IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.1091 of 2019
Reserved on: 05.10.2026
Decided on: 30.10.2026
Uploaded: 30.10.2026

Vivek Katoch and others ...Petitioners

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 petitioners: Mr. Sunil Mohan Goel, Senior Advocate with Mr. Abhinav Mohan Goel, Advocate.

For the respondents: Mr. R.P. Singh, Deputy Advocate General, for respondents No.1 and 2-State.
Respondents No.3 to 11, 14 and 16 to 23 ex-parte.
Mr. Arun Kumar, Advocate vice Mr. Bhim Raj Sharma, Advocate, for respondent No.15.
Mr. Vijay Kumar Verma, Advocate, for respondents No.12, 13, 24 to 27.

Jiya Lal Bhardwaj, Judge

The petitioners by way of present petition have prayed for the following substantive reliefs:-

> *"a) This Hon'ble Court may kindly be pleased to issue a Writ of Certiorari quashing Memorandum dated 25.5.2011 Annexure P10 whereby the objections of the petitioners to the tentative seniority list of Assistant Engineers have been rejected and Memorandum dated 24.5.2011 Annexure P11 i.e. the seniority list of Assistant Engineers dated 24.5.2011 as*

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

High Court of Hp

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on 31.12.2009 to the extent that the petitioners have been reflected in the said seniority list en bloc below the promotees of the year 2008 against the post of Assistant Engineer.

b) That this Hon'ble Court may be pleased to issue a writ of Mandamus to the Respondent State to confer upon the petitioners seniority from the date their names were recommended for appointment as Assistant Engineers by H P Public Service Comission i.e. w.e.f. 4.11.2008 and thereafter re draw the seniority of petitioners viz a viz the promotees of the year 2008 against the post of Assistant Engineers (Civil) including the private respondents as per instructions issued in this regard by the Government of Himachal Pradesh keeping in view the principle of Rota and Quota."

2. Shorn of unnecessary details, the key facts of the case are that an advertisement No.II/2008 (Annexure P-1) was issued by the Himachal Pradesh Public Service Commission (in short "Commission") to fill up the posts of Assistant Engineer (Civil), Class-I (Gazetted) in respondent No.1-Department. The total 15 number of posts were advertised, which included 13 posts for the General category and 2 posts for the Scheduled Tribe category. The last date for submission of applications was 21.05.2008 and for tribal and remote areas, the same was 05.06.2008. The petitioners being fully eligible and fulfilling the criteria, had applied for the posts well before the last date fixed for receipt of the applications. The petitioners were called for the screening test conducted by the Commission on 21.08.2008 and

High Court of H.P.

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the successful candidates were invited for interviews, which were held between 17.10.2008 to 25.10.2008. After conducting the interviews, the Commission issued a press note declaring the result of the interviews and the petitioners were recommended for appointment to the post of Assistant Engineer (Civil) in the last week of October, 2008. The selected candidates were subjected to medical examination and other formalities like verification of character and antecedents etc. were completed in the first fortnight of December, 2008. The petitioners were thereafter offered appointment against the posts of Assistant Engineer (Civil), vide memorandum dated 09.01.2009, (Annexure P-5) and in sequel to the appointment orders, the petitioners joined in respondent No.1-Department.

3. It has been averred that the petitioners were appointed against those vacancies of direct recruits, which were existing before April, 2008 and recommended to be filled up by way of appointment after the recommendations made by the Commission in the last week of October, 2008 and since the formalities were completed in all respects in December, 2008 itself, they were offered appointment in the year 2009 and not in the year 2008.

High Court of H.P.

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4. It has also been averred in the petition that respondent No.1-State had convened two meetings of the Departmental Promotion Committee (in short "DPC") for promotion of Junior Engineers (Civil) on 15.03.2008 and 30.12.2008. In the DPC held on 30.12.2008, respondents No.3 to 30 were promoted to the posts of Assistant Engineers (Civil) and further one Sh. Surinder Mohan, who was Planning Assistant, was also promoted as Assistant Engineer (Civil). The promotion of the aforementioned persons was made during the period when the petitioners stood recommended for appointments against the posts of Assistant Engineers (Civil) and were awaiting their appointment orders.

5. As per the Recruitment and Promotion Rules (in short "R&P Rules") prevailing on the date of making selection and appointment of the petitioners, as notified on 20.03.1997 (Annexure P-6), the *inter se* seniority of Junior Engineers promoted as Assistant Engineers and direct recruit Assistant Engineers in one calendar year, is maintained on the basis of rota-quota Rule, as per which, all the appointments made in one calendar year against the post of Assistant Engineer, either by way of direct recruitment or by way of promotion, are conferred

High Court of H.P.

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seniority on the basis of instructions issued by the Department of Personnel, as per which, the *inter se* seniority of the promotees and direct recruits is to be maintained in the following manner:

(i) Promotee
(ii) Direct recruit
(iii) Promotee
(iv) Direct recruit so on and so forth.

6. Since the petitioners were recruited as Assistant Engineers (Civil) in a process initiated in April, 2008, they took up the matter with regard to fixation of their seniority with respondent No.1-State, keeping in view the fact that despite having been recommended for appointment in October, 2008, they were appointed only in January, 2009 and they will be treated as entrants of calendar year 2009. However, it was assured to them that since they have been recommended for appointment in October, 2008, they will be considered for seniority from the date of recommendation and the date of appointment would have no adverse effect on their seniority vis-a-vis the promotees of 2008, especially those Junior Engineers, who were promoted as Assistant Engineers in December, 2008. However, when the tentative seniority list of Assistant Engineers (Civil) as on 31.12.2009 was issued vide office memorandum

High Court of H.P.

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dated 24.02.2010 (Annexure P-7), the names of the petitioners were reflected en-bloc below the Assistant Engineers (Civil), who were promoted as such either on 31.03.2008 or thereafter. This was followed by the issuance of final seniority list of Assistant Engineers (Civil) as on 31.12.2009, as per office memorandum dated 20.07.2010 (Annexure P-7A). In the final seniority list, the petitioners were reflected below the Assistant Engineers (Civil) promoted in the year 2008.

