

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.6514 of 2019
a/w CWPOA Nos.4752 &
4758 of 2020

Decided on: 4th May, 2026

1. CWPOA No.6514 of 2019

Sanjeev Kumar and others ...Petitioners

versus

State of H.P and another ...Respondents

2. CWPOA No.4752 of 2020

Shanti Lal ...Petitioner

versus

Himachal Road Transport Corporation ...Respondent

3. CWPOA No.4758 of 2020

Ghanshyam Lal and others ...Petitioners

versus

Himachal Road Transport Corporation ...Respondent

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?¹

For the petitioner(s): **Mr. C.N. Singh and Mr.Anshul Gandhi, Advocates in CWPOA No.6514 of 2019 and CWPOA No.4752 of 2020.**

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

**Mr.Vijender Katoch, Advocate
for the petitioner in CWPOA
No.4758 of 2020.**

**For the respondents: Mr.Hemant Kumar Verma,
Deputy Advocate General for
the respondent-State.**

**Ms.Shubh Mahajan, Advocate
for the respondent-HRTC.**

Jiya Lal Bhardwaj, Judge (Oral)

Since the common questions of law and facts are involved in all these petitions, the same are taken up together for final disposal.

2. For the purpose of disposal of these petitions, the facts of CWPOA No.6514 of 2019 are taken.

3. The petitioners, by way of present petition, have sought a direction to the respondents to consider their claim for appointment as Transport Multi Purpose Assistants (for short 'TMPAs') under sports quota.

4. The facts, which emerge from the pleadings, are that the respondent-Corporation had issued advertisement dated 03.08.2017 (Annexure A-3) for inviting online applications from the eligible candidates to fill-up 1000 posts of TMPAs from *bonafide* residents of Himachal Pradesh and last date for receipt of the application form was fixed as 28.08.2017. Subsequent thereto, a corrigendum was issued

whereby number of posts for TMPAs was increased from 1000 to 1300. The petitioners being eligible as per qualification prescribed in the advertisement, had applied before the cut-off date under the sports quota category and appeared in the written examination conducted on 17.09.2017. The result of the written examination was declared and the petitioners were shortlisted for appointment to the post of TMPAs. After declaration of result on 10.05.2018, the petitioners were called for document verification and they appeared before the competent authority to show their original testimonials. However, later on, their names were found missing when the appointment orders were issued on 14.06.2018 (Annexure A-1).

5. The petitioners feeling aggrieved by the said action of the respondent-Corporation had made inquiries, wherein it was revealed to them that there is no quota for sportsmen who had participated only in District and State level tournaments and, therefore, the appointment orders have not been issued.

6. The petitioners have averred in the writ petition that when the advertisement was issued, no such criteria was mentioned and further in the past, the respondent-

Corporation had made selection of the similar persons, who had participated in the sports activities at District and State level. It is further averred in the petition that the respondent-Corporation cannot adopt different criteria belonging to the sports category when the turn of the petitioners came for appointment, which action is arbitrary and unreasonable and they have also prayed for initiating an inquiry in the matter.

7. The respondent-Corporation filed reply to the petition and raised preliminary submissions that the petition is not maintainable, since the petitioners have misrepresented the facts and have not approached the Court with clean hands. No cause of action has arisen in their favour inasmuch as they are not entitled to any relief. As per Notification No.PER (AP)-C-F (1)-3-2001 dated 22.01.2002 (Annexure R-1) issued by the Government of Himachal Pradesh, it is evident that for getting the benefits of reservation under sports category for category No.IV, a person should be:

- I. Medal winner in All India Inter Varsity Sports Tournaments.**
- II. Medal Winner in All India National School Games.**
- III. Medal Winner in recognized Jr. National Sports Championships.**
- IV. Participation in South Asian Federation (SAF) Games.**

V. At least three times participation in National Championship and Senior National Championship.”

8. The selection in reserved categories is being done on the basis of criteria of reservation fixed by the Government from time to time. The documents of the petitioners were verified for authenticity of category applied by them on the last stage of the recruitment process. Before that, only written examination was conducted and marks as per the Notification dated 17.04.2017 (Annexure R-2) were given to all the candidates, who had appeared in the written examination and shortlisted thereafter. It was only during the course of document verification of the petitioners that their credentials were not found fit for the post of reserved under sports quota.

