

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****CWP No.4788 of 2022**
Decided on: 24th November, 2025

Ashok Kumar

.....Petitioner

Versus

Himachal Road Transport Corporation

...Respondent

*Coram****The Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.******Whether approved for reporting?¹*****For the petitioner: Mr. Nishant Khidtta, Advocate.****For the respondent: Mr. Shyam Singh Chauhan,
Advocate.**

Jiya Lal Bhardwaj, Judge(Oral)

The challenge in the present writ petition is against an office order dated 06.07.2022 passed by the respondent-Corporation, whereby the request made by the petitioner for changing his designation from the post of Conductor to the post of Clerk has been rejected.

2. Shorn of unnecessary details, the key facts for adjudication of the claim raised in the writ petition are that the petitioner was appointed as Bus Sahayak as per the office order dated 02.07.2011 issued by the respondent-Corporation. Later on, all the Bus Sahayaks so engaged were designated as Conductors upon the decision taken by the

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



respondent-Corporation on 17.10.2011. The petitioner had been performing the duties of Clerk w.e.f. 22.02.2012 and he has also placed on record, the office orders as Annexure P-4 (Colly.) to support his contentions. The petitioner has also placed on record an office order dated 12.01.2021 issued by the Regional Manager, HRTC, Reckongpeo unit which is at page 46, wherefrom, it is clear that upon transfer of one Prem Singh, Senior Assistant, the petitioner was asked to perform the duties of Accountant in his place.

3. The petitioner had earlier instituted the writ petition before this Court, which was registered as CWP No.980 of 2022. The aforesaid writ petition came to be disposed of on 10.03.2022 by this Court without expressing its opinion on merits and had directed the respondent-Corporation to decide the representation to be instituted by the petitioner regarding change of his designation. In sequel to the said direction, the petitioner made a representation and the respondent-Corporation rejected the same vide office order dated 06.07.2022 on the ground that so far as Jai Singh, who was deputed in the Corporation as Conductor is concerned, he was working as Clerk in the HPSEB (Legal Cell) and was attached with the Legal Advisor of the Board in this



Court and H.P. State Administrative Tribunal. Later on, he was recruited in the respondent-Corporation as conductor and keeping in view of his experience, he was assigned Court duty as well as attached with the standing counsel of the Corporation and on the other hand, the petitioner who was deputed as Conductor was deployed with other duty by the Regional Manager, Reckongpeo unit at his own level/oral request made by the petitioner due to his illness. The further ground taken while rejecting the representation is that there are 422 Conductors on such type of other duties and in case the petitioner is re-designated as Clerk, the whole system/administrative set-up of the respondent-Corporation will be unsettled.

4. The main grounds taken by the petitioner in the writ petition as have been canvassed before this Court by the learned counsel representing him are that the petitioner at his own was not doing the work of Conductor in the respondent-Corporation w.e.f. 22.02.2012, but he had been assigned the duties of Clerk by the respondent-Corporation. The learned counsel also drawn the attention to the office orders issued by the respondent-Corporation annexed as Annexure P-4. It has further been argued that only when the



petitioner was transferred from Reckongpeo to Bilaspur, he was assigned to perform the duties of the Conductor. It has also been submitted that the petitioner had approached this Court and despite making a representation and highlighting the factum that in case of Jai Singh, who was almost similarly situate to the petitioner, the respondent-Corporation did not accede to his request for change of designation. He has vehemently argued that once in case of said Jai Singh, the respondent-Corporation had allowed the change of designation, the parity demands that the petitioner may also be allowed to change his designation, especially when there is no financial implication for the reason that the pay-scales of the post of Conductor and Clerk are same.

5. On the other hand, the learned counsel representing the respondent-Corporation has supported the order passed by the respondent-Corporation and vehemently argued that in case the prayer made by the petitioner is acceded to, it will open pandora box for the reason that there are 422 Conductors who are also working against other posts though their designation is of Conductor.

6. The learned counsel representing the respondent-Corporation has also submitted that so far as the change of



designation in respect of Jai Singh is concerned, he was working as Clerk in the H.P. State Electricity Board (Legal Cell) and was attached with the Legal Advisor of the H.P. State Electricity Board in this Court and, therefore, his designation was changed. It has further been argued that there is no provision to change the designation and the prayer made by the petitioner cannot be acceded to.

7. I have heard the learned counsel for the petitioner as well as learned counsel representing the respondent-Corporation and carefully perused the material placed on record.