7. The petitioners feeling aggrieved by the said action, took up the matter with the authorities that how could they were being reflected below the promotees of 2008 en-bloc, especially when they were recruited in a process initiated in the year 2008 and recommendations were made by the Commission in the first week of November, 2008. However, it was informed that the seniority list so issued by the Department was soon going to be reviewed/revised in view of the judgment passed by this Court in CWP No.1358 of 2008, titled, ***S.S. Kutlehria and others vs. State of H.P. and others*** and the petitioners were called upon to wait till the issuance of the next tentative seniority list. In compliance with the judgment passed in ***S.S. Kutlehria's*** case (supra), respondent No.1-State issued office memorandum dated

High Court of H.P.

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29.01.2011 (Annexure P-8), which is a tentative seniority list of Direct/Degree Holders/AMIE Assistant Engineers (Civil) re-drawn after holding review DPC in view of the judgment. However, in this tentative seniority list also, the petitioners were reflected en-bloc below the promotees of the year 2008. The petitioners filed representations against the said tentative seniority list, but the representations/objections preferred by the petitioners were summarily and arbitrarily rejected vide memo dated 25.05.2011 (Annexure P-10) and the final seniority list of Direct/Degree holders/AMIE Assistant Engineers (Civil), showing the position as on 31.12.2009 was issued, vide office memorandum dated 24.05.2011 (Annexure P-11), wherein the petitioners were again reflected below the promotees of the year 2008.

8. After issuance of the final seniority list, respondent No.1-State issued Notification dated 28.07.2011 (Annexure P-12), whereby the revised promotion orders were issued and more Junior Engineers, namely Pardeep Kumar, Vivek Kr Hazari etc., were ordered to be promoted on notional basis w.e.f. 31.12.2008, thus making the petitioners junior even to the said persons in the seniority list. The names of the said persons mentioned in the notification were included in the implementation of the judgment

High Court of H.P.

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passed in ***S.S. Kutlehria's*** case (supra) and other judgments mentioned therein.

9. The petitioners feeling aggrieved by the final seniority list dated 24.05.2011 and further rejection of their representations, have approached this Court *inter alia* on the grounds that since they were appointed as Assistant Engineers (Civil), by way of direct recruitment through Commission in a recruitment process initiated in April, 2008 against the vacancies belonging to the quota of direct recruits, which were available even before April, 2008, the petitioners, who were recommended by the Commission in the first week of November, 2008 i.e. on 04.11.2008 and for whom all the formalities for their appointment were completed in the first half of December, 2008, the appointment orders issued on 09.01.2009 were to be considered for the vacancies belonging to the quota of direct recruits in the year of 2008, especially when the process was initiated in April, 2008.

10. It has also been averred that the persons, who were promoted on 31.12.2008 to the posts of Assistant Engineers (Civil) on the basis of the DPC held on 30.12.2008, cannot be assigned seniority above the petitioners in view of the principle of

High Court of H.P.

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rota-quota Rule. As per the instructions issued by the Department of Personnel, there cannot be any appointment over and above the quota of any particular category in any recruitment year and number of vacancies filled from both the modes, has to be in the ratio provided for in the R&P Rules. However, in the case of the petitioners, not even a single person was recruited directly in the year 2008, despite the fact that the selection process was duly initiated in April, 2008 and all the formalities stood completed and thus, the action on the part of respondent No.1-State in not offering them appointments in the year 2008 is arbitrary, discriminatory and illegal. As per the past practice, the direct recruits are conferred seniority from the date of their recommendation by the Commission and denying seniority to the petitioners from that date also is arbitrary, discriminatory and bad in law. Further, since the DPC was convened on 30.12.2008 and promotions were made on 31.12.2008 itself speaks volumes about the conduct of respondent No.1-State and favoritism, which has been exercised by respondent No.1-State in favour of the promotees, which is detrimental to the interest of the petitioners.

11. It has further been averred that the grant of seniority

High Court of H.P

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to the petitioners by respondent No.1-State from 09.01.2009 is bad in law because earlier respondent No.1-State had conferred seniority upon Assistant Engineers (Civil) recruited by way of direct recruitment in the I&PH Department from the date of their being recommended for appointment to the Department by the Commission. It has also been averred that as per the instructions issued by the Department of Personnel, Government of Himachal Pradesh on the subject of maintenance of seniority between direct recruits and promotees, it categorically provides that in order to help the appointing authorities in determining the number of vacancies to be filled during a year under each of the methods of recruitment prescribed, a vacancy register giving a running account of the vacancies arising and being filled from year to year should be maintained in the prescribed proforma. However, in the present case, respondent No.1-State has not followed the said procedure and assigned seniority to the petitioners from the date of offering the appointment to them.

12. It has further been averred that in March, 2008, all 57 incumbents from the post of Junior Engineer (Civil) were promoted against the posts of Assistant Engineer (Civil) and in December, 2008, 12 incumbents were promoted as Assistant

High Court of H.P.

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Engineers (Civil). Thus, in all 69 promotees were promoted to the posts of Assistant Engineer(Civil) in the year, 2018. On the other hand, the advertisement issued for direct recruitment inviting applications for filling up 15 number of posts of Assistant Engineer (Civil) by way of direct recruitment, no post was filled up in the year 2008. As per the R&P Rules for promotion to the post of Assistant Engineer (Civil), the post is to be filled 25% by way of direct recruitment and 75% by way of promotion. Even the promotion quota is further divided into various other categories. These categories also have their percentage fixed for the purpose of promotion. As per the instructions issued by the Department of Personnel of the Government of Himachal Pradesh, the number of vacancies to be filled up both by way of direct recruitment and promotion in one year should be in proportion to the percentage mentioned in the R&P Rules. This means, that when respondent No.1-State advertised 15 posts to be filled up by way of direct recruitment, it could not have filled more than 45 posts by way of promotion. However, as the facts speak for themselves, 67 promotions were made, which is far-far in excess of the quota prescribed in the R&P Rules. The degree holder Junior Engineers (Civil) as well as AMIE qualification

High Court of H.P.

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holder Junior Engineers (Civil) along with diploma holders have been promoted much in excess of their respective quota mentioned in the R&P Rules. For example, the quota of degree holder Junior Engineer (Civil) in the promotion quota is 15% out of 75% and of AMIE is 10% out of 75%. Accordingly, AMIE qualification holders were entitled to 4.5 seats in total 45 promotion seats and degree holder Junior Engineers (Civil) were entitled to about 7 posts out of 45, but these categories have been given promotions for 25 posts against their legitimate share of about 11 or 12 posts and that too from a total 45 posts. Thus, the excess promotion has to be treated as adhoc promotion and those promotees, by no stretch of imagination, could even otherwise have been conferred seniority over and above the petitioners or along with the petitioners by applying rota-quota Rule. Hence, the promotees in excess of their proportionate quota en-bloc should have been reflected below the petitioners as far as the seniority is concerned. However, respondent No.1-State in arbitrary manner has assigned seniority to the petitioners en-bloc below the promotees taking their date of appointment as 09.01.2009 and thus, prayed for quashing the memorandum dated 25.05.2011 (Annexure P-10), whereby the objections of

High Court of H.P.

