

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****CWPOA No.1825 of 2019****Decided on: 18.07.2026**

Sarwan Kumar

...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. Surinder Saklani, Advocate.****For the respondents: Mr. Amandeep Sharma,
Additional Advocate General.****Jiya Lal Bhardwaj, Judge (Oral)**

The petitioner by way of present petition has prayed for the following substantive relief:-

"2. *That this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus and to direct the respondents to promote the present petitioner to the post of Junior Engineer (Mechanical), w.e.f. 20.9.2010, with all consequences, including financial benefits and other service benefits like seniority etc."*

2. The facts as emerge from the pleadings are that the petitioner was appointed as Fitter (Mechanical) on 18.01.1995 w.e.f. 01.01.1994 and thereafter re-designated/placed as Junior Technician (Mechanical) w.e.f. 01.01.1996 vide office order dated 08.12.2008.

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



As per Recruitment and Promotion Rules (in short 'R&P Rules') for the post of Junior Engineer (Mechanical) Class-III (Non-Gazetted) in the Department of Public Works, Himachal Pradesh, 5% posts of Junior Engineer (Mechanical) are to be filled up by promotion from amongst the common cadre of Junior Technical (Mechanical), Technician Grade-II and Technician Grade-I, who are matriculate and have obtained certificate course in the trade of Motor Mechanic or its equivalent from an ITI or an institute duly recognized by the State/Central Government with 5 years regular service or regular combined service with continuous adhoc service rendered, if any, in the grade, failing which, the quota will go on to column No.11 (iv) below. As per the petitioner, he was possessing the qualification of higher secondary (part 1) examination and thereafter obtained the diploma from Industrial Training Institute (ITI) Shahpur (Kangra) in the trade of Turner (Annexure P-3) and was eligible for promotion to the post of Junior Engineer (Mechanical). However, the persons junior to him on the recommendations of the Departmental Promotion Committee (in short 'DPC') were promoted vide office order dated 20.09.2010 (Annexure P-4). The petitioner after coming to know about the said fact, was surprised to learn that though he was fully eligible and qualified to be promoted, but his case was not considered and thus, he made a representation in the month of



October, 2010, which came to be rejected vide communication dated 16.12.2010 (Annexure P-5) holding that as per R&P Rules, the petitioner is not entitled for promotion to the post of Junior Engineer (Mechanical), since he was possessing the National Trade Certificate in the trade of Turner.

3. The petitioner feeling aggrieved by the order dated 16.12.2010 has approached this Court *inter-alia* on the grounds that he has wrongly been denied his rightful claim of promotion and the reasons assigned are totally untenable and unsustainable. The petitioner, who is in possession of National Trade Certificate in the trade of Turner from ITI, is eligible for promotion to the post of Junior Engineer(Mechanical) as per Recruitment and Promotion Rules, since the Rules provide that a candidate who is matriculate and possessing a certificate course in the trade of Motor Mechanic or its equivalent from an ITI or an institute duly recognized by the State/Central Government and having rendered 5 years regular/regular combined with continuous adhoc service in the grade, is eligible for promotion, the respondents have wrongly rejected his claim. The diploma in the trade of Turner possessed by the petitioner is an integral part of the production process taking place inside the workshop, including other trades and the nature of duties discharged is similar. It has further been averred that the



benefits of equivalence of trade with that of Motor Mechanic has been extended to other candidates in the past and also to the persons who have been ordered to be promoted vide order dated 20.09.2010. The interpretation given to the Rules by the respondents is otherwise untenable and thus he sought a direction to the respondents to promote him to the post of Junior Engineer (Mechanical) w.e.f. 20.09.2010 with all consequential benefits.

