

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****CWPOA No.363 of 2019****Decided on: 25th March, 2026**

Dhani Ram

...Petitioner

versus

State of H.P. and others

...Respondents

*Coram****Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.******Whether approved for reporting?¹*****For the petitioner: Mr.Rakesh Kumar Dogra,
Advocate.****For the respondents: Mr.Hemant Kumar Verma,
Deputy Advocate General.****Jiya Lal Bhardwaj, Judge (Oral)**

By way of present petition, the petitioner has prayed that the respondents be directed to regularize the services of the petitioner on the post of Mechanic-cum-Fitter Grade-I instead of Mechanic-cum-Fitter Grade-II from 1998, with all admissible allowances.

2. As per pleadings in the writ petition, the petitioner was initially engaged on daily wage basis as Mechanic on 01.01.1988. However, his designation was shown in the year 1988 to 2/1989 as Fitter Grade-I, 3/89 to 7/89 as skilled Grade-I, 8/89 to 2/90 as Mechanic Skilled Grade-I, 3/90 to 8/91 as Mechanic High Skilled, 19/91 to 10/94 as High

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



Skilled Workshop Mechanic Grade-I, 11/94 to 3/95 as High Skilled Workshop Mechanic and lastly from 4/95 to 1/98 as Diesel Auto Mechanic.

3. As per recommendations of the Screening Committee, the petitioner was recommended to be appointed as Mechanic-cum-Fitter Grade-II (Junior Technician Mechanic) and accordingly, vide office order dated 06.05.1999 (Annexure P-4), he was appointed as such w.e.f. 01.01.1998. It has been pleaded in the petition that when the petitioner was appointed as Mechanic-cum-Fitter Grade-II, he was eligible to hold the post of Mechanic-cum-Fitter Grade-I, since he had worked on such post. The petitioner has further averred that other employees who were initially working as Helpers namely, Atul Kumar, Shyam Lal, Hardayal Singh etc., they have been appointed on the post of Mechanic-cum-Fitter Grade-II. The petitioner could not be promoted to the post of Mechanic-cum-Fitter Grade-I for the reason that he was not possessing ITI in the trade of Mechanic and since he acquired the said qualification in the year 2007 as a private candidate, he made a representation for promoting him to the post of Mechanic-cum-Fitter Grade-I, which representation was



forwarded by respondent No.3 to respondent No.2, recommending his name for promotion.

4. The petitioner has also averred that though the petitioner was eligible for the post of Mechanic-cum-Fitter Grade-I in the year 1998, but he was appointed on the post of Mechanic-cum-Fitter Grade-II. The petitioner had made representation to the respondents to promote him vide Annexure P-10 and Annexure P-11, but the respondents did not bother to reply. The petitioner was wrongly appointed as Mechanic-cum-Fitter Grade-II, whereas he ought to have been appointed as Mechanic-cum-Fitter Grade-I.

5. The respondents have filed reply to the petition and averred that the petitioner by filing the petition is seeking appointment of Mechanic-cum-Fitter Grade-I from 01.01.1998 instead of Mechanic-cum-Fitter Grade-II. The petitioner is not entitled to the said claim. The petitioner was initially engaged as daily waged Mechanic in January, 1988 and his name was forwarded to the authorities to accord him work charge status and after approval for making his services regular, the petitioner was appointed as Mechanic-cum-Fitter Grade-II in the pay-scale of Rs.3120-5160/- with other admissible allowances. The petitioner has also been paid an



amount of Rs.27,707/- as arrears for the period 01.01.1998 to 10.05.1999 and he was only eligible to be appointed as Mechanic-cum-Fitter Grade-II and not Mechanic-cum-Fitter Grade-I, which is a higher post as per the Recruitment and Promotion Rules. The appointment to the post of Mechanic-cum-Fitter Grade-II was given in accordance with the R&P Rules in respect of the category, in which, he was entitled in the department as per Notification dated 05.05.1995. The next higher post is of Mechanic-cum-Fitter Grade-I, which is to be filled up 100% by way of promotion carrying pay-scale of Rs.4020-6200/-. Both these categories have now been clubbed and re-designated in the ratio of 20:30:50 with the designation Technician Grade-I and Technician Grade-II and Junior Technician, respectively.

6. I have heard the learned counsel for the petitioner and learned Deputy Advocate General for the respondent-State. The record has also been perused carefully.

7. It is not in dispute that the petitioner was appointed to the post of Mechanic-cum-Fitter Grade-II vide office order dated 06.05.1999 w.e.f. 01.01.1998. The petitioner for the first time had raised the issue regarding his wrong appointment to the post of Mechanic-cum-Fitter



Grade-II instead of Mechanic-cum-Fitter Grade-I only when he made first representation on 18.08.2009 (Annexure P/11). Earlier to this, the petitioner after acquiring the qualification of ITI in Mechanic (Motor Vehicle) had made a representation on 16.06.2007 (Annexure P-7), wherein he had claimed that he may be promoted to the post of Junior Technician Mechanic. There is nothing on record to suggest that immediately after issuance of office order dated 06.05.1999 when the petitioner was appointed as Mechanic-cum-Fitter Grade-II w.e.f. 01.01.1998, he had made a representation. Even if the petitioner was working at the relevant time as Mechanic, as has been alleged by him, once the post of Mechanic-cum-Fitter Grade-I was to be filled-up only by promotion as per the Recruitment and Promotion Rules, as per reply filed by the respondents, which fact has not been disputed by the learned counsel for the petitioner, since no rejoinder has been filed to the said fact, there is no illegality having been committed by the respondents while offering the appointment to the petitioner as Mechanic-cum-Fitter Grade-II.

8. It is settled law that in case an employee sits over his rights for years together and does not rake-up the issue



before the competent Court of law well within time or reasonable period, the stale claim cannot be entertained by the Court. In the present case, the petitioner for the first time raised issue regarding his wrong appointment as Mechanic-cum-Fitter Grade-II instead of Mechanic-cum-Fitter Grade-I only on 18.08.2009 stating that he came to know about this fact only after obtaining the papers under the Right to Information Act, 2005. Since the petitioner was appointed as Mechanic-cum-Fitter Grade-II w.e.f. 01.01.1998 as per office order dated 06.05.1999, there is no explanation of coming to this Court in the year 2010. Even otherwise also, as per the Recruitment and Promotion Rules, the post of Mechanic-cum-Fitter Grade-I is to be filled up by promotion. Further, the petitioner was seeking his promotion after acquiring the qualification of ITI Mechanic on 16.06.2007 which can be done only as per seniority being a non-selection post. Thus, no relief can be granted to the petitioner.

9. So far as the claim raised by the petitioner that other persons who were appointed as Peons are concerned, no doubt, the said persons were appointed as Peons, but as per own documents having been placed by the petitioner himself on record, they had been working on the post of



Mechanic-cum-Fitter Grade-I, but they were also offered appointment on the post of Mechanic-cum-Fitter Grade-II. Thus, it cannot be said that the respondents have arbitrarily treated the petitioner and there is any discrimination on the part of the respondents.

10. Consequently, I do not find any merit in the petition and the same is accordingly dismissed, so also the pending applications, if any. However, no orders as to cost.

March 25, 2026
(naveen)

(**Jiya Lal Bhardwaj**)
Judge