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the petitioners to the tentative seniority list of Assistant Engineers (Civil) have been rejected and further the memorandum dated 24.05.2011 (Annexure P-11) i.e. the seniority list of Assistant Engineers (Civil) dated 24.05.2011 as on 31.12.2009 to the extent that the petitioners have been reflected in the said seniority list en-bloc below the promotees of the year 2008 against the post of Assistant Engineer (Civil), with a further direction to the respondents to confer upon them the seniority from the date their names were recommended for appointment as Assistant Engineers (Civil) by the Commission w.e.f. 04.11.2008, and thereafter re-draw the seniority of petitioners vis-a-vis the promotees of the year 2008 against the posts of Assistant Engineer (Civil), including the private respondents.

13. Respondents No.1 and 2 filed reply to the petition and in preliminary submissions submitted that merely selection/recommendations of the petitioners by the Commission in 2008, does not confer any right on them to be offered appointment in the same year i.e. 2008. It is a well settled position of law that it is the prerogative of the appointing authority to offer or not to offer appointment till it considers necessary. However, in the present case, certain codal formalities

High Court of H.P.

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such as verification of character and antecedents, medical examination, induction training etc., of the petitioners had to be completed before they were considered for offering appointment to the post of Assistant Engineer (Civil) in the respondent-Department. Therefore, the petitioners cannot claim to be appointed in the specific year or date as a matter of right and as such the petition deserves to be dismissed in limine. It has further been averred that the Secretary of the Commission had forwarded the recommendations of 15 candidates, including the petitioners, vide office letter dated 04.11.2008 to the respondent-Department for consideration of giving offer of appointment to the post of Assistant Engineer (Civil), (Class-I Gazetted) after verifying/checking their credentials/documents and completing all codal formalities to the satisfaction of the appointing authority. The said recommendations were submitted to respondent No.1-appointing authority, for approval on 10.11.2008, which was approved on 18.11.2008. The offer of appointment letter to the selected candidates is issued only after completion of certain codal formalities such as verification of their character and antecedents. After the approval by respondent No.1, necessary steps were also taken for completing the codal formalities and on

High Court of H.P.

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25.11.2008, the Inspector General of Police (CID) Shimla-2 and Chief Medical Officer, Deen Dyal Upadhyay Hospital, Shimla were requested for verification of the characters and antecedents and medical examination. It has also been averred that in the year 2006, the Government had taken a conscious decision to impart induction training to the direct recruits and accordingly, the Director, Himachal Pradesh Institute of Public Administration (in short "HIPA"), Mashobra, Shimla was also requested on 11.12.2008 to fix the date for imparting induction training/foundation course to the petitioners. The necessary verification of character and antecedents and medical examination of all the 15 selected candidates, including the petitioners, was received by the replying respondent-Department on 23.12.2008, but no response from the Director, HIPA was received regarding fixing the dates for imparting induction training, despite issuing two reminders to him. Therefore, the matter was submitted to respondent No.1/appointing authority to decide as to whether the petitioners may be sent to HIPA in the first instance or are to be posted against the vacant posts of Assistant Engineer (Civil) in the replying respondent-Department. The competent authority directed to put up proposal for posting

High Court of H.P.

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against vacancies, which was received on 29.12.2008. Had there been any wrong intention of the replying respondent-Department, as has been alleged, the matter would not have been submitted before the appointing authority for deciding as to whether the selected candidates are to be sent for induction training in the first instance or they are to be appointed against the vacancies. This clearly demonstrates that all codal formalities had not been completed till 29.12.2008. However, since only two days were left for closing of the year 2008 and without conceding, even if proposal of posting that were yet to be approved by the competent authority are considered to have been approved and the letters of offer of appointment that were yet to be sent were also considered to have been dispatched through registered post giving them few days for acceptance/joining on the terms and conditions, even then the said registered post can only be said to be delivered to the addressees after the expiry of minimum three days, by which date, the new year of 2009 would have started/set in. Therefore, under no circumstances the matter of offering appointment and its acceptance could have been completed within the remaining two days of the year 2008. Accordingly, after processing the

High Court of H.P.

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matter and completing all the formalities, the offer of appointment through registered letters were issued to the petitioners on 09.01.2009 and they have been considered as appointee of the year 2009 and assigned seniority accordingly.

14. The matter of filling up the newly created posts in July and August, 2008 for Hamirpur Zone and Bilaspur Circle was also going on simultaneously as the DPC was required to be convened within a period of three months from the date of creation of new posts in view of the Department of Personnel's instructions dated 06.09.1984, which provide that for un-anticipated vacancy, fresh meeting of the DPC for making promotions should be held during the course of the year, within three months from the date of creation of the posts. Since the period of three months had already elapsed and the matter for holding the DPC was already under process, therefore, promotion orders were to be issued on or before 31.12.2008. It has further been averred that the regular DPC for considering clear-cut as well as resultant vacancies of Assistant Engineers (Civil) for the year 2008 had already been convened in the month of March, 2008, and the promotion orders were also issued on 31.03.2008. However, the necessity of convening another DPC in the year

High Court of H.P.

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2008 itself arose due to creation of I&PH Zone, Hamirpur and I&PH Circle, Bilaspur along with certain posts in July and August 2008. As a result of this, promotions of private respondents were made in the year 2008. In this view of the matter, it cannot be said that any illegality has been done by the replying respondents in fixing the seniority and as such the petitioners have no cause to challenge the present seniority.

15. It has also been averred that on the direction of this Court in ***S.S. Kutlehria's*** case (supra), all the previous DPCs held up to 27.04.1994 were reviewed by the Department and on the basis of the minutes supplied by the Public Works Department, replying respondents re-drew the seniority list of Assistant Engineers (Civil) besides reviewing the DPC after 27.04.1994, the date of bifurcation of the erstwhile Public Works Department (B&R) and I&PH Department to 31.12.2008 and issued seniority list of Assistant Engineers (Civil) vide Annexure P-11 which is just, proper and legal. The seniority to the petitioners cannot be granted from the date of recommendations made by the Commission for appointment to the posts of Assistant Engineer (Civil) for the reason that unless the said recommendations are approved by the Government and offer of appointment is made

High Court of H.P.

