

**(2021) 08 SHI CK 0086**  
**In the High Court Of Himachal Pradesh**  
**Case No : Civil Writ Petition No. 3678 Of 2021**

Sarit Chander

APPELLANT

Vs

State Of H.P. & Ors

RESPONDENT

**Date of Decision :** 06-08-2021

**Acts Referred:**

Constitution Of India, 1950 — Article 14

**Citation :** (2021) 08 SHI CK 0086

**Hon'ble Judges :** Tarlok Singh Chauhan, J; Satyen Vaidya, J

**Bench :** Division Bench

**Advocate :** Rishi Tandon, Ashok Sharma, Rajinder Dogra, Vinod Thakur, Hemanshu Misra, Shiv Pal Manhans, Bhupinder Thakur

**Final Decision :** Disposed Of

## Judgement

Â Tarlok Singh Chauhan, J

1. The instant petition has been filed for grant of following substantive reliefs:

â??1. that the instant writ petition may kindly be allowed with costs and the respondents may be directed to consider the candidature of the petitioner

for the promotion post of Geologist, ClassÂI (Gazetted) in Geological Wing of the Department of Industries, H.P. on regular basis as per the

recommendations and memorandum dated 7.1.2021 & 23.1.2021, Annexure PÂ? 1 & PÂ?4.

2. the respondents may kindly be directed to convene the DPC for the vacant post of GeologistÂI (Gazetted) in the Department of Industries, Geological Wing for the vacancy year in the time bound manner.â??

2 In Handbook on Personnel Matters VolumeÂI (2nd Edition) published by the Government of Himachal Pradesh, Chapter 16 relates to promotions

and selection grade, Part AA thereof relates to the Departmental Promotion Committees. In terms of Clause 16.7, time schedule for holding meetings of D.P.C. has been provided. The relevant portion whereof reads as under: A?

16.7 Time schedule for holding meetings of D.P.C. The instructions contained in H.P. Govt. Deptt. Of Personnel letter No. 13/73 DP(AII)

dated 27/4/1983 (Annexure 16.18) provide that the time schedule for holding of regular Departmental Promotion Committee will be during the

month of April/May. The subsequent instructions issued vide letter No. 13/75 DP (AII) dated 14/2/1984 (Annexure 16.22) provided that

meeting of the Departmental Promotion Committee may be held once a year in the month of April every year as far as possible. The latest

instructions contained in letter No. 13/75 DP (AII) dated 6/9/1984 and letter No. Per(APII) B(3)/1/94 dated 16/11/1994 (Annexures

16.25 and 16.55) provide that meetings of the Departmental Promotion Committees for making promotions should be held during the first quarter of

the financial year as far as possible for all the existing and anticipated vacancies. For unanticipated vacancies, fresh meetings of the Departmental

Promotion Committees for making promotions should be held during the course of the year within three months from the date of creation of the

posts. A??

(emphasis supplied by us)

3 The conferment of power to convene necessary DPC meeting for consideration of an employee for promotion is the duty of the employer and it,

therefore, should be exercised in time so that an eligible employee, who would be found suitable, will get promotion in time. If the DPC is not

convened in time, it amounts to arbitrariness and this is not permissible under Article 14 of the Constitution of India.

4 Necessary corollary would be that non convening the DPC in time would imply that the authorities have failed to discharge their duties and

consequently, non-convening of the DPC in time must be taken to mean as arbitrary action on the part of the concerned authorities.

5 The Hon'ble Supreme Court in P.N. Premachandran vs. State of Kerala, (2004) 1 SCC 245 has held that the delay in convening the DPC is an

administrative lapse and the promotees cannot be made to suffer for no fault on their part.

6 We really wonder why the respondents are not holding the DPC. It would be noticed that the instant petition was filed on 30.6.2021 and an advance copy thereof was supplied by the respondents to the State, who otherwise formally put in appearance on 6.7.2021. The respondents have neither filed the reply nor convened the DPC to consider the candidature of the petitioner for the post of Geologist, Class I (Gazetted) in the Geological Wing of the Department of Industries, on regular basis as per the recommendations and memorandum dated 7.1.2021 and 23.1.2021.

8 Accordingly, the instant petition is disposed of directing the respondents to convene the DPC for the post of Geologist, Class I (Gazetted) immediately and in no event later than one week from today and consider the case of the petitioner in accordance with law. Pending application(s), if any, also stands disposed of, leaving the parties to bear their own costs. For compliance, list on 20.8.2021.