4. The respondents filed reply to the petition and averred that no legal or fundamental rights of the petitioner have been infringed in any manner as the petitioner after his retirement on 31.12.2014 has raised a stale claim of promotion to the post of Junior Engineer (Mechanical). It is not disputed that the petitioner was initially appointed as Fitter (Mechanical) and thereafter re-designated as Junior Technician (Mechanic-cum-Fitter) w.e.f. 01.01.1996. As per service record, educational qualification of the petitioner was higher secondary Part-I and passed ITI diploma in the trade of Turner. As per office order dated 20.09.2010, 19 number of Technician Grade-I (Mechanic-cum-Fitter), Technician Grade-II (Mechanic-cum-Fitter) and Junior Technician (Mechanic-cum-Fitter) were promoted to the post of Junior Engineer (Mechanical). However, the petitioner was not promoted due to non-fulfillment of requisite technical qualification as prescribed in the



R&P Rules of Junior Engineer (Mechanical). The respondents have not disputed the Rules, which provide that 5% quota is fixed for promotion to the post of Junior Engineer (Mechanical) from the common cadre of Junior Technician (Mechanical), Technician Grade-II and Technician Grade-I, as stated above, who are matriculate and have obtained certificate course in the trade of Motor Mechanic or its equivalent from an ITI.

5. The petitioner filed rejoinder to the reply and controverted the averments made in the reply. The petitioner has placed on record the information supplied by respondent No.5 and averred that one Shri Kishori Lal, who was possessing the qualification of Matric with ITI Welder and one Shri Jagdish Chand, having the qualification of Higher Secondary Part-1 with ITI Sheet Metal were promoted as Junior Engineer (Mechanical) from the trades of Welder and Sheet-Metal. Therefore, the petitioner, who is having the diploma of ITI Turner and discharging the same functions, cannot be denied the benefit of promotion to the post of Junior Engineer (Mechanical), more particularly, when the Rules specifically provide that the person who is possessing the qualification of diploma in ITI in the trade of Motor Mechanic or its equivalent from an ITI. Since the petitioner is possessing the qualification of diploma of ITI in the trade of Turner, his case ought



to have been considered for promotion. The petitioner had specifically disputed the fact that he has raised a stale claim, as he had immediately approached this Court after the rejection of his claim.

6. I have heard learned counsel for the parties and also perused the record carefully.

7. Before advertng to the submissions made by learned counsel at the Bar, it would be relevant to reproduce the relevant R&P Rules for the post of Junior Engineer (Mechanical) Class-III (Non-Gazetted) in the Department of Public Works, Himachal Pradesh:-

"iii) 05% By promotion from amongst the common cadre of Junior Technician (Mechanical), Technician Grade-11 & Technician Grade-I, who are Matriculate and have obtained Certificate course in the trade of Motor mechanic/or its equivalent from an I.T.I. or an institute duly recognized by the State/Central Government with 05 years regular service or regular combined with continuous adhoc service rendered. if any, in the grade failing which, the quota will go to Column11 (iv) below.

Provided that for the purpose of promotion a select list of all eligible officials shall be prepared wherein the incumbents with higher pay scales shall be kept above the eligible person and thereafter the incumbents next in the lower pay scales be placed below it and so on."

8. A perusal of the R&P Rules clearly reveals that by way of promotion under 5% quota from amongst the common cadre of Junior Technician (Mechanical), Technical Grade-II and Technical



Grade -I, who are Matriculate and have obtained certificate course in the trade of Motor Mechanic or its equivalent from an ITI or any institute duly recognized by the State/Central Government with 5 years regular service or regular combined with continuous ad-hoc service rendered, if any, is eligible to be promoted to the post of Junior Engineer (Mechanical). It is admitted fact that the petitioner is possessing the diploma from an ITI of a recognized institute in the trade of Turner and further having five years' service in the feeder category for promotion to the post of Junior Engineer (Mechanical). The dispute is only with respect to the fact that the diploma possessed by the petitioner in the trade of Turner, is not equivalent to Motor Mechanic.

9. The petitioner has placed on record the information received by him from respondent No.5 wherein the names of two persons namely, Sh. Kishori Lal and Sh. Jagdish Chand, who had diploma of ITI in Welder and Sheet Metal respectively were stated to have been promoted to the post of Junior Engineer (Mechanical).