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after completion of all codal formalities to the selected candidates and the said offer is accepted by them, relation of employee and employer is not formed. In view of this, the question of granting seniority to the petitioners from the date of their recommendations does not at all arise and as such not tenable in the eyes of law.

16. On merits, it has been averred that after the judgment in ***S.S. Kutlehria's*** case (supra), the same number of vacancies for the respective years and only incumbents from AMIE category have been replaced by the incumbents from University Graduate category and accordingly the seniority list has been issued on 24.05.2011. It has also been averred that respondent No.1-State considered 11 posts that were granted as a measure of one-time relaxation by the Government in the year 1998 and accordingly, the minutes of the review DPC were again reviewed w.e.f. 1998 to 2008. As such, another six incumbents from University Graduate category found place in the year 2005 and 2006 and five incumbents from the AMIE category found place in the year 2008. Accordingly, another seniority list of Assistant Engineers (Civil) was issued on 23.09.2011. Due to implementation of judgment in the cases of S.S. Kutlehria and

High Court of H.P.

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Ashok Kumar, there are nine incumbents belonging to AMIE category, who could not find place in the seniority list of Assistant Engineers (Civil) for want of promotion as Assistant Engineer (Civil) and as such their case of reversion is pending under consideration of the Government.

17. It has been denied that respondent No.1-State has assigned seniority to any direct recruit from the date of recommendation of their names for appointment by the Commission. Regarding the instructions of Department of Personnel, it has been submitted that due to economy measures adopted by the Government, no direct recruitment was made on year-to-year basis. However, the number of posts falling in the share of direct recruitment quota on vacancy basis as prescribed in the R&P Rules for the post of Assistant Engineer (Civil) were used to be given and get accumulated. However, after amendment made in the R&P Rules in 2003, when the filling up of vacancies was changed from vacancy basis to post basis, the excess and shortfall in the category of direct recruits and promotees was ascertained. The matter of filling up the posts of Assistant Engineer (Civil) through direct recruitment was used to be taken up with the Government for its approval and subject to

High Court of H.P.

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the approval of the Government from time to time. The posts of Assistant Engineers (Civil) were/are filled up in 2006 and 2009. This goes on to show that direct recruitment posts are not filled up regularly on year-to-year basis, whereas the posts falling in the share of promotional quota are prescribed in the R&P Rules have been/are being filled up regularly on year-to-year basis in order to run the work of the Department. It has further been averred that Diploma Holder Junior Engineer Association had represented to the Government that they are languishing at the post of Junior Engineer (Civil) only for the last more than 30 years and many are on the verge of retirement and still they are waiting for their only chance of one promotion to the post of Assistant Engineer (Civil). The Government considered their representation and took a conscious decision to upgrade 27 number of posts of Junior Engineer (Civil) to the post of Assistant Engineer (Civil) by abolishing the equal number of posts of Junior Engineer (Civil), besides filling up the 19 internalized posts of Assistant Engineers (Civil) by way of promotion from amongst feeder categories. The upgraded posts of Assistant Engineer (Civil) were required to be filled up from amongst the feeder categories of Junior Engineer (Civil) only on the posts of Junior

High Court of H.P.

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Engineer (Civil) occupied by them which were upgraded to Assistant Engineer (Civil) by abolishing the said post of Junior Engineer (Civil). Had these promotions not been done from the feeder categories, there could have arisen a peculiar situation as the incumbents holding the posts of Junior Engineers (Civil) that were abolished for upgrading to the posts of Assistant Engineers (Civil) would have remained without any post in the Department and secondly, in order to redress their grievances of stagnation and giving a chance of promotion. Besides this, there were 11 clear-cut/resultant vacancies, which were to be filled up by incumbents of the category, who vacated the post due to promotion/retirement. In view of this, 57 (27+19+11) vacancies were available for making promotion to the posts of Assistant Engineers (Civil) and the same were made in accordance with the percentage of quota as prescribed for the respective feeder categories in the R&P Rules. Thus, 57 incumbents were promoted to the posts of Assistant Engineers (Civil) on 31.03.2008 (wrongly mentioned as 31.03.2012). However, it has been averred that the cadre strength was again maintained in the year 2009 while making promotions subsequently on 04.06.2009 as per the percentage of quota prescribed in the R&P Rules of Assistant

High Court of H.P

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Engineer (Civil). Further, it has been averred that since I&PH Zone, Hamirpur and I&PH Circle, Bilaspur were created in July/August 2008, therefore, 12 posts (04 created posts of Assistant Engineers (Civil) and remaining 08 posts arisen due to resultant vacancies by promotion of EE/SE/Chief Engineer) were required to be filled up by way of promotion through direct recruitment. Out of 04 newly created posts of Assistant Engineer (Civil), 01 post was given to direct recruitment quota as per the percentage of quota prescribed in the R&P Rules and promotion of 12 posts incumbents were made. Since no direct recruitment was taking place regularly on year-to-year basis, therefore, the vacancies under the direct recruitment quota remained unfilled/vacant and used to be kept vacant and accumulated with passing of each year. Therefore, it is wrong to contend that the replying respondent-Department made any promotion in excess of their percentage of quota as prescribed in the R&P Rules and as such, prayed for dismissal of the writ petition.

18. The petitioners filed rejoinder to the reply filed by respondents No.1 and 2 and controverted the averments made therein.

19. I have heard the learned counsel for the parties and

High Court of H.P

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also perused the record carefully.

20. Learned senior counsel representing the petitioners had contended that since the Commission had advertised the posts in the month of April 2008 and further had recommended the names of the petitioners for appointment to the posts of Assistant Engineer (Civil) on 04.11.2008, even if the respondents had delayed the process to offer them appointment, they have to be considered as recruits of the year 2008 in view of the fact that respondent No.1-State could not have filled up more posts than the quota allocated to the promotees and further they have to be assigned seniority as per the roster for filling up the posts by direct recruitment and by promotion as per Notification dated 25.02.2005. He further contended that since the requisition was sent by the respondent-State to the Commission to fill up 15 posts of Assistant Engineer (Civil), the respondent-State could not have filled up more than 45 posts by way of promotion. However, in the present case, the respondent-State, despite the recommendations of the petitioners to be offered appointment as Assistant Engineer (Civil), purposely delayed their appointment and appointed private respondents by way of promotion. He further argued that even if the petitioners have been offered

High Court of H.P.

