

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No. 2619 of 2019
Decided on : 03.03.2026

Ranjeet Singh ...Petitioner

Versus

State of HP and others ...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Parav Sharma and Mr. Rupesh Kumar, Advocates.

For the respondents: Mr. Amandeep Sharma, Additional Advocate General, for respondents No. 1 to 3.

Mr. Lokender Paul Thakur, Senior Panel Counsel, for respondent No.4.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner, by way of present writ petition, has prayed for the following substantive reliefs:-

*“ i) That the office order dated 08.11.2010 **Annexure P-11** and office order dated 20.01.2012 **Annexure P-15** may very kindly be quashed and set aside and the petitioner may kindly be held entitled for the benefit of period from 30.05.1995 to 22.02.1996 for qualifying service for pension and retiral benefits etc.*

ii) That the petitioner may also be held

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

entitled for counting his past Military Service from July, 1967 to July, 1991 towards qualifying service for the purpose of pension and other retiral benefits."

2. The grievance of the petitioner as has been highlighted in the present writ petition is that he is aggrieved by non counting of period w.e.f. 31.05.1995 to 22.02.1996 towards the qualifying service and further arbitrary rejection of representation vide order dated 08.11.2010 (Annexure P-11) and office order dated 20.01.2012 (Annexure P-15).

3. The petitioner was an Ex-Serviceman having retired from Indian Army in July, 1991 and thereafter got himself registered with Ex-Servicemen Cell seeking suitable re-employment in any of the Civil Services. He had rendered approved military services from July, 1967 to July, 1991.

4. The name of the petitioner was nominated by the Ex-Servicemen Cell as per communication dated 31.05.1995 (Annexure P-1) to respondent No.3 for his appointment to the post of Police Constable reserved for Ex-Servicemen in District Shimla. As per the communication, the appointment orders were to be issued to the petitioner along with another person namely Malkiyat Singh within ten days,

giving 15 days for joining. The petitioner reported in the Office of respondent No.3 within the stipulated period in the first week of June, 1995 for joining against the post on the basis of intimation, but his joining was not accepted and he was orally conveyed that he will be informed by W.T. message.

5. The petitioner received a W.T. message on 19.08.1995, whereby he was called with testimonials on 24.08.1995 and the petitioner accordingly reported for joining on the said date. However, on the scheduled date, he was sent back by saying that he will be now called for medical examination on some other date and message to this effect will be sent to him. Thereafter on 11.10.1995, respondent No.3 sent the message to the petitioner to appear before the Medical Board on 17.10.1995, and the petitioner appeared before the Medical Board on the said date, where he was medically examined and was found medically fit, but his joining was not accepted.

6. The petitioner received a message after a long lapse of time on 16.02.1996 for reporting his duties on 19.02.1996, but his joining was taken w.e.f. 23.02.1996. It has been averred that the petitioner was made to run from

pillar to post to accept his joining well in time. He has suffered and now stands retired from service on 30.09.2005 after attaining the age of superannuation. It has been pleaded that as per the Demobilized Armed Forces Personnel Rules, 1972, the petitioner is entitled for counting of his past Military Services towards pay fixation and seniority.

7. It has been averred in the petition that two persons namely S/Sh. Purshotam Chand and Amar Chand who were also recommended by the Ex-Servicemen Cell for appointment to the Superintendent of Police, Kullu on 05.08.1995 were allowed to join their duties on 23.08.1995 and it is only respondent No.3 who has unnecessarily delayed the acceptance of the joining of the petitioner and the delay in joining of the petitioner has affected his future service career and further deprived him of retiral benefits.

8. Since the petitioner was not permitted to join within 15 days from the date of nomination as per communication dated 31.05.1995 (Annexure P-1), he filed the Original Application before the erstwhile learned Himachal Pradesh State Administrative Tribunal praying therein to count the period w.e.f. 31.05.1995 to 22.02.1996

