
(2021) 06 SHI CK 0134
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 557 Of 2021

Pardeep Sharma	Vs	APPELLANT
State Of Himachal Pradesh And Ors		RESPONDENT

Date of Decision : 28-06-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 06 SHI CK 0134

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Gaurav Sharma, Sudhir Bhatnagar, Kunal Thakur

Final Decision : Disposed Of

Judgement

Sandeep Sharma, J

1. By way of instant petition filed under Article 226 of the Constitution of India, petitioner has prayed for following main reliefs:-

i) issuance of a writ in the nature of Certiorari for quashing of impugned promotion orders dated 24.01.2019 and 02.03.2019 (Annexure P-8 & P-9),

whereby, the private respondents have been promoted to the post of Junior Engineer (Mechanical) in violation to clause 11(iv) of Himachal Pradesh

Public Works Department, Junior Engineer (Mechanical) Class-III (Non-Gazetted) Recruitment and Promotion Rules, 2010.

ii) Issuance of writ in the nature of Certiorari for quashing of order dated 12.10.2020 (Annexure P-13) passed by the respondent department,

whereby, the representation of the petitioner has been rejected for promotion to the post of Junior Engineer (Mechanical) in violation to clause 11 (iv)

of the Himachal Pradesh Public Works Department, Junior Engineer (Mechanical) Class-III (Non-Gazetted) Recruitment and Promotion Rules, 2010.

iii) Issuance of writ in the nature of mandamus directing the respondent to extend the benefit of promotion to the petitioner to the post of Junior

Engineer (Mechanical) from the due date i.e. 24.01.2019 with all consequential benefits in view of the fact that the private respondents have been

promoted illegally against the quota prescribed in Clause 11

(iv) of the Himachal Pradesh Public Works Department, Junior Engineer (mechanical), Class -III (Non-Gazetted) Recruitment and Promotion Rules, 2010.

2. Despite sufficient opportunity, no reply has been filed by the respondents, however on 26.6.2021, learned Additional Advocate General, while

placing on record communication dated 22.6.2021, issued under the signatures of the Engineer-in -Chief, Himachal Pradesh, PWD, states that relief

claimed in the instant petition stands granted to the petitioner and as such, present petition has been rendered infructuous.

3. Aforesaid communication reveals that respondent department has re-drawn the seniority list of Technician Grade-I (Mechanical) and revised

seniority list has been circulated vide letter dated 15.6.2021. Aforesaid communication also reveals that after examination of the entire record, it has

come to the notice of the Department that the seniority, as finalized, earlier, on the basis of which, respondents No. 5 to 8 were promoted, was

wrongly drawn and they were wrongly promoted to the post of Junior Engineer (Mechanical).

4. Having noticed aforesaid mistake, respondent has stated in the aforesaid communication that claim of the petitioner shall be considered strictly as

per seniority position circulated vide letter dated 15.6.2021 and the department has also started process for holding DPC for making promotions to the

post of Junior Engineer (Mechanical) from the feeder cadre of Technician (Mechanical).

5. Mr. Gaurav Sharma, learned counsel appearing for the petitioner, while fairly admitting factum with regard to issuance of the communication dated

15.6.2021, whereby revised seniority list has been circulated, submits that though respondents have stated in the aforesaid communication that

respondents No. 5 to 8 were given wrong promotion, but no specific orders with regard to withdrawal of their promotional orders stand mentioned in

the instant communication and as such, necessary orders are required to be

passed in this Court. He further states that since petitioner is set to retire in April, 2022, respondents may be directed to take steps immediately for promotion of the petitioner as well as other similarly situated persons.

6. Mr. Sudhir Bhatnagar, learned Additional Advocate General, while responding to the aforesaid submission having been made on behalf of the petitioner submits that once entire seniority list, on the basis of which, respondents No. 5 to 8 were wrongly promoted, stands revised vide letter dated 15.6.2020, promotions granted in favour of respondents No. 5 to 8, would automatically come to an end and in this regard, respondent-department has already initiated process for holding DPC for making promotion to the post of Junior Engineer (Mechanical), from the feeder cadre of Technician(Mechanical).

7. Consequently, in view of the above, this Court finds that now nothing remains to be adjudicated in the present petition and accordingly same is disposed of as having become infructuous. Having taken note of the fact that petitioner is left with less than one year for his superannuation, this Court hopes and trusts that respondents would make all out efforts to hold DPC for making further promotions to the post of Junior Engineer (Mechanical) from the feeder cadre of Technician (Mechanical) in terms of communication dated on 22.6.2021, expeditiously, preferably within a period of six weeks. Liberty is also reserved to the petitioner to file appropriate proceedings, before appropriate court of law, if he still remains aggrieved. Pending applications, if any, also stand disposed of accordingly.