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appointment on 09.01.2009, as per the rota-quota Rule, they have to be assigned seniority of the year 2008, as per the instructions issued by the Department of Personnel.

21. On the other hand, learned Deputy Advocate General had vehemently argued that since the petitioners were not offered appointment in the year 2008 and further, they have been issued the appointment orders, vide Notification dated 09.01.2009, they cannot be assigned seniority above to the promotees, who admittedly have been promoted and joined their service before them.

22. Learned counsel representing the private respondents had also made similar submissions and argued that since the private respondents have been promoted earlier to offering the appointment to the petitioners, hence they cannot be assigned seniority below the direct recruits.

23. Learned senior counsel for the petitioners had placed reliance upon the judgments of the Hon'ble Supreme Court in ***S.G. Jaisinghani vs. Union of India and others,*** AIR 1967 SC 1427***; V.B. Badami etc. etc. vs. State of Mysore and others,*** AIR 1980 SC 1561; ***Keshav Chandra Joshi and others vs. Union of India and others,*** 1992 Supp (1) SCC 272; ***Union of India and***

High Court of H.P.

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others vs. N.R. Parmar and others a/w connected matters, (2012) 13 SCC 340; I.A. No.230675 of 2025 in Writ Petition (Civil) No.1022 of 1989, ***All India Judges Association and others vs. Union of India and others,*** *2025 INSC 1328;* ***Hariharan and others vs. Harsh Vardhan Singh Rao and others,*** 2022 SCC OnLine SC 1717 and contended that since the petitioners have been recruited in the year 2008, they are to be placed against their respective annual roster points regardless of the actual date of appointment.

24. On the other hand, learned Deputy Advocate General representing the respondents-State and the private respondents had placed reliance upon the judgment passed by a three-Judge Bench of the Hon'ble Supreme Court in ***K. Meghachandra Singh and others vs. Ningam Siro and others,*** (2020) 5 SCC 689 and another judgment passed in Civil Appeal No.862 of 2026 (arising out of S.L.P.(C) No.8374 of 2025), titled, ***M. Thanigivelu and others vs. Tamil Nadu Electricity Board and others*** a/w connected matters and contended that the seniority cannot be assigned before entry in the service and as such the petitioners do not have any claim in the matter.

25. I have given my thoughtful consideration to the

High Court of H.P.

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submissions made at the Bar and of the considered view that the petitioners, who are direct recruits as Assistant Engineer (Civil) are entitled to seniority in the recruitment year of 2008, when the requisition was sent and advertisement was made as per the roster prescribed in the Notification dated 25.02.2005.

26. It is not in dispute that the requisition was made by the respondent-Department to fill up 15 number of posts of Assistant Engineers (Civil) by direct recruitment and advertisement was issued by the Commission in the month of April, 2008. The Commission had recommended the petitioners for appointment to the posts of Assistant Engineers (Civil) on 04.11.2008. It is also not in dispute that the approval was granted by the respondent-State on 25.11.2008 and thereafter the medical examination of the petitioners was conducted before 19.12.2008. As per the R&P Rules for filling up the posts of Assistant Engineer (Civil), 25% by direct recruitment and 75% by promotion from amongst the Junior Engineer (Civil) and Draughtsman Cadre. By promotion from amongst Junior Engineer (Civil), further quota has been fixed. The roster for filling up of the posts by direct recruitment and by promotion has been provided so that whenever, recruitment is made, the

High Court of H.P.

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seniority is assigned as per the roster.

27. As per the reply filed by the respondents, a stand has been taken that on the representation made by the Junior Engineers (Civil), who were not getting any promotion for more than 30 years and many of them were on the verge of retirement, the Government had taken a conscious decision to upgrade 27 number of posts of Junior Engineer (Civil) to the post of Assistant Engineer (Civil) by abolishing the equal number of posts of Junior Engineer (Civil), besides filling up 19 internalized posts of Assistant Engineer (Civil) by way of promotion from amongst the feeder categories. If the respondents had upgraded the posts of Junior Engineer (Civil) to the post of Assistant Engineer (Civil), the same could not have been filled up in the year 2008 itself and if the same were filled up, the petitioners, who were recommended for their appointment as Assistant Engineer (Civil) as direct recruit in the process initiated in the month of April, 2008, their interest cannot be jeopardized only for the reason that some of the posts of Junior Engineer (Civil) were upgraded to the posts of Assistant Engineer (Civil) and further to ignore the quota rule and also the roster for filling up the posts by direct recruitment and by promotion.

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

28. The precise grievance of the petitioners is only that once the process was started for filling up the posts of Assistant Engineer (Civil) in the month of April 2008 by direct recruitment and further the names of the petitioners were recommended by the Commission on 04.11.2008, they ought to have been offered appointment during that year and in case they have been offered appointment on 09.01.2009, they have to be considered as appointee of 2008 and are to be assigned their seniority as per the roster point in the recruitment year when the process was initiated as per the Rules in view of the law laid down by the Constitution Bench of the Hon'ble Supreme Court in ***S.G. Jaisinghani's*** case (supra), wherein it has been held that as per the rule of quota, the persons, who are appointed as direct recruit have to be assigned the seniority as per their quota and not doing so violates the provisions of the Constitution. Relevant paragraphs of the judgment reads as under:

> *"(11) In regard to rule 1 (f) (iv) of the Seniority Rules, there are only three respondents i.e., respondents 4, 5 and 6 who have been promoted as "deemed promotees" under this clause of the rule. Each one of them was appointed in Class II, Grade III Service in 1947 and was appointed in Class I, Grade II Service in 1951 after having successfully competed in the competitive examination of the year 1950, the same year in which the appellant was successful. The appellant also joined Class I, Grade II Service in 1951. The three respondents have been shown*

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

as senior to the appellant in the seniority list. The objection of the appellant is that while they qualified in the same competitive examination, they had become senior to him because of the operation of the artificial rule by which they are treated as "deemed promotees"; otherwise they would have remained junior to him. On behalf of these respondents, it was argued by Mr. Bindra that they had been appointed to Class II, Grade III Service in 1947 and completed 5 years' service in that class by the year 1952 and if the Departmental Promotion Committee met in 1953, as actually did meet, and if it recommended their promotion to Class I, Grade II, each one of them would have become senior to the appellant by the operation of C1. (iii) to rule 1(f). There was also the further consideration that if rule 1 (f) (iv) did not exist there was no incentive to a promotee of this type to sit for the competitive examination. It should also be taken into account that if the service of the promotees in Class II Grade III is entirely ignored and if they join the Class I, Grade II Service as direct recruits they might well find themselves becoming junior to those who were left behind in Class II, Grade III Service by the operation of rule 1 (f) (iii). We are accordingly of the opinion that rule 1 (f) (iv) is based on a reasonable classification and does not offend the guarantee under Art. 14 or Art. 16 (1) of the Constitution.

