

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CWP No.4675 of 2025****Date of Decision: 27.11.2025**

Shashi Sharma		Petitioner
	Versus	
State of H.P. and Others		Respondents

*Coram:****Hon'ble Mr. Justice Sandeep Sharma, Judge.****Whether approved for reporting? ¹*

For the Petitioner: Mr. Surinder Saklani, Advocate.**For the Respondents:** Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General, with Mr. Ravi Chauhan and Mr. Anish Banshtu, Deputy Advocates General, for State.

Sandeep Sharma, Judge (oral):

Petitioner herein, who at present is working as Deputy Director (Legal) in the Directorate of Food, Civil Supplies and Consumer Affairs, Himachal Pradesh, is aggrieved of inaction on the part of respondent-department inasmuch as it has failed to accede to the request of the petitioner for grant of benefit of FR 22(1)(a)(1), on account of his upgradation to the post of Senior Law Officer and Deputy Director (Legal).

2. Explicitly, facts, relevant for adjudication of the case at hand, are that one post each of Law Officer and Legal Assistant was created in the Department of Food, Civil Supplies and Consumer

¹Whether the reporters of the local papers may be allowed to see the judgment?



Affairs. Department framed Recruitment & Promotion Rules in which Legal Assistant was made feeder category for promotion to the post of Law Officer and thereafter, both these posts were placed in the same pay-scales from 1996 onwards. Petitioner was appointed as Legal Assistant through Himachal Pradesh Public Service Commission in the year 1998. He was placed in the post of Law Officer in the year 2003 without any financial benefit as the posts of Legal Assistant and Law Officer had identical pay-scales. In the year 2006, the nomenclature of the post of Legal Assistant was changed to that of Law Officer. Since there was no promotional avenue from the post of Law Officer in the Department of Food, Civil Supplies and Consumer Affairs, therefore in the year 2017, after the approval of the competent authority at the Government level, one post of Law Officer was upgraded to that of Senior Law Officer in the pay scale of ₹10300+34800 Plus ₹5400/- Grade Pay and the petitioner was appointed to the afore post vide notification dated 06.10.2017. Petitioner filed Original Application bearing No.166 of 2019, tilted as ***Shashi Sharma Vs. State of Himachal Pradesh and Others***, before the erstwhile Himachal Pradesh Administrative Tribunal to upgrade his post of Senior Law Officer to that of Deputy Director (Legal) on the analogy of Ms. Sonia Banyal, who at present is working as Deputy Director (Legal) in the Department of Panchayati Raj. Afore Original



Application was disposed of with the direction to respondent-department to extend the benefits of order passed in OA No.5858 of 2017, titled as ***Sonia Banyal Vs. State of Himachal Pradesh and Others***, to the petitioner in case he is similarly situated. Though petitioner herein had filed representation to the competent authority in terms of aforesaid order passed by the erstwhile Administrative Tribunal, but same was rejected. Being aggrieved and dissatisfied with the rejection order, petitioner filed COPCT No.63 of 2019, titled as ***Shashi Sharma Vs. Shrikant Baldi***, wherein this Court passed order dated 02.01.2020, thereby directing the respondents to consider the case of the petitioner in light of *Sonia Banyal* (supra). In compliance to the aforesaid order passed by this Court, post of Senior Law Officer was upgraded to that of Deputy Director (Legal) (Class-I, Gazetted) in the pay-scale of ₹10300+34800 Plus ₹6600/- Grade Pay, as a personal measure to the petitioner.

3. In nutshell, grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Surinder Saklani, learned counsel representing the petitioner is that though post of Law Officer held by petitioner was upgraded to the post of Senior Law Officer and thereafter as Deputy Director (Legal), but till date, benefits in terms of FR 22(1)(a)(1) have been not released in favour of the petitioner. While disputing claim of the petitioner that



aforesaid benefit of upgradation to the petitioner was extended as a measure personal to the petitioner, Mr. Saklani, learned counsel representing the petitioner, argued that since two persons were appointed as Deputy Director (Legal), one, present petitioner and another, Mr. Tej Singh, there is otherwise no occasion to claim that upgradation to the post of Deputy Director (Legal) was personal measure. While making this Court peruse number of documents adduced on record (Annexure P-13), Mr. Saklani, learned counsel representing the petitioner, submitted that in similar facts and circumstances, persons similarly situate to the petitioner in various department have been granted benefits under FR 22(1)(a)(1) on account of upgradation, but different yardstick is being applied to the case of the petitioner.

4. Pursuant to notices issued in the instant proceedings, respondent-State has filed reply, wherein facts, as have been noticed hereinabove, have not been disputed, rather attempt has been made to refute the claim of the petitioner on the pretext that in terms of FR 22(1)(a)(1), benefit, if any, can only be granted upon promotion, whereas in the case at hand, petitioner has been not promoted, rather upgraded to a higher post with the condition that such post shall cease to exist upon the retirement of petitioner.