9. The respondent-Corporation had filed sur-rejoinder to the rejoinder filed by the petitioners and it was admitted that similar situated persons were given appointments by the respondent-Corporation, but the same was under bonafide mistake and inadvertently the candidates were offered appointment against sports quota by the respondent-Corporation, who had participated in District level and State level tournaments. It has been stated that under law, the mistake can be rectified and mistake cannot be

repeated again and hence the claim of the petitioners cannot be accepted.

10. Pursuant to the directions given by this Court, a preliminary inquiry was conducted and the inquiry report was placed on record, wherein a conclusion was drawn that the appointments to 16 candidates in the year 2010-11 and 2016-17 were given due to non-awareness or lack of knowledge regarding the proper procedure for filling up posts reserved for sports quota. Before the year 2018, no recruitment was made by the Himachal Pradesh Public Service Commission and Himachal Pradesh Staff Selection Commission for the Board/Corporations. The State Government vide letters dated 16.09.2017 and 18.12.2018 had authorized HPSSC & HPPSC, respectively, to conduct the recruitment for Boards and Corporations and accordingly since the year 2018, the respondent-Corporation is not conducting any recruitment process at its own except the recruitment of Drivers.

11. I have heard the learned counsel for the parties and also gone through the record carefully.

12. It is not disputed by the petitioners that they have not played any sports event at national level. It is also not in

dispute that none of the candidates from the sports category, who had participated in District or State level, had been offered appointment, in sequel to advertisement issued by the respondent-Corporation on 03.08.2017. It is also not in dispute that in the past, the persons who had played District and State level tournaments had been offered appointment. However, the fact of the matter is that no appointment to the candidates, who had played District or State level tournament under sports quota has been offered appointment, in sequel to the advertisement issued by the respondent-Corporation.

13. The respondent-Corporation in its reply has relied upon the Notification dated 22.01.2002, which clearly provides that for getting the benefits of reservation under sports category for category No.IV, a person should be a medal winner in All India Inter Varsity Sports Tournaments, Medal Winner in All India National School Games, Medal Winner in recognized Junior National Sports Championship, Participation in South Asian Federation (SAF) Games and at least three times participation in National Championship and Senior National Championship. The petitioners have not laid challenge to the said Notification. Once the respondent-Corporation has followed the norms fixed by the State

Government as per *ibid* Notification dated 22.01.2002, the petitioners cannot be granted any relief, when the said Notification is not under challenge.

14. Learned counsel for the petitioners have vehemently argued that once in the past, the respondent-Corporation had considered the candidates under the sports category, who had participated in District or State level tournaments/championship for their appointments, the respondent-Corporation is precluded from taking the plea that this time they had not considered the candidatures of such candidates who participated in District and State level tournaments. The said plea cannot be accepted for the simple reason that the petitioners cannot drive negative parity, especially when the respondent-Corporation has admitted that in the past, the candidates have wrongly been considered. Once the respondent-Corporation has not offered appointment to any of the persons, who belongs to the category of the petitioners and played at District or State level championship/tournament, no relief can be granted to them in the present proceedings.

15. The argument raised by the learned counsel for the petitioners that once the names of the petitioners were

found in the select list, later on, the respondent-Corporation could not have denied them the appointment, is also meritless, in view of the judgment of the Constitution Bench of the Hon'ble Supreme Court in ***Shankarsan Dash vs. Union of India (1991) 3 SCC 47***, wherein it was held that the candidate whose name is found in the select list, has no indefeasible right to be offered appointment. Once the respondent-Corporation after verifying the testimonials of the petitioners had come to the conclusion that none of the petitioners had participated in the national level championship/tournament and further not meeting criteria as laid down by the State Government in the Notification dated 22.01.2002, the petitioners have no vested right to get the appointment to the posts of TMPAs.

16. Resultantly, I do not find any merit in the petitions and the same are accordingly dismissed, so also the pending applications, if any.

04th May, 2026
(naveen)

(**Jiya Lal Bhardwaj**)
Judge