towards qualifying service, since the petitioner after joining on 23.02.1996 had rendered only 09 years 07 months and 07 days service as he was superannuated on 30.09.2005, which did not entitle him to the pension. The Original Application after transfer before this Court was registered as CWP(T) No. 12243 of 2008, titled, **Ranjit Singh vs. State of HP & Ors.**, and the same was decided on 06.08.2010, directing the petitioner to make a representation to the respondent/authorities within a period of two weeks and the same shall be decided by the authority by passing a reasoned order after hearing the petitioner within a period of four weeks from the date of receipt of the representation. In sequel to the directions given by this Court, the petitioner made a representation on 06.10.2010 to respondent No.1, however, the said representation was rejected on 08.11.2010 (Annexure P-11). The reason given while rejecting the representation was that during the year 1995, 33 posts of Constables including 02 Constable drivers were to be filled up in Shimla District. Out of these 33 posts, 04 posts were reserved for Ex-Servicemen as per the reservation policy of the State. In order to fill up the vacancies reserved for Ex-Servicemen, the Director Ex-

Servicemen Cell was requested to sponsor the names of suitable Ex-Servicemen. The Ex-Servicemen Cell initially sponsored the names of only two candidates including the petitioner vide letter dated 31.05.1995. Since only two names were sponsored, the Superintendent of Police, Shimla vide letter dated 26.07.1995 requested the Director Ex-Servicemen Cell to sponsor two more names for the post reserved for Ex-Servicemen. The names were sponsored by the said Cell on 05.08.1995. The Ex-Servicemen so sponsored were called along with their testimonials by the Superintendent of Police, Shimla on 24.08.1995, however only the petitioner and another Ex-Servicemen namely Madan Lal reported to the Superintendent of Police, Shimla on the said date. Another Ex-Serviceman namely Malkiat Singh informed the Superintendent of Police, Shimla that he was not willing to join the police service. In his place another Ex-Servicemen was sponsored on 12.10.1995. It has been stated that in order to fill up the remaining vacancies of Constables through direct recruitment, the recruitment process was started w.e.f. 17.07.1995 and it took some time to complete the selection of candidates. The appointment orders were issued to all the candidates

on 23.02.1996.

9. So far the names of Sh. Parshotam Singh and Amar Nath, who were stated to be junior to the petitioner, were sponsored for their recruitment as constables for Kullu District, whereas the name of the petitioner was sponsored for Shimla District, thus he cannot claim parity with these personnel as they have been sponsored for different district.

10. The petitioner after passing the aforesaid order filed another writ petition before this Court, which was registered as registered as CWP No. 8190 of 2010, titled, ***Ranjeet Singh vs. State of HP and others.*** In that writ petition, the petitioner prayed that his case be considered as per Rule 88 of the CCS (Pension) Rules, 1972, since he has rendered 09 years 07 months and 07 days service, whereas, for grant of pension minimum qualifying service required is of 10 years. This Court had disposed of the writ petition on 29.07.2011, directing respondent No.1 to consider the case of the petitioner in a very sympathetic manner under Rule 88 of CCS (Pension) Rules, 1972, within a period of 10 weeks from the date of production of certified copy of this judgment. In sequel to the said directions, representation made by the petitioner was rejected on

20.01.2012 (Annexure P-15). Since the claim of the petitioner was rejected, he has also challenged the said order before this Court.

11. The respondents-State have filed reply and reiterated their stand, which they had taken in the orders whereby the claim of the petitioner was rejected. The main plea which has been taken by the respondents-State in reply is that a fresh process was again started w.e.f. 17.07.1995 which took some time to complete the selection of candidates. So far the appointment of other two persons in District Kullu is concerned, the selection has been made by the Superintendent of Police, Kullu. The appointments to the persons could have been made only after the completion of the codal formalities.

12. I have heard the learned counsel for the petitioner and respondent No.4, as well as the learned Additional Advocate General appearing for the respondents-State and also gone through the record carefully.

13. Admittedly as per the communication dated 31.05.1995, the appointment was to be offered to the petitioner within 10 days from its receipt. It is not in dispute that the respondents had received the said communication

in which the name of the petitioner also figures. The respondents instead of offering the appointment to the petitioner and another person, had written to the Ex-Servicemen Cell that instead of sponsoring four candidates, only two candidates have been sponsored. Learned counsel for the petitioner had laid emphasis on the instructions dated 31.03.1990 contained in the Handbook on Personnel Matter Vol-I, Annexure 18.18 which clearly stipulate that as per the letter dated 06.01.1985 issued by the Personnel Department, after receipt of the names from the Ex-Servicemen Cell, the appointment letters have to be issued to the persons within 15 days from its receipt. However, in the case of the petitioner despite receipt of communication dated 31.05.1995 (Annexure P-1), he was appointed on 23.02.1996 i.e. much after lapse of 15 days of its receipt.

