as per the provisions of R&P Rules, he does not possess the requisite qualification of Motor Mechanic, which fact has already been explained in Annexure P-15 appended with the petition. However, the petitioner has now been granted the pay scale of Mechanic-cum-Fitter Grade-I now Technician Grade-I of Rs.10300-34800/- with effect from 01.10.2012 by the Executive Engineer, Chamba Division vide office order dated 12.04.2013 (Annexure R-1) and has been placed as Technician Grade-I in the pre-revised scale of Rs.4550-7220 and placed in the pay scale of Rs.10300-34800/- with effect from 01.10.2012.

10. On merits, the similar averments have been reiterated. It has further been averred that though S/Sh. Satish Kumar and Mahima Nand were junior to the petitioner, but they were having diploma in Motor Mechanic at the relevant time, whereas the petitioner is having diploma in Turner and since he does not possess the requisite qualification as per the provisions of R&P Rules, he is

not entitled to higher pay scale of Technician Grade-II and as such dismissal of the writ petition has been prayed for by the respondents.

11. The petitioner filed rejoinder to the reply filed by the respondents and controverted the facts.

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

13. As per the reply filed by the respondents, the petitioner was engaged with the respondent-Department in the year 1974 as a daily wage Mechanic-cum-Fitter having diploma of Turner and continued as such till his regularization on 30.06.1978. Though, in the rejection order dated 21.09.2010 (Annexure P-15), it has been mentioned that the petitioner had joined on 12.07.1978 and Shri Pritam Singh Mechanic-cum-Fitter had joined on 11.07.1978, but once the respondents in the reply have admitted that the petitioner was regularized on 30.06.1978, he cannot be said to be junior to Shri Pritam Singh Mechanic-cum-Fitter, simply on the basis of his joining. The petitioner was already serving with the respondent-Department since 1974 which fact has not been denied. As per the Notification dated 01.09.1998, the categories of skilled and semi-skilled were classified as Junior Technicians, Technician Grade-III and Technician Grade-II and were granted the pay scale of Rs.3120-

5160/-, Rs.4020-6200/- and Rs.4550-7220 in the ratio of 50:30:20 and the ratio as given in the column No.5 against each category shall be followed for having posts of different levels of Technicians in each trade separately. The petitioner, who was appointed as Mechanic as per the recommendations of the DPC convened on 28.06.1978 as Mechanic-cum-Fitter, could not have been denied the pay scale of Rs.4550-7220/- by not classifying his category as per the *ibid* Notification even if his past service rendered w.e.f. September, 1974 is ignored.

14. The respondents while filing reply to the petition have not disputed the averments made in para 8 of the petition wherein it has specifically been mentioned that S/Sh. Satish Kumar and Mahima Nand, Mechanic-cum-Fitter having trade of Motor Mechanic with job specification as Motor Mechanic, who joined the Department on 30.06.1987 and 26.10.1987 respectively have been granted the pay scale of Rs.4550-7220/- on 01.08.2004 and 01.01.1996 respectively and one Shri Atma Ram, who was in the trade of Blacksmith with job specification as Blacksmith and joined regular service on 21.02.1992 has also been placed in the higher grade pay of Rs.4550-7220/- with effect from 01.01.1996. In reply to paras 15 and 16 of the petition, the respondents have admitted that as on 01.01.1996, though S/Sh. Satish Kumar and Mahima

Nand were junior to the petitioner, but they have the diploma in Motor Mechanic at the relevant time, whereas the petitioner was having the diploma of Turner. Since the petitioner was not possessing the requisite qualification as per the provision of the R&P Rules, he was not entitled to higher pay scale of Technician Grade-I. However, he became eligible to higher pay scale of Technician Grade-I w.e.f. 01.10.2012, which stood granted to him as per office order dated 12.04.2013.

15. As per the Notification dated 01.09.1998(Annexure P-14), when the Himachal Pradesh Civil Services (Revised Pay) Rules, 1998 were amended, the pay scale was not given on the basis of the qualification of the Junior Technicians, but it was given on the basis of the cadre strength of the Junior Technicians in the ratio of 50:30:20. Earlier the post of Junior Technician was classified as Junior Technician, Technician Grade-III and Technician Grade-II in the pay scale of Rs.3120-5160, 4020-6200 and 4550-7220 in the ratio of 50:30:20. However, later on these posts were classified as Junior Technician, Technician Grade-II and Technician Grade-I in the pay scale of Rs.3120-5160, Rs.4020-6200 and Rs.4550-7220/- in the same ratio of 50:30:20. Once the pay scale was based on the cadre strength and not on the basis of the qualification, as now projected by the respondents in the reply, the petitioner had joined

earlier to S/Sh. Satish Kumar and Mahima Nand, who are admittedly junior to him and, therefore, he could not have been denied the pay scale of Rs.4550-7220/- as granted to S/Sh. Satish Kumar and Mahima Nand.

