IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWPOA No.7807 of 2019
Reserved on: 09.04.2026
Decided on: 27.04.2026

Inder Pal **...Petitioner**

Versus

State of Himachal Pradesh and others **...Respondents**

Coram
Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge
Whether approved for reporting?[1]

For the petitioner:	Mr. Dinesh Thakur, Advocate.
For the respondents:	Mr. Amandeep Sharma, Additional Advocate General, for respondents No.1 to 3-State.
	Mr. Vikrant Thakur, Advocate, for respondents No.4 to 9, 13 and 14.
	Respondents No.10 to 12 proceeded against ex parte vide order dated 07.01.2022.
	Respondents No.15 and 16 proceeded against ex parte vide order dated 20.09.2021.

Jiya Lal Bhardwaj, Judge

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

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

> *"i) That rejection letter dated 03.02.2007 and seniority lists as it stood on 31.12.2014 and 31.12.2015 may kindly be quashed and set aside and respondents may be directed to show the applicant over and above the private respondents with all consequential benefits.*
>
> *ii) That in case any promotions are made to the post of Naib Tehsildar/Tehsildar on the basis of impugned seniority lists the same may be quashed and set aside and thereafter respondents may be directed to hold review DPC and applicant may be promoted on the basis of those recommendations made by DPC with all consequential benefits."*

2. Shorn of unnecessary details, the key facts of the case are that the petitioner was appointed as a Patwari against the category of Scheduled Tribe. However, he was shown at Sr. No.23 in the merit list of selected candidates dated 28.05.1989 (Annexure A-1). Respondent No.4 was shown to be at Sr. No.4 in the select list, though he did not belong to Scheduled Tribe category, as per his own admission before the competent authority. No steps were taken by the respondents-State to substitute name of respondent No.4, though he made a representation dated 08.06.1989 (Annexure A-2).

3. The petitioner was promoted as Kanungo on 20.03.2004, on the basis of his being from Scheduled Tribe category, as evident from a perusal of final seniority list of Kanungos for District Bilaspur, Himachal Pradesh for the year 2006-2007, dated 28.08.2007 (Annexure A-3), issued by respondent No.3. In the seniority list issued for the year 2012-2013, the petitioner was shown at Sr. No.24 and confirmed as Kanungo w.e.f. 01.01.2007. The “Remarks” column in the said seniority list shows that he belongs to Schedule Tribe category (Page 25). It is only in the year 2015, that the respondent-State had issued the final seniority list of Kanungos, and persons junior to the petitioner have been placed above him, though the juniors were promoted in the year 2010, whereas, the petitioner was promoted in the year 2004. The seniority of the petitioner has been changed due to instructions dated 27.05.1996 and the petitioner immediately represented to the competent authority stating that the

instructions dated 27.05.1996 are not applicable to his case, since he was appointed from Schedule Tribe category and was required to be shown at Sr. No.4.

4. It has been averred that the petitioner had earlier made a representation dated 02.08.2006 (Annexure A-6), which came to be rejected on 03.02.2007 (Annexure A-7) (Page-94). The grievance of the petitioner in the present petition is that the respondent-State has not taken any steps to correct the seniority in the cadre of Kanungo and fixation of seniority of the petitioner on the basis of the instructions dated 27.05.1996, is not only illegal, but also patently against the rules and instructions. Instead of correcting the record, the respondent-State had rejected the claim of the petitioner in the year 2007.

5. Respondents No.1 to 3-State filed reply to the petition and averred that the petition is not maintainable since the petitioner has concealed material facts. The

petitioner was rightly awarded roster point No.24, as Scheduled Tribe IRDP candidate in the year 1988-89, when he was selected as a Patwari candidate and roster point No.4 in the same list had to be assigned to a Scheduled Tribe candidate and not to a Scheduled Tribe IRDP candidate, to which the petitioner belongs. The petitioner had represented his case before the District Collector, which was considered and rejected by him vide order dated 03.02.2007. The petitioner has failed to either represent the matter before the next higher authority or before any competent Court, against order of rejection of his representation dated 03.02.2007. After a lapse of 9 years, he has again raised the issue of seniority list, which is annually prepared and circulated.

6. The petitioner was erroneously promoted as Kanungo in the year 2004 against Scheduled Tribe category, as there was already a Kanungo candidate of the said category in that year and the percentage, as per roster point

for Scheduled Tribe candidate 1.75, did not permit promotion of any other candidate of Scheduled Tribe category. The petitioner was promoted as Kanungo in the year 2004 and was rightly awarded his place in the final seniority list of Kanungos, issued in the year 2015, as per instructions dated 27.05.1996. Further the petitioner had already sought benefit at the time of induction and the same benefit cannot again be extended to him.