10. It is by now well settled in catena of judgments of Hon'ble Supreme Court that it is not the duty of the Court to equate the qualifications once the R&P Rules provide for specific qualification. However, in the present case, the R&P Rules provide that the diploma of ITI in Motor Mechanic or an equivalent



qualification is the prescribed qualification for considering the candidature of eligible persons for promotion to the posts of Junior Engineer (Mechanical). This Court could not have entered into the arena of equating the diploma and further directed the respondents to consider the claim of the petitioner for promotion to the post of Junior Engineer (Mechanical) or to refer the matter to the Equivalence Committee to equate the qualification possessed by the petitioner, had it been provided in the Rules that the person who is having qualification of Motor Mechanic only is eligible for promotion to the posts of Junior Engineer (Mechanical). But once the Rules specifically stipulate that the person having qualification of Junior Technician (Mechanical), Technician Grade-II & Technical Grade-I who are Matriculate and have obtained certificate course in the trade of Motor Mechanic or its equivalent from an ITI, is to be considered for promotion to the post of Junior Engineer (Mechanical), until and unless the matter is placed before the Equivalence Committee, the grievance raised by the petitioner cannot be redressed. This claim can't be rejected on the opinion of the Director, Vocational and Industrial Training, Sundernagar, Himachal Pradesh.

11. No doubt, as per the documents placed on record by the respondents, it has been stated that the diploma possessed by



Turner is not equivalent to Motor Mechanic, but the communication dated 12.03.2025 placed on record reveals that the matter has already been consulted with the Director, Vocational and Industrial Training, Sundernagar, who vide letter dated 28.11.2004 has clarified that the trade of Mechanical Motor and Turner are two different trades. The Director on his own cannot equate the diploma possessed by the petitioner in the trade of Turner not to be equivalent to Motor Mechanic, more particularly, when the respondents have been considering the diploma in ITI Sheet Metal and Welder equivalent to Motor Mechanic. In case the respondents were not considering the diploma of ITI Sheet Metal and Welder equivalent to Motor Mechanic, this Court would not have given direction to the respondents to place the matter before the Equivalence Committee and also in case the Rules do not provide that the diploma in Motor Mechanic or its equivalent trade to be considered for promotion to the posts of Junior Engineer (Mechanical).

12. This Court without returning findings on the merit of the case as well as not venturing to equate the diploma of Turner possessed by the petitioner equivalent to Motor Mechanic, to advance substantial justice to the petitioner, especially when he has raised the issue that the respondents in the past have considered



the persons, who were having the diploma in ITI Sheet Metal and Welder, for promotion to the post of Junior Engineer (Mechanical), direction is issued to competent authority to place the matter before the Equivalence Committee to ponder on the issue and take final decision in the matter. While taking the decision, it may be kept in mind that the respondents are also considering the diploma of Welder and Sheet Metal equivalent to that of Motor mechanic and considering them for promotion to the post of Junior Engineer (Mechanic). As already observed above, the Court would not have given the direction to place the matter before the Equivalence Committee in case the Rules only prescribe the qualification of Motor Mechanic and not its equivalent for consideration to the post of Junior Engineer (Mechanical). Once the respondents are not disputing the fact that the petitioner is having diploma of ITI in the trade of Turner, no prejudice is going to be caused to the respondents in case the matter is placed before the Equivalence Committee to give its opinion.

13. The plea taken by the respondents that the claim raised by the petitioner is stale, is totally untenable in law for the reason that the petitioner had approached the Court in the year 2011 and he retired from service on 31.12.2014. Since he had approached



the Court well within time before his retirement, his claim cannot be rejected on the ground that his claim is stale.

14. Consequently, the present petition is disposed of with a direction to respondent No.1/competent authority to place the matter before the Equivalence Committee with respect to the diploma obtained by the petitioner in the trade of Turner whether it is equivalent to that of Motor Mechanic. The Equivalence Committee while deciding the issue of diploma in the trade of Turner as equivalent to Motor Mechanic will also consider that the diploma of Welder and Sheet Metal considered as equivalent to Motor Mechanic. Since the petitioner has retired, the Equivalence Committee shall take a decision within two months from today and in case the diploma held by the petitioner is equated with the Motor Mechanic or equivalent qualification, the respondents shall promote him to the post of Junior Engineer (Mechanic) within two months thereafter from the date when juniors to him have been promoted with all consequential benefits as granted to his juniors.

15. The petition is accordingly disposed of. No order as to costs. Pending applications, if any, also stand disposed of.

18th July, 2026
(naveen)

(Jiya Lal Bhardwaj)
Judge