16. The respondents have not even disputed the proforma placed by the petitioner along with Annexure P-15 (at page 82),in which Sh. Satish Kumar and Mahima Nand have been shown to have joined the services on 30.06.1987 and 26.10.1987 respectively and they have been granted the pay scale of Rs.4550-7220/- with effect from 01.01.1996 and 01.08.2004respectively. Even Atma Ram, who is at serial No.10 in this proforma, was appointed as Blacksmith on 01.02.1992 and he too, was granted the pay scale of Rs.4550-7220/-. Since S/Sh. Satish Kumar and Mahima Nand, who were appointed as Mechanic-cum-Fitter after the petitioner, having been granted the pay scale of Rs.4550-7220/-, the petitioner who admittedly joined the respondent-Department prior to them could not have been denied the said pay scale and thus, the action on the part of the respondents to deny the pay scale of Rs.4550-7220/- to the petitioner and further rejecting his representation is illegal, arbitrary and discriminatory.

17. Learned counsel for the petitioner has placed reliance upon the judgments of the Hon'ble Supreme Court in **Gurcharan**

Singh Grewal and another vs. **Punjab State Electricity Board & others, (2009) 3 SCC 94** and **Union of India and others** vs. **C.R. Madhava Murthy and another, (2022) 6 SCC 183** and contends that once the petitioner had joined the respondent-Department earlier to S/Sh. Satish Kumar and Mahima Nand and is senior to them, he could not have been granted the less pay scale.

18. As per the aforementioned judgments, it has been held that a senior cannot be paid lesser salary than the junior and in the present case, once the respondents have not disputed the factum of appointments of S/Sh. Satish Kumar and Mahima Nand after the petitioner and they are junior to him, he could not have been denied the pay scale of Rs.4550-7220/- as was given to them and as such, the petitioner is held entitled to the pay scale of Rs.4550-7220/- instead of Rs.4020-6200/-with effect from 01.01.1996, when this pay scale was given to his junior.

19. Learned Additional Advocate General has vehemently argued that since the petitioner was not having the requisite qualification and S/Sh. Satish Kumar and Mahima Nand, though were junior to him, but were having diploma in Motor Mechanic, were granted the pay scale of Rs.4550-7220/-. However, the said contention cannot be accepted for the simple reason that as per the Notification dated 01.09.1998, it is not stipulated that the pay scale

of Rs.4550-7220/- has to be given on the basis of the qualification as now portrayed in the reply as well as in the arguments advanced by learned Additional Advocate General. The pay scales of Rs.3120-5160/-, Rs.4020-6200/- and Rs.4550-7220/- are given to the Junior Technician in the ratio of 50:30:20 on the basis of the seniority of Junior Technicians. The senior most Junior Technicians, who are designated as Technicians Grade-I, are given the pay scale of Rs.4550-7220/-in the ratio of 20%, thereafter the Junior Technicians, who are designated as Technicians Grade-II are given the pay scale of Rs.4020-6200/- in the ratio of 30% and rest of the Junior Technicians are given the pay scale of Rs.3120-5160/-. The above pay scales are not given on the basis of the qualification and as such, the contention raised by the learned Additional Advocate General that the pay scale of Rs.4550-7220/- was to be given on the basis of qualification as prescribed in the R&P Rules is ill founded and thus rejected.

20. Learned Additional Advocate General has further strenuously argued that since the petitioner was junior to Shri Pritam Singh, he is not entitled to the pay scale of Rs.4550-7220/-. However, the said contention cannot be accepted for the reason that the respondents while filing reply to the petition have admitted that other persons namely S/Sh. Satish Kumar, Mahima Nand,

Mechanic-cum-Fitter and Atma Ram Blacksmith, who were appointed after the petitioner were granted the pay scale of Rs.4550-7220. Once juniors to the petitioner have been granted higher pay scale, the petitioner cannot be given less pay scale and thus, the respondents have treated the petitioner arbitrarily and discriminatorily. Therefore, rejection of his claim vide order dated 21.09.2019 is wrong and illegal and as such, the impugned order is quashed and set aside.

21. Consequently, the present petition is partly allowed and the order dated 21.09.2010 (Annexure P-15) is quashed and set aside and the respondents are directed to grant the petitioner the pay scale of Rs.4550-7220/- with effect from 01.01.1996 with all consequential benefits, except the monetary benefits, which shall be paid to him three years prior to the date of institution of the present petition. In case, the arrears are not paid to the petitioner within a period of three months from today, the respondents shall pay interest thereon at the rate of 6% per annum from today till actual payment. No order as to costs. Pending applications, if any, also stand disposed of.

(**Jiya Lal Bhardwaj**)
Judge

18th November, 2026
(naveen)