IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPOA No.4494 of 2019
Decided on: 05.01.2026

Manohar Lal ...Petitioner

Versus

H.P. State Industrial Development Corporation (HPSIDC) & Another ...Respondents

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Coram
Hon'ble Mr. Justice Ranjan Sharma, Judge
[1]*Whether approved for reporting?. Yes.*

For the petitioner: Mr. Neel Kamal Sharma, Advocate.

For the respondents: Mr. Vivek Sharma, Advocate.

Ranjan Sharma, Judge *[Oral]*

Petitioner, Manohar Lal, had filed CWP No.5733 of 2014 before this Court and upon establishment of State Administrative Tribunal, the matter was transferred to the Tribunal and now upon its abolition, the same has been transferred to this Court, as *CWPOA No.4494 of 2019,* seeking the following relief(s):-

> "(i). That the writ of mandamus may kindly be issued directing the respondents Corporation to promote the petitioner for the post of Junior Engineer w.e.f. the juniors are promoted."

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

2. Case set up by Learned Counsel is that the petitioner possesses the Diploma in Agricultural Engineering from Government Polytechnic Sirsa Haryana and he was engaged as a Daily Waged Supervisor in Respondent-Corporation. It is averred that on 01.10.2009, the petitioner submitted a representation for considering his case for promotion to the post of Junior Engineer from the feeder cadre of Supervisor [re-named as Work Inspector] but the case was rejected on 19.02.2010 *[Annexure P-4]* on the ground that no vacant post of Junior Engineer was available.

2(i). Feeling aggrieved against the Rejection Orders dated 19.02.2010 *[Annexure P-4]* the petitioner submitted a representation on 14.01.2013 *[Annexure P-3]* followed by a legal notice on 18.11.2013 requesting to consider his case for promotion to the post of Junior Engineer but in vain. It is averred that though the petitioner is eligible for the post of Junior Engineer from amongst the feeder grade of Supervisor/Work Inspector but the

respondents directed the petitioner to establish that the Diploma in Agricultural Engineering was equivalent to Diploma in Civil Engineering vide letter dated 02.12.2013 *[Annexure P-5],* so as to consider his case for promotion to the post of Junor Engineer (Civil) in Respondent-Corporation.

In this backdrop, the petitioner has come up before this Court seeking a direction to the Respondent-Corporation to consider his case for promotion to the post of Junior Engineer (Civil) in accordance with the Recruitment & Promotion Rules.

STAND OF RESPONDENTS-CORPORATION IN REPLY-AFFIDAVIT:

3. Pursuant to the issuance of notice on 04.09.2014, Respondent-Corporation has filed a Reply-Affidavit dated 03.12.2014 of Manager Administration [Himachal Pradesh State Industrial Development Corporation Limited Shimla].

3(i). Reply-Affidavit indicates that there is no provision in the Recruitment and Promotion Rules for post of Junior Engineer (Civil) which entitles a person possessing Diploma in Agricultural Engineering *[Annexure R-1]* to be considered for

promotion under the said Rules. Paras 3 & 5 of Reply-Affidavit indicate that petitioner is working as a Supervisor [renamed as Work Inspector] in Respondent-Corporation at Hamirpur. Reply-Affidavit indicates that as per the Recruitment & Promotion Rules of 2007 *[Annexure R-2]* the provision of Rule 11 (iv) provided that 2.5% posts in cadre of Junior Engineer were to be filled from Supervisor/Work Inspectors.

3(ii). Reply-Affidavit further shows that since no vacancy was available on earlier occasions, therefore, the petitioner was not considered. However, Reply-Affidavit indicates that the petitioner will be considered, subject to his eligibility in accordance with the Recruitment & Promotion Rules. Reply-Affidavit further indicates that Diploma in Agricultural Engineering possessed by the petitioner is not equivalent to the Diploma in Civil Engineering as required under the Rules. In this backdrop, Respondent-Corporation has prayed for dismissal of the writ petitioner.

REBUTTAL BY PETITIONER:

4. Petitioner has filed rejoinder, rebutting the stand taken by the Respondent-Corporation in the Reply-Affidavit.

4(i). Petitioner has stated in rejoinder that the factum that the Diploma in Agricultural Engineering is not equivalent to Diploma in Civil Engineering as required under Recruitment and Promotion Rules cannot stand in the way of the petitioner for being considered for promotion to post of Junior Engineer in accordance with Rule 11 (viii) of existing Rules of 2012 [Annexure AR-5]. Petitioner has reiterated that the petitioner joined as Work Inspector/Supervisor on daily wage basis in 1994 and he was regularized as Supervisor [Work Inspector] in March 2002 and the petitioner had completed requisite 15 years service in the feeder category of Supervisor/Work Inspector in March 2017. It is averred that on completion of 15 years service, the petitioner became eligible but the non-consideration of his case for promotion to the post of Junior Engineer (Civil) despite his eligibility in March 2017 is not in

conformity with law and therefore, the claim of the petitioner deserves to be considered for promotion as Senior Engineer (Civil).

5. Heard Mr. Neel Kamal Sharma, Learned Counsel for the petitioner, and Mr. Vivek Sharma, and have gone through the material available on record.