(12) We proceed to consider the next question arising for consideration in this appeal, viz., the allegation of the appellant that there was excessive recruitment of promotees in violation of the quota rule. Rule 3 of the Income-tax Officers (Class I, Grade II) Service Recruitment Rules is to the following effect:

"The Service shall be recruited by the following methods:

(i) By competitive examination held in India in accordance with Part II of these Rules.

(ii) By promotion on the basis of selection from Grade III (Class II Service) in accordance with Part III of these Rules.

Rule 4 reads:

"Subject to the provisions of Rule 3, Government shall determine the method or methods to be employed for the purpose of filling any particular vacancies, or such

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

vacancies as may require to be filled during any particular period, and the number of candidates to be recruited by each method.

"Rule 5 states:

"Vacancies in the Service which are filled otherwise than by promotion shall be apportioned between the various communities in India in accordance with the provisions of the Government of India (Home Department) Resolution No. F. 14/17-B/33-Ests. dated the 4th July, 1934 (regarding communal representation in the services) and No. 23/5/42-Ests. (S) dated the 11th August, 1943 (regarding representation of Scheduled Castes in the Services) and the supplementary instructions connected therewith.

"In the letter of the Government of India dated September 29, 1944 (Ex. B to the writ petition of the appellant) it is stated that the recruitment to Grade II of Class I will be made partly by promotion and partly by direct recruitment and that "80 per cent of the vacancies arising in the Grade will be filled by direct recruitment through the Indian Audit and Allied Services Examination and the remaining 20 per cent vacancies will be filled on the basis of promotion by selection provided suitable number of men are available for promotion." It was also stated in the letter that if there are any vacancies which could not be filled by promotion for want of suitable candidates, these will be added to the quota of vacancies to be filled by direct recruitment. The quota was altered by the Government of India subsequently in their letter dated October 18, 1951 (Ex. E to the writ petition). In this letter the Government of India said that they had decided in consultation with the Union Public Service Commission that for a period of five years, in the first instance, 66-2/3 per cent vacancies in Class I, Grade II will be filled by direct recruitments and the remaining 33-1/3 per cent vacancies on the basis of promotion and any surplus vacancies which cannot be filled for want of suitable candidates will be added to the quota of vacancies to be filled by direct recruitment. There has been no argument, in this case, with regard to the operation of the rule between the years 1945 and 1950, though in the petition the appellant has alleged that in those years also there were excessive recruitments of promotees. It appears from the affidavit of respondent No. 1 that these were formative

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

years of the Income-tax Service and reorganization of the Department was being completed and the initial period of re-organisation lasted uptil 1950. The argument was confined to the years 1951 to 1956. According to the appellant, there was excessive recruitment of 71 promotees more than the figure permitted by the quota rule. In the judgment under appeal the High Court has examined the matter and found that the excess number of promotees was 31 for the four years 1951 to 1954. During the hearing of the appeal we had ordered the Secretary of the Finance Ministry to furnish the number of vacancies which had arisen from year to year from 1945 onwards, the nature of the vacancies—permanent or temporary and the chain of vacancies and such other details which are relevant to the matters pending before this Court. In his affidavit dated January 31, 1967 Mr. R. C. Dutt said that he was not able to work out, in spite of his best endeavours, the number of vacancies arising in a particular year. However, a statement, Ex. E, was furnished showing the number of officers recruited by the two methods of recruitment to Class I service during the relevant years:

Year	*UPSC Exam. re-cruits*	*War Service candidates*	*Officers selected from Class II*
1951	*50*	*...*	*...*
1952	*...*	*2*	*49*
1953	*52*	*...*	*38*
1954	*44*	*...*	*30*
1955	*45*	*...*	*24*
1956	*...*	*...*	*25*

It is not clear from the affidavit of Mr. R. C. Dutt whether the quota rule was strictly followed for the years in question. In the counter-affidavits of respondents 1 to 4 in Writ Petition No. 5 of 1966 there is however an assertion that the quota rule "has been substantially complied with."

(13) The Solicitor-General on benefit respondents 1, 2 and 3 submitted that the quota rule was merely an administrative direction to determine recruitment from two different sources in the proportion stated in the rule and a

High Court of India

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breach of that quota rule was not a justiciable issue. The Solicitor-General said that there was, however, substantial compliance with the quota rule. But in the absence of figures of permanent vacancies in Class I, Grade II for the relevant years the Solicitor-General was unable to say to what extent there had been deviation from the rule. We are unable to accept the argument of the Solicitor-General that the quota rule was not legally binding on the Government. It is not disputed that rule 4 of the Income-tax Officers (Class I, Grade II) Service Recruitment Rules is a statutory rule and there is a statutory duty cast on the Government under this rule to determine the method or methods to be employed for the purpose of filling the vacancies and the number of candidates to be recruited by each method. In the letter of the Government of India dated October 18, 1951 there is no specific reference to rule 4, but the quota fixed in their letter must be deemed to have been fixed by the Government of India in exercise of the statutory power given under rule 4. Having fixed the quota in that letter under rule 4, it is not now open to the Government of India to say that it is not incumbent upon it to follow the quota for each year and it is open to it to alter the quota on account of the particular situation (See para 24 of the counter affidavit of respondents 1 to 3 in Writ Petition No. 5 of 1966). We are of opinion that having fixed the quota in exercise of their power under rule 4 between the two sources of recruitment, there is no discretion left with the Government of India to alter that quota according to the exigencies of the situation or to deviate from the quota, in any particular year, at its own will and pleasure. As we have already indicated, the quota rule is linked up with the seniority rule and unless the quota rule is strictly observed in practice, it will be difficult to hold that the seniority rule i.e., rule 1 (f) (iii) and (iv), is not unreasonable and does not offend Art. 16 of the Constitution. We are accordingly of the opinion that promotes from Class II, Grade III to Class I, Grade II Service in excess of the prescribed quotas for each of the years 1951 to 1956 and onwards have been illegally promoted and the appellant is entitled to a writ in the nature of mandamus commanding respondents No.1 to 3 to adjust the seniority of the appellant and other officers similarly placed like him and to prepare a fresh seniority list in accordance with law after adjusting the recruitment for

