

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

CWPOA No. 7751 of 2019

Decided on : 6.4.2021

Jeet Ram

...Petitioner

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Whether approved for reporting? yes

For the petitioner : Mr. Maan Singh, Advocate.

**For the respondents :Mr. Ashwani Sharma & Mr.
Hemant Vaid, Addl. AGs with Mr.
Vikrant Chandel, Dy. A.G.**

Sureshwar Thakur, Judge (oral)

The writ petitioner claims a mandamus, being pronounced upon the respondents that he be promoted as Clerk, from the date, when certain juniors to him, in the category of Peons, were accorded promotion to the next higher thereto post(s) of Clerk(s).

2. Undisputedly, a 15% quota is reserved for Class-IV employees, for theirs being promoted to the next higher

post of Clerk. The writ petitioner was appointed on an compassionate basis, in the year 1998, and at the afore stage, he did not possess the matriculation certificate. He, though, acquired the matriculation qualification in October, 2003. However, it is apparent on a reading of reply, to the writ petition, as, instituted by the respondents, that in the year 2003, the fact of the writ petitioner, possessing the matriculation qualification, became entered in his service records. Even though, the writ petitioner was, on the strength of the afore entry, entitled to secure an appropriate place in the seniority list, maintained by the respondents, with respect to the category of Class-IV employees, yet the respondent erred in ignoring the afore factum, and, also consequently, erred in including, for the relevant purpose, rather his name in the seniority list of Class-IV employees. The sequel of the afore flaws, hence committed by the respondents, is that his name did not occur, for the relevant purpose, in the seniority list of Class-IV employees, and, also hence, despite the writ petitioner, possessing the requisite educational qualification, his name became reckoned for promotion, to the next higher post of Clerk.

3. The learned Additional Advocate General has strived to validate the afore flaws, on the ground, that the writ petitioner, belatedly, in 2015, made a challenge to the seniority list, as became drawn earlier thereto. However, the afore argument, cannot succeed, as it was a bounden obligation of the respondents, to reverse the entry in the service book of the petitioner, rather displaying his acquiring matriculation qualification, in the year 2003. The effect of overlooking(s) of the afore, has definitely brought the ill-sequel of the rights of the petitioner, to be considered, for promotion, to the next higher post of Clerk, especially in the year 2013, becoming completely jeopardized.

4. The afore prejudice caused to the writ petitioner, is, required to be undone, and, the respondents are directed to, after affording an opportunity to all the interested persons, re-draw the seniority list of Class-IV employees, from the year 2003, and, in case the respondents concerned, comes to a conclusion, that the writ petitioner occupies a place, higher than those persons, who became promoted to the post of Clerk, ensure that against one of such juniors to the writ

petitioner, the writ petitioner, becomes appointed as a Clerk, alongwith all consequential benefits.

5. In view of above, the writ petition is allowed. Also, the pending application(s), if any, are also disposed of. No costs.

(Sureshwar Thakur)
Judge

6.4.2021
Kalpana

High Court of H.P.