14. The plea taken by the respondents that only two names were sponsored instead of four names is concerned, there was no bar or restriction upon the respondents to offer appointment to the petitioner, especially when they had received the intimation well in time. So far further plea that it took time to complete the process is concerned, the same has jeopardized the interest/rights of the petitioner

and the petitioner, on account of delay in accepting his joining, could not complete 10 years of service which has resulted in non-grant of pension to him of the service rendered with the respondents.

15. The learned counsel for the petitioner also submitted that the State Government had again issued the instructions on 04.05.2006, reiterating the earlier instructions wherein it has been clearly observed that appointing authorities take months to issue appointment letters to the nominee of the Special Cell with the result that Ex-Servicemen get frustrated and are also put to financial hardships. In some cases, the junior man nominated to one department gets appointment letter earlier than a senior man nominated together. The relevant instructions contained in the Annexure 18.35, are reproduced hereinbelow:-

“Subject:- Appointment of Ex-Servicemen sponsored by the Ex- Servicemen Cell, Hamirpur.

It has been brought to the notice of the Government that the Heads of the Departments/Appointing Authorities take months to issue appointment letters to the nominee of the Special Cell with the result that Ex-Servicemen get frustrated are also put to financial hardships. In some cases the junior man nominated to one department gets appointment letter earlier than a senior man nominated together departments where the appointments letters happened to have been

issued late. This results in resentment among the senior persons.

*It is also submitted that in many cases some departments are not giving timely appointments to the nominated ex-servicemen candidates due to one reason or others. Generally the departments are notifying the posts obtaining prior approval of Finance Department but action is not being taken to give appointments within stipulated period. **This Department and Department of Personnel had already issued instructions to all concerned emphasizing there under to issue appointment letters to the nominated ex-servicemen within 15 days vide letter No. GAD-E(C)17-1/84 dated 31.03.1990 respectively but despite repeated requests these instructions are not being adhered to strictly.***

I am to request that the above instructions be brought to the notice of all concerned for strict compliance. "

16. A perusal of the aforementioned instructions also reiterates the earlier instructions offering the appointment within 15 days from the date of receipt of the names from the Ex-servicemen Cell.

17. Learned counsel for the petitioner has also submitted that as per the common judgment dated 26.07.2011 passed in CWP No. 2059 of 2010, titled, **Hridye Prakash vs. State of HP & another** and connected matters, this Court has considered the same very issue in detail after noticing the instructions contained in the Handbook on Personnel Matters. The operative part of the

judgment reads as under:-

"4. Circular letter bearing No.8-34/73-D.P.(Niyukti-II)- Vol.VI dated 31.3.1990 of the respondent-State, addressed to all the Secretaries, Heads of Departments, clarifies that ex-servicemen, nominated by the Ex-Servicemen Cell aforesaid against the posts reserved for ex-servicemen, be given appointment letter within 15 days. Further it took note of that these directions were not being complied with by some of the Departments, as they were not issuing the appointment letters till the selection process against the unreserved post is not complete, which is entirely illegal. Thus these instructions contained in Hand Book on Personnel Matters Vol-I page 806 clearly depict that in case of ex-servicemen as soon as the nomination is received from the Cell aforesaid the appointment letters be issued to those nominees within 15 days.

5. Pursuant to this circular, the Ex-servicemen Employment Cell also requested the respondent Department to issue the appointment letters to the candidates nominated by them within 20 days instead of 15 days from the receipt of their letter for nomination allowing them 15 days time to join the post.

6. According to the respondents, the appointment letters could not be issued because of ensuing Assembly Elections and the imposition of Code of Conduct which remained in force from 1.1.2003 to 17.3.2003 in the non-tribal areas up to 13.6.2003. The records show that the petitioners were given the appointment letters even six months or more than six months thereafter, as indicated in the above table flouting the above instructions.

7. According to Shri A.K. Bansal, learned Additional Advocate General, the Government decided to withhold the result and appointments in various departments vide letter No.PER(AP-C)B(19)-1/2003, dated 13.3.2003.