High Court of HP

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

> *the period 1951 to 1956 and onwards in accordance with the quota rule prescribed in the letter of the Government of India No.F. 24(2). Admn. I. T./51 dated October 18, 1951. We, however, wish to make it clear that this order will not affect such Class II Officers who have been appointed permanently as Assistant Commissioners of Income-tax. But this order will apply to all other officers including those who have been appointed Assistant Commissioners of Income-tax provisionally pursuant to the orders of the High Court.*
>
> *(14) In this context it is important to emphasize that the absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law. (See Dicey — "Law of the Constitution" — Tenth Edn., Introduction ex). "Law has reached its finest moments," stated Douglas, J. in United States v. Wunderlich, (1951) 342 US 98, "when it has freed man from the unlimited discretion of some ruler. Where discretion is absolute, man has always suffered". It is in this sense that the rule of law may be said to be the sworn enemy of caprice. Discretion, as Lord Mansfield stated it in classic terms in the case of John Wilkes, (1770) 4 Burr 2528 at p. 2539 "means sound discretion guided by law. It must be governed by rule, not by humour: it must not be arbitrary, vague, and fanciful."*

29. In the present case, once the R&P Rules provide rota-quota for making promotion and roster has been prepared, the respondent-State could though have made promotions, but the petitioners are to be assigned the seniority as per the roster in the R&P Rules and not doing so, it has acted arbitrarily, which

High Court of HP

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

offends Articles 14 and 16 of the Constitution of India. If the respondent-State had to assign seniority as per the date of joining the Department by the Assistant Engineers (Civil) irrespective of their source of recruitment, then the very purpose of fixing the rota-quota in the R&P Rules is frustrated and further is of no use. No doubt, an employee gets the seniority only from the date of joining the Department, but where the R&P Rules provide the ratio of recruitment by direct mode and promotion, the excess quota of seats if filled up cannot be assigned the seniority above another quota.

30. In ***V.B. Badami's*** case (supra) a three-Judge Bench of the Hon'ble Supreme Court has held that if the promotions are made to vacancies in excess of the promotional quota, the promotees cannot claim any right to hold the promotional posts unless the vacancies fall within their quota. Further, it has been held that when the quota was fixed for the two sources of recruitment, the quota could not be altered according to exigencies of the situation.

31. A Constitution Bench of the Hon'ble Supreme Court in ***All India Judges Association's*** case (supra) has also considered the similar proposition and after considering the judgment passed

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

in ***N.R. Parmar*** and ***K. Meghachandra Singh*** cases (supra), has held that when the process of recruitment of direct recruits is completed within the same recruitment year, yet an adequate number of candidates could not be selected, in such circumstances, the shortfall must be carried forward to the succeeding recruitment year and the candidates selected against such carried forward vacancies are required to be placed en-bloc below the promotees of the earlier years and unless this procedure is adhered to, the rotation of the quota system stands frustrated. It has also been held that if the recruitment process from any source is not completed in the year in which it began, but appointments are made before the end of the following year, those appointees shall be placed at their respective roster points for the year of initiation. The relevant paras of the judgment reads as under:

> *"76. In* ***Hariharan****, attention was drawn to the anomaly arising when the process of recruitment of direct recruits is completed within the same recruitment year, yet an adequate number of candidates could not be selected. It was observed that in such circumstances, the shortfall must be carried forward to the succeeding recruitment year. Consequently, candidates selected against such carried-forward vacancies are required to be placed en bloc below the Promotees of the earlier years. Unless this procedure is adhered to, the rotation of the quota system stands frustrated.*
>
> *77. The reference was thus only with respect to the*

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

selections made from different sources, based on a ratio applied to the cadre, to vacancies arising in a recruitment year.

78. While this particular issue remains pending in the abovementioned reference, in our view, keeping in mind the most celebrated principle of assigning seniority on the basis of the period of continuous service while also acknowledging the almost inevitable incidence of speedbumps, the model delineated hereinafter for the purposes of HJS would be most appropriate.

79. If the recruitment process from any source is not completed in the year in which it began, but appointments are made before the end of the following year, those appointees shall be placed at their respective roster points for the year of initiation. Provided that no appointments from any source are made for the next recruitment year before these appointments are effected.

80. To illustrate, let us consider that the recruitment process from all three sources is initiated in Year A. the procedures for appointment of LDCEs and RPs are completed within the same year A, and they are placed in the Annual Roster for Year A. However, a variety of issues cause the appointments of DRs to happen only in Year A+1. Now, these DRs, although appointed in Year A+1, would be permitted to also take their positions within the roster for Year A, as long as they were appointed prior to the LDCEs, RPs, and DRs whose recruitment is initiated in Year A+1.

81. Barring the above exception, we affirm that the continuous length of service ought to be the criterion for determining inter se seniority in the HJS, subject to the further condition that all appointees in a single recruitment year are placed against their respective annual roster points, regardless of the actual date of appointment.

82. The above mechanism, in our opinion, serves to mitigate the grievances and preserve the seniority of an appointee who was subsequently borne in service only due to the vagaries of the recruitment process. In the same vein, the officers appointed earlier also cannot be aggrieved, as they would be adjusted within the roster only along with their relative contemporaries in the service and would be put on notice regarding the concluded.

83. If the High Court, for any valid reason, decides not to initiate the recruitment process from any of the three

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

sources in a given year, the person subsequently appointed from those sources shall not be eligible to be placed within the roster for that year in which recruitment form the source did not take place.

84. We are at the same time also cognizant of the necessity of ensuring that vacancies in the judicial services do not remain unfilled, the negative consequences of which have been very cogently addressed by this Court in ***Mazhar Malik Sultan.*** *To this end, this Court in the* ***Sixth AIJA,*** *has already provided that unfilled vacancies within the LDCE quota may be diverted and filled by RPs.*

85. In our considered opinion, the above system can also be extended to the vacancies that remain unfilled after the process of direct recruitment is completed. To explicate, when some of the vacancies pertaining to DRs or LDCEs in a particular year are not filled up due to non-availability of suitable candidates from these sources, despite the recruitment process being taken to its conclusion, the positions which remain vacant for want of candidates shall be filled up in the same recruitment year through regular promotion from the cadre of Civil Judge (Senior Division) as per the applicable rules.