ANALYSIS:

6. Taking into account of the facts and circumstances and the material on record, this Court is of the considered view that the denial of consideration for promotion to the post of Junior Engineer (Civil), under Rule 11(vii) of the Rules *[Annexure AR-5]* cannot sustain, *for the following reasons:*

6(i). Perusal of the Recruitment and Promotion Rules indicates that the promotional post of Junior Engineer (Civil) is to be filled by the Respondent-Corporation by adopting and following the Recruitment and Promotion Rules issued by Public Works Department on 24.01.2007 *[Annexure R-2].* However, the Public Works Department notified the

New Rules on 25.08.2012 *[Annexure AR-5]* which reads as under:-

Annexure-AR-5

RECRUITMENT AND PROMOTION RULES FOR THE POST OF JUNIOR ENGINEER (CIVIL) CLASS-III (NON-GAZETTED), IN THE DEPARTMENT OF PUBLIC WORKS, HIMACHAL PRADESH.

1.	Name of post	Junior Engineer (Civil)
2.	Number of the posts	1042 (ONE THOUSAND FORTY TWO)
3.	Classification	Class-III (Non-Gazetted)
4.	Scale of Pay	i) Pay for regular incumbents: Pay Band Rs.10300-34800 plus Grade Pay of Rs.3800/- ii) Emoluments for Contract employees: Rs.14,100 PM as per details given in Col.15-A.
5. & 6.	**... not relevant ...**	
7.	Minimum educational and other qualifications required for direct recruit(s)	**Essential Qualifications:** i). Should have passed 10+2 Examination or its equivalent from a recognized Board/University. ii). Diploma in Civil Engineering or its equivalent from an Institution/University duly recognized by the Central or State Government. **Desirable Qualifications:** Knowledge of customs, manners and dialects of Himachal Pradesh and suitability for appointment in the peculiar conditions prevailing in the Pradesh.
8.	Whether age and educational qualification(s) prescribed for direct recruit(s) will apply in the	**Age:** Not applicable. **Educational Qualification:** As prescribed in Col. No.11 below.

	case of the promotee(s)	
9. & 10	**... not relevant ...**	
25% By Promotion		
11.	In case of recruitment by promotion, deputation, transfer, grade from which promotion/deputation/transfer is to be made.	i) By promotion from amongst the Surveyor having Degree in Civil Engineering or its equivalent from an Institution/University duly recognized by the Central or State Government with 2 years regular service or regular combined with continuous adhoc service rendered, if any, in the grade, failing which the quota will go to Column 11 (ii) below. ... 0.5%
		(ii) & (iii) **not relevant**
		iv) By promotion from amongst the Work Inspector having three years Diploma in Civil Engineering or its equivalent from and Institute/University duly recognized by the State/Central Government *with* 3 years regular service or regular combined with continuous adhoc service rendered, if any, in the grade, failing which the quota will go to Column 11 (v) below. ... 3.5%
		(v) **not relevant**
		vi)By promotion from amongst the Work Inspector having two years ITI Course in the trade of Surveyors/ Draughtsman (Civil) or its equivalent from an ITI/Institution duly recognized by the Central or State Government with 12 years regular service or regular combined with continuous adhoc service rendered, if any, in the grade, failing which the

		quota will go to Column 11 (vii) below. ... 4.5%
		vii) From the Work Inspector, who are matriculates or posses its equivalent recognized qualification *with* at least 15 years of regular service or regular combined with continuous adhoc service rendered, if any, in the grade *and* completed successfully the prescribed Departmental training course of 06 months duration, failing which the quota will go to Column 11 (i) above. ... 4%

Petitioner joined as a Supervisor [re-named as Work Inspector] in the Respondent-Corporation in the year 1994. After serving as a daily wager, the petitioner was regularized as Supervisor [re-named as Work Inspector] in March, 2002 and the petitioner completed 15 years of service as Supervisor/Work Inspector in March, 2017. Petitioner was also a matriculate. Indisputably, the Respondent-Corporation did not take any steps for sending the feeder category employees i.e. Supervisors/Work Inspectors for six months departmental training or any other like training. In these circumstances, once the petitioner was a matriculate and had rendered 15

years regular service as Supervisor/Work Inspector in March 2017 and since no departmental training was undertaken nor was the petitioner sponsored for training therefore, the action of the State Authorities in neither considering nor in promoting the petitioner as Junior Engineer (Civil) since his eligibility in March, 2017 till day is uncalled for. The action of Respondents in keeping the consideration of the case of petitioner for promotion in abeyance tends to defeat the fundamental right of consideration for promotion contemplated under Articles 14 and 16 of the Constitution of India.