8. I have perused the said letter. It does not apply to the petitioners. The Government only decided

that on going selection process, interviews etc. shall be stopped and results if not declared shall be withheld. But in the instant case, neither on going selection process was going on nor any interview was required to be held since the petitioners having been nominated by the Ex-servicemen Cell of the State, thus their appointment was required to be made in accordance with circular aforesaid issued by the State Government dated 31.3.1990.

9. Further Annexure P-3 dated 28.8.2003 sent by the Principal Secretary (Education) to the Government of Himachal Pradesh on the reference of the respondent-Director conveys that the approval of the Government stood already conveyed to him vide Department letter dated 24.4.2003 with respect to the appointment of ex-servicemen. Therefore, he was directed to take immediate and necessary steps. This also makes it abundantly clear that the respondent-State never intended to stop the appointments of the ex-servicemen against the reserved ex-servicemen quota. Therefore, no fault can be attributed to the petitioners. The respondents were required to issue the appointment letters within the stipulated time as per the instructions aforesaid. This delay has resulted in severe civil consequences to them, on 15.5.2003 the respondent-State has issued notification whereby CCS (Pension) Rules, 1972 stood amended by making the pensionary benefits inapplicable to the incumbents appointed after the issuance/publication of the said notification in the Rajpatra. Thus, the inaction on the part of the respondent-Department has resulted into the deprivation of the pensionary benefits to the petitioners, which is required to be reversed.

10. Therefore, for the reasons aforesaid, the petitions are allowed. The petitioners are deemed to have been appointed with effect from within 15 days from the receipt of their sponsorship/nomination from the Ex-servicemen Employment Cell, entitling them for the benefits under the CCS (Pension) Rules, 1972 with all consequential benefits as they were entitled prior to notification dated 15.5.2003 referred to above.

18. In the present case, the petitioner after sponsoring his name by the Ex-Servicemen Cell had reported for joining the duties to the respondents, which joining was not accepted by them in the first week of June, 1995 and further the plea which has been taken by the respondents that only two names were sponsored instead of four, the process was delayed. Once the respondents have specifically not denied in the reply the fact that the petitioner had reported to join his duties after nomination of his name in pursuance of communication dated 31.05.1995, in the first week of June, 1995, it is presumed that the said fact has been admitted. The respondents in their reply have admitted that the petitioner had reported with the SP Office, Shimla on 24.08.1995 on which date his joining could have been accepted by the respondents provisionally. If later on, it was found that the petitioner was junior to other persons, his seniority could have been rectified. However, in the present case, the respondents did not opt that course, rather delayed the appointment of the petitioner, which has rendered him in-eligible to get the pension.

19. So far the plea taken by the respondents that the

appointment of two constables having been made in District Kullu is concerned, the said contention can also not be countenanced for the reason that it was for the respondents to expedite the process for accepting the joining in Shimla also once the name of the petitioner was recommended by the Ex-Servicemen Cell, created for the welfare of the Ex-Servicemen.

20. The petitioner on account of late joining on 23.02.1996 could not complete 10 years of service, which disentitled him for getting pension and resultantly, hampered his prospects to get pension qua the service rendered with respondents No.1 to 3. Since there is no fault on the part of petitioner who had reported to joining well within time, the delay in accepting his joining has caused grave injustice which resulted into denial of pension and thus the action of the respondents is totally illegal, arbitrary and unjust.

21. Learned counsel has not pressed for counting of his past military service for the purpose of pension.

22. No other points have been raised by the respondents.

23. Consequently, in view of the above discussion,

the petition is allowed and the impugned orders are quashed and set aside. The petitioner is deemed to have been appointed w.e.f. 15 days from the date of receipt of letter of sponsorship/nomination dated 31.05.1995 from the Ex-Servicemen Cell, entitling him for the benefit of pension under the CCS Pension Rules, 1972. The respondents are directed to ensure that the consequential benefits in terms of the judgment be given to the petitioner within three months from today only for the purpose of granting him pension, failing which, the same shall carry interest @ 6% per annum from the date of his retirement till actual date of payment. No order as to costs. Pending application(s), if any, also stand disposed of.

03rd March, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**