86. In such a scenario, the candidates who are ordinarily selected from the three sources are assigned seniority on induction to the HJS as per the Annual Roster in the regular manner. The remaining RPs, who are promoted in the vacancies from the other sources, would also be entitled to be placed in the same roster, but they would only occupy the subsequent positions for RPs, i.e., this diversion does not grant the roster position of LDCEs or DRs to these RPs. In the subsequent recruitment year, the ratio of 50:25:25 should guide the computation of vacancies to be filled from each source. This would be a continuing exercise of applying the roster points on the candidates selected in each recruitment year, while the ratio is applied to the cadre, for determining the vacancies arising in a subsequent year."

32. A perusal of the aforesaid judgment clearly depicts that the persons, who are recruited as direct recruits have to be placed as per the annual roster points and in the present case,

High Court of HP

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once the respondent-State had initiated the process for recruitment as Assistant Engineer (Civil) as direct recruit in the month of April, 2008, even if the process was delayed, after their appointment, they have to be assigned seniority as per the roster point fixed and in case it is not done so, the very purpose of fixing the rota-quota as prescribed in the R&P Rules would be frustrated and further, the petitioners, who were recommended for appointment on 04.11.2008, will be deprived of their right of seniority and further consideration in future for promotion to the higher post as per the R&P Rules.

33. The Hon'ble Supreme Court has time and again held that the seniority has to be maintained as per the R&P Rules. In the present case, since the respondent-State had upgraded the posts of Junior Engineer (Civil), no doubt the State Government had the power to fill up those posts, but the petitioners, for whom the recruitment process was started in the month of April 2008, cannot be denied their seniority over and above the persons who have been recruited more than the quota prescribed to them and further also to ignore the roster. The petitioners have to be assigned seniority as per the roster in the R&P Rules and since the respondent-State, while issuing the seniority list,

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

has not adhered to the roster as prescribed in the R&P Rules, it has violated the fundamental rights of the petitioners and the same is violative of Articles 14 and 16 of the Constitution of India.

34. Learned Deputy Advocate General and learned counsel for the private respondents had vehemently argued that since the petitioners were not borne in the cadre, they cannot be assigned seniority above the private respondents. However, the said contention cannot be accepted in view of the authoritative pronouncements of the Hon'ble Supreme Court in the aforementioned judgments, which clearly stipulates that the direct recruits have to be fitted in the roster as per rota-quota system as per the vacancies and their position and in the present case, since the respondent-State has not adhered to the said procedure, there is infraction of Articles 14 and 16 of the Constitution of India.

35. The judgment passed by the Hon'ble Supreme Court in ***M. Thanigivelu's*** case (supra), which was relied upon by the learned counsel for the respondents is not attracted to the present case, for the reason that in this case the Court has considered the Regulations, which provide that the seniority is to

High Court of H.P

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

be counted from the placement of a candidate in the merit list, which is prepared at the time when recruitment takes place. In the present case, the R&P Rules prescribe the roster for making promotion and assigning seniority which fact has not be disputed by the respondent-State and the private respondents. Once the roster point has been provided in the R&P Rules to assign seniority to Assistant Engineer (Civil) appointed by direct recruitment and by promotion as per their quota, the petitioners whose process was initiated in the month of April 2008 and recommendations were made by the Commission on 04.11.2008, the private respondents who have been appointed earlier to the petitioners cannot be assigned the seniority dehorse the roster point in the R&P Rules which action is arbitrary and discriminatory. The respondent-State had made the promotions of some of the private respondents as per the recommendations of the DPC convened on 30.12.2008 which as per the respondents were not within three months from creation of I&PH Zone, Hamirpur and I&PH Circle Bilaspur. Once the appointment of the petitioners was approved on 25.11.2008 and further their medical and verification of characters and antecedents were also done on 23.12.2008, the respondent-State ought to have offerred them

High Court of H.P.

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appointment before making promotion of the private respondents on 31.12.2008. In doing so, it has acted arbitrarily.

36. In ***H.V Pardasani and others vs. Union of India and others,*** (1985) 2 SCC 468, a three-Judge Bench of the Supreme Court has held that in the absence of any special provision regulating determination of seniority, length of continuous service in any particular grade would be the basis for determining seniority in the grade. But in the present case, since there is a provision of making selection of Assistant Engineer (Civil) as per the roster from direct recruitment and promotion, the seniority has to be assigned strictly as per the roster.

37. The plea taken by the respondent-State that the posts of Assistant Engineer (Civil) were not being filled up on year-to-year basis due to economy measure can be accepted if equal number of posts by way of promotions were kept vacant as per the ratio prescribed in the R&P Rules. If the persons who were working as Junior Engineers (Civil) can be promoted to the posts of Assistant Engineer (Civil), equal number of posts as per the ratio in the R&P Rules have to be filled up by way of direct recruitment to respect the roster, more particularly when the direct recruits were available on the date of promotion.

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

38. Another plea taken by the respondent-State that the Government took a conscious decision to upgrade 27 number of posts of Junior Engineer (Civil) to the posts Assistant Engineer (Civil) by abolishing the equal number of posts of Junior Engineer (Civil) besides filling up the 19 internalized posts of Assistant Engineer (Civil) by way of promotion from amongst feeding categories is concerned, as already noticed above, the upgraded posts if filled up can not be more than the quota of the vacancy falling to the share of Junior Engineer (Civil) and further, they had to be assigned the seniority below the petitioners as per the roster point in the R&P Rules. In case the roster is not adhered to and respected, the same would amount to arbitrary action on the part of the respondent-State and further the very purpose of prescribing the roster in the R&P Rules is frustrated.

39. Consequently, the present petition is allowed and the impugned memoranda dated 25.05.2011 (Annexure P-10) and dated 24.05.2011 (Annexure P-11) are quashed and set aside and the respondent-State is directed to assign seniority to the petitioners as per the roster, as prescribed under the Himachal Pradesh, Department of Irrigation and Public Health, Assistant Engineer (Civil) Class-I (Gazetted) Technical Services,

High Court of H.P.

::: Downloaded on - 30/10/2026 21:56:14 :::CIS

Recruitment and Promotion (third amendment) Rules, 2005 notified on 25.02.2005 with all consequential benefits.

40. The petition is accordingly disposed of. No order as to costs. Pending application(s), if any, also stands disposed of.

30th October, 2026 **(Jiya Lal Bhardwaj)**
(ankit) **Judge**

High Court of H.P.

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