5. Having heard learned counsel representing the parties and perused material available on record, this Court vide order dated 21.11.2025 called upon learned Additional Advocate General to have instructions that since similar situate persons have been granted benefit of FR 22(1)(a)(1) after upgradation of the post, as is evident from Annexure P-13 (Colly), why and for what reason such benefit is not being granted to the petitioner.

6. Pursuant to afore order, Mr. Rajan Kahol, learned Additional Advocate General, has made available communication dated 24.11.2025, issued under the signatures of Under Secretary (F, CS & CA) to the Government of Himachal Pradesh. Careful perusal of aforesaid communication, which is taken on record, clearly reveals that common Recruitment & Promotion Rules for the post of Senior Law Officer as well as Deputy Director (Legal) are yet to be framed, however, having taken note of continuous service of the petitioner, benefit of upgradation from the post of Law Officer to Senior Law Officer and thereafter from Senior Law Officer to Deputy Director (Legal) was granted to the petitioner after the intervention of this Court on the analogy of Ms. Sonia Banyal, who admittedly, in terms of directions passed by erstwhile Administrative Tribunal in OA No.5858 of 2017, was upgraded to the post of Deputy Director (Legal) and was also granted benefit under FR 22(1)(a)(1). Since year 2020, petitioner



has been working as Deputy Director (Legal) in the Department of Food and Civil Supplies. There cannot be any dispute that petitioner has not been promoted to the post of Deputy Director (Legal), rather his post has been upgraded. FR 22(1)(a)(1) reads as under:

“FR 22(1)(a)(1) - Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive temporary or officiating capacity, as the case may be, subject to the fulfillment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale shall be fixed by giving one increment in the level from which the Government servant is promoted and he or she shall be placed at a cell equal to the figure so arrived at in the level of the post to which promoted or appointed and if no such cell is available in the level to which promoted or appointed, he shall be placed at the next higher cell in that level.”

6.1. Careful perusal of aforesaid Rule reveals that when a Government servant, holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, he/she shall be placed at the next higher cell in that level, subject to fulfillment of eligibility condition, as provided in the relevant recruitment rules. At this stage, it would be apt to take note of FR 17(1) of FRSR, Part-I, which reads as under:

“Subject to any exceptions specifically made in these rules and to the provisions of sub-rule (2), an officer shall begin to draw the pay



and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post, and shall cease to draw them as soon as he ceases to discharge those duties.”

6.2. The aforesaid Rule further provides that an officer shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post, and shall cease to draw them as soon as he ceases to discharge those duties.

7. In nutshell, objection raised at the behest of department is that benefit of FR 22(1)(a)(1) cannot be granted to the petitioner on account of his upgradation to the post as a personal measure, because same cannot be termed as ‘promotion’ in light of provisions of Fundamental Rules, however, having carefully examined FR 22(1)(a)(1), this Court is of the view that if a person is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, his initial pay in the time-scale shall be fixed by giving one increment in the level from which the Government servant is promoted and he or she shall be placed at a cell equal to the figure so arrived at in the level of the post to which promoted or appointed, but subject to fulfillment of eligibility condition, as prescribed in the relevant Recruitment & Promotion Rules.

8. Though having perused FR 22(1)(a)(1), this Court is not persuaded to agree with the submissions sought to be raised at the



behest of respondents that on account of upgradation of the petitioner from the post of Senior Law Officer to Deputy Director (Legal), he is not entitled to the benefit of aforesaid provision, however, having taken note of the fact that Recruitment & Promotion Rules are yet to be framed for the post of Senior Law Officer and Deputy Director (Legal), respondents may be right in claiming that petitioner is not entitled to benefit under FR 22(1)(a)(1), however, having carefully perused of number of documents adduced on record by the petitioner (Annexure P-13), this Court finds that in similar facts and circumstances, wherein Senior Law Officers have been granted benefit of FR 22(1)(a)(1) on account of upgradation of their post, but different yardstick is being applied in the case of the petitioner.

9. Having taken note of the fact that petitioner has been working against the post of Deputy Director (Legal) for almost five years, coupled with the fact that post of Deputy Director (Legal) carries greater responsibility, than that of Law Officer/Senior Law Officer, this Court, without going into the merits of the case, deems it fit to dispose of the present petition, reserving liberty to the petitioner to file detailed/comprehensive representation to the department for redressal of his grievance within a period of two weeks, which in-turn shall be decided by the competent authority expeditiously, preferably, within a period of four weeks, taking note of Annexure P-13 (Colly),



wherein admittedly number of similarly situate persons have been granted benefit of FR 22(1)(a)(1). Ordered accordingly. Needless to say, authority concerned, while doing the needful in terms of instant order, shall afford an opportunity of hearing to the petitioner and pass appropriate order.

The present petition is disposed of in the above terms, so also the pending miscellaneous application(s), if any.

**(Sandeep Sharma),
Judge**

November 27, 2025
(Rajeev Raturi)