6(ii). Perusal of the Recruitment and Promotion Rules for the post of Junior Engineer (Civil) notified by the Himachal Pradesh Public Works Department on 25.08.2012 *[Annexure AR-5],* which have been adopted and are followed by the Respondent-Corporation for making promotion to the post of Junior Engineer in the Respondent-Corporation indicates that as per Rule 11, the promotional post of Junior Engineer (Civil) is to be filled up from amongst the Surveyors and Work Inspectors who possess

Degree in Civil Engineering or are ITI in the respective trade of Surveyor, under Rule 11(i) to (vi) said Rules [hereinafter referred to as **Qualified Feeder Categories of Surveyors and Work Inspectors**]. In addition, the promotional post of Junior Engineer (Civil) is to be filled-up from Work Inspectors who are matriculate with at least 15 years of regular service or regular combined with continuous *adhoc* service in the grade and have successfully completed the departmental training course of six months duration [hereinafter, referred to as **Unqualified Feeder Category of Work Inspectors**]. In the instant case, the claim of the petitioner for promotion as Junior Engineer (Civil) is not against the quota under Rule 11(i) to (vi) meant for Qualified Feeder Categories of Surveyor/Work Inspector but the claim of the petitioner is for promotion as Junior Engineer (Civil) against 4% quota under Rule 11 (vii) meant for Unqualified Feeder Category of Work Inspectors/ Supervisors, as reproduced hereinabove.

In the backdrop of Rule 11(vii) of 2012 Rule

[Annexure AR-5], once the petitioner is a matriculate and has rendered 15 years of regular service as Supervisor/Work Inspector coupled with the fact that Respondent-Corporation has neither conducted six months training nor sponsored the petitioner and other Supervisors/Work Inspectors for six months departmental training, therefore, the requirements of training cannot be invoked or pressed to the disadvantage of the petitioner by the Respondent-Corporation, so as to disentitle him for consideration for promotion.

6(iii). Respondent-Corporation has denied the claim of the petitioner for promotion to the post of Junior Engineer (Civil), on the ground, that the qualification of Diploma in Agricultural Engineering cannot be treated as equivalent to the qualification of Diploma in Civil Engineering.

The above plea of the Respondent-Corporation cannot be invoked, in the instant case for the reason, that the petitioner is not claiming consideration for promotion under Rule 11(iv) on the basis of qualification of Diploma in Civil Engineering

but the petitioner has based a case on the qualification of matriculation with 15 years regular service as Supervisor/Work Inspector as per Rule 11(vii) of the Rules of 2012 *[Annexure R-5]* wherein, there is no requirement of Diploma in Civil Engineering as alleged by the Respondent-Corporation. Action of the Respondent-Corporation that the petitioner does not possess the qualification of Diploma in Civil Engineering amounts to carving out an ineligibility on extraneous considerations when, a combined reading of Rules 7 & 8 read with Rule 11 (vii) of the Rules 2012, indicates that, in case the feeder category employees are Supervisors/Work Inspectors who were matriculates and have completed 15 years of service [belonging to Unqualified Feeder Category] then, for them, the requirement of educational qualification of Diploma in Civil Engineering was not necessary; and the incumbents were to be considered for promotion on the basis of matriculation and 15 years service, which were recognized as relevant consideration under 4% quota under Rule 11 (vii). In this backdrop,

the stand of the Respondent-Corporation in carving out ineligibility dehors the Rules cannot sustain. Accordingly, the petitioner is held entitled to be considered for promotion as Junior Engineer (Civil) from the date of eligibility in March, 2017 onwards.

6(iv). Based on the factual matrix and the discussion and the fact that the petitioner became eligible to be considered for promotion as Junior Engineer (Civil) against the 4% quota meant for Work Inspectors/Supervisors under Rule 11 (vii) in the Rules of 2012 *[Annexure AR-5]* in March 2017 then, once the Respondent-Corporation has not considered the claim of the petitioner for promotion as Junior Engineer (Civil) despite his eligibility and entitlement then, this Court in view of the entitlement, directs the Respondent-Corporation to consider the petitioner for promotion as Junior Engineer (Civil) against the vacancy falling under 4% quota under Rules 11 (vii) of 2012 Rules *[Annexure AR-5]* and/or against existing vacancy of Junior Engineer (Civil) on the date of gaining eligibility in March, 2017 and/or by adjusting the

rights of petitioner against existing vacancy from due date; but by considering all eligibles in accordance with law from due date, with all service benefits.

DIRECTIONS:

7. In view of above discussion and for the reasons recorded hereinabove, the instant petition is **allowed** *in the following terms:*

(i). Respondent-Corporation is directed to consider the case of the petitioner for promotion as Junior Engineer (Civil) under 4% quota as per Rule 11(vii) of the Recruitment & Promotion Rules dated 25.08.2012 *[Annexure R-5]* from date of eligibility in March, 2017 or from the date vacancy in 4% quota became available [whichever is beneficial], within two months from today;

(ii). Upon consideration, in case, the petitioner is found fit for promotion as Junior Engineer (Civil) under Rule 11 (vii); the resultant promotion be granted with all consequential benefits within above period;

(iii). Respondent-Corporation shall consider the petitioner for promotion as Civil Engineer (Civil); without insisting for six months departmental training as in

Rule 11 (vii); which was never conducted by the Corporation;

(v). Parties to bear respective costs.

In aforesaid terms, the instant petition, along with all pending miscellaneous application(s), if any, stands disposed of, accordingly.

(Ranjan Sharma)
Judge

January 05, 2026
[Shivender]