7. Respondent Nos.4 to 9 & 13 and 14 filed their reply and raised preliminary submissions that the petitioner has not approached the Court with clean hands; the petition is not maintainable inasmuch as he had intentionally concealed the very factum that on 02.08.2006, he had made a representation to the District Collector against his wrong placement in the selection list of Patwari candidates in the year 1989, which was duly considered and rejected on 03.02.2007. The roster point No.4 in the same list had to be

assigned to a Scheduled Tribe candidate and not to a Scheduled Tribe IRDP candidate to which the petitioner belongs, and he was rightly awarded roster point No.24 in the Scheduled Tribe IRDP in the year 1988-89. The petition is barred by limitation and devoid of merits and facts.

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

9. It is not in dispute that the petitioner, regarding assigning of his wrong seniority position, had made a representation dated 02.08.2006 (Annexure A-6) before respondent No.3, who had rejected the same on 03.02.2007 (Annexure A-7).

10. The petitioner had filed the present petition before the then erstwhile Tribunal on 30.06.2016 i.e. after more than 9 years. As per the provisions of the Administrative Tribunals Act, 1985 (hereinafter to be referred as "Tribunals Act"), the application could have been entertained within one

year from the date, on which such final order was made. Section 21 of the Tribunals Act prescribes the limitation.

11. In the present case, the petitioner had filed the original application, which is now registered as writ petition, seeking quashing of the said communication dated 03.02.2007, after more than 9 years and, therefore, *ex facie,* the petition instituted by the petitioner is hopelessly time-barred and cannot be entertained, especially when no plausible explanation has come forth in the petition.

12. The Hon'ble Supreme Court in ***S.S. Rathore vs. State of Madhya Pradesh*, AIR 1990 SC 10,** has considered the scope of Section 21 of the Tribunals Act, which prescribes a period of one year for making application and power of condonation of delay within a total period of six months. But in the present case, the original application was filed after nine years and as such the same was barred by limitation.

13. So far as the other plea having been taken by the

petitioner, that he was wrongly assigned the seniority is concerned, as per the reply filed by the respondents-State, the petitioner was promoted to the post of Kanungo in the year 2004, being a Scheduled Tribe candidate, and the persons, who were senior to him were later on promoted to the post of Kanungo. However, in view of the principles laid down by the Hon'ble Supreme Court in ***Ajit Singh and others (II) versus State of Punjab and others*****, (1999) 7 SCC 209,** once a senior is promoted later in point of time, than the junior, who had got accelerated promotion on account of a vacancy reserved for the reserved category, the senior regain the seniority and the seniority is re-fixed again.

14. The respondents-State on the basis of the law laid down by the Hon'ble Supreme Court have issued the instructions dated 27.05.1996, which instructions have not been questioned by the petitioner in the petition. As per the instructions, which are based on the law laid down by the

Hon'ble Supreme Court, it is crystal clear that if a Scheduled Caste/Scheduled Tribe candidate is promoted earlier by virtue of the rule of reservation/roster, than his senior general category candidate, and the senior general category candidate is promoted later to the said higher grade, the general category candidate shall regain his seniority over such earlier promoted Scheduled Caste/Scheduled Tribe candidate and the earlier promotion made shall not confer any right on the candidate from reserved category and the general category candidate shall be considered senior and his case shall be considered first for further promotion, applying either the principle of seniority-cum-merit or merit-cum-seniority. Even as per the own pleading of the petitioner, he was promoted to the post of Kanungo and was shown to be belonging to Scheduled Tribe category.

15. The contention raised by the learned counsel for the petitioner that the instructions dated 27.05.1996 are not

applicable to the petitioner in his case, as he was appointed from the Scheduled Tribe category and was to be shown at Sr. No.4 in place of respondent No.4, who does not belong to the said category, cannot be countenanced, especially when the respondents had assigned the seniority to his seniors in the office order dated 28.05.1989, and after their promotion, they have been shown senior to him. Thus, no fault can be found with the seniority position assigned to the persons, who were senior to the petitioner, as per the appointment order dated 28.05.1989.

16. The petitioner once having accepted the order dated 03.02.2007 and not challenged the same within time, he is precluded from laying challenge to the said order at this belated stage. Even otherwise, on merits, once the petitioner, as per the stand taken by the respondents-State, was promoted erroneously to the post of Kanungo in the year 2004 against the Scheduled Tribe category, after promotion

of his seniors of general category to the said post, as per the principle of 'catch-up', they have rightly been assigned seniority above him, and thus, no illegality can be found with the seniority list issued by the respondents-State.

17. No doubt, the initial order of assigning the merit to the petitioner is illegal for the reason that the person who belongs to Scheduled Tribe IRDP category, could have been considered against the post of Scheduled Tribe post once he was in the merit; however, once the petitioner did not challenge the merit list at that time or even after rejecting his claim on 03.02.2007, he cannot be allowed to challenge the same at this belated stage.

18. Consequently, I do not find any merit in the present petition and the same is accordingly dismissed. Pending application(s), if any, shall also stand disposed of.

27th April, 2026

(ankit)

(Jiya Lal Bhardwaj)
Judge