8. It is not in dispute that the petitioner was appointed as Bus Sahayak and later on designated as Conductor. It is also not in dispute that the petitioner had been working and performing the duties of Clerk and Accountant as is evident from the documents placed on record by the petitioner as Annexure P-4 (Colly.). The counsel representing the respondent has not disputed the said documents and the letter dated 08.12.2021 written by the Regional Manager, Reckongpeo of the respondent-Corporation to the Managing Director of the Corporation wherein it has been mentioned that in case the petitioner is transferred, the



work will be suffered since he is performing the duties of Accountant and also the duties of Clerk. Not only this, another letter dated 23.12.2021 (Annexure P-11) also depicts that in case the petitioner is transferred who is looking after the work of Accountant and performing the duties of clerical, the work will be suffered. By another communication dated 21.01.2022 (Annexure P-12), a prayer was made to cancel the duties of the petitioner who is performing the duties as Accountant. The perusal of these annexures clearly show that the Regional Manager, Reckongpeo of the respondent-Corporation had mentioned that in case the petitioner is transferred, the unit at Reckongpeo will suffer adversely, since the petitioner is looking after the works of the Accountant in the respondent-Corporation. Similarly, it is evident from Annexure P-11 that there is shortage of Clerical Staff and there is none to perform the duties of Accountant on which post the petitioner is performing his duties in addition to the other clerical duties. In case, the petitioner is transferred, there will be none to perform the duties of Accountant and other clerical duties. Not only this, even the Divisional Manager of the respondent-Corporation, as per letter dated 21.01.2022 (Annexure P-12) has highlighted that the transfer



of the petitioner from Reckongpeo to Bilaspur unit may be cancelled till the designated office staff is not provided at Reckongpeo, which would be in the interest of Corporation as well as the working of Reckongpeo unit. From these facts, it is crystal clear that the petitioner was working as Clerk w.e.f. 22.02.2012 and there is no material having been placed on record by the respondent-Corporation from which it can be inferred that he was posted at his request to perform the duties of Clerk.

9. So far as the plea having been raised by the respondent-Corporation that in case the petitioner is not akin to the case of Jai Singh is concerned that is totally wrong. Perusal of the above facts and the documents placed on record clearly show that the petitioner is working as Clerk w.e.f. 22.02.2012 and further even the office of the respondent-Corporation has stated that in case the petitioner, who is working in the tribal area is transferred, the working of the Corporation will be adversely affected. Since the respondent Corporation has already implemented the judgment passed by this Court in Jai Singh's case which was bearing CWP No.3093 of 2009, titled, Jai Singh vs. Himachal Pradesh Road Transport Corporation, it is crystal clear that



the dictum passed by this Court has been duly accepted by the respondent-Corporation and there is no reason not to give similar treatment to the petitioner who is similarly situated. The rejection of the claim of the petitioner by the respondent-Corporation is arbitrary and unjustified. The respondent-Corporation has not considered the ibid dictum in Jai Singh's case in its right perspective. Once it is crystal clear from the documents placed on record by the respondent-Corporation that the petitioner is performing the duties of Clerk and other posts, his claim ought to have been accepted.

10. So far as the contention regarding the factum that there is no provision of changing the designation is concerned, once the respondent-Corporation in the case of another person has implemented the judgment, this Court is of the considered opinion that similar directions deserve to be given in the case of the petitioner, who is working as Clerk w.e.f. 22.02.2012 with the respondent-Corporation and other posts as mentioned in the letters mentioned above.

11. The counsel representing the petitioner has fairly conceded before this Court that in case the request made by the petitioner is acceded to and his designation is changed from Conductor to Clerk, he will not claim any over stay



allowance at Kinnaur. He also submitted that the petitioner has already furnished an affidavit to this effect which has been placed on record in CWP No.604 of 2022, titled, Ashok Kumar versus HRTC and another if the respondent-Corporation is interested to post him at Reckongpeo.

12. It is settled law that if an employer deposes an employee to perform the duties of the higher post, the said employee is entitled to the pay scale of the higher post and since the petitioner has been performing the duties in various capacities with the respondent-Corporation and the pay scale of the post of Conductor and that of the Clerk is same, there seems to be no impediment to accept the prayer of the petitioner to change his designation from the post of Conductor to Clerk w.e.f. 22.02.2012. As discussed above, the respondent-Corporation in the past has also changed the designation and the petitioner also deserves the similar treatment when the facts of his case are akin to that of Jai Singh's case.

13. In view of the above discussion, the writ petition preferred by the petitioner is allowed and an office order dated 06.07.2022 passed by the respondent-Corporation, Annexure P-17 is quashed and set aside with a direction to



the respondent-Corporation to change the designation of the petitioner from the post of Conductor to Clerk w.e.f. 22.02.2012 with all consequential benefits. Needful be done within a period of two months from the date of receipt of copy of the judgment. However, it is made clear that in case the petitioner is permitted to stay at Reckongpeo, after changing his designation, he shall not be held entitled to any overstay allowance as fairly conceded by the learned counsel representing the petitioner.

14. The writ petition is allowed and disposed of in the aforesaid terms. However, no orders as to costs. The pending applications, if any, also stand disposed of.

November 24, 2025
(naveen)

(**Jiya Lal Bhardwaj**)
Judge