

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

**CWP No. : 5452 of 2020**

**Reserved on : 29.05.2025**

**Decided on : 05.06.2025**

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Dr. Swati Aggarwal .....Petitioner.

**Versus**

State of H.P. and Ors. ....Respondents.

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***Coram***

***The Hon'ble Mr. Justice Satyen Vaidya, Judge.***

**Whether approved for reporting?<sup>1</sup> Yes**

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For the petitioner : Mr. Sanjeev Bhushan, Sr.  
Advocate, with Mr. Sohail  
Khan, Advocate.

For the respondents : Mr. Gautam Sood, Deputy  
Advocate General, for  
respondents No. 1 to 3.

: Ms. Archana Dutt, Advocate,  
for respondent No. 4.

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**Satyen Vaidya, Judge**

By way of instant petition, petitioner has  
prayed for following substantive reliefs:-

- i) *That appropriate writ order or direction may very kindly be issued and the impugned order dated 24.01.2020 (Annexure P-14) may very kindly be quashed and set aside, by further directing the respondents to implement*

*their previous decision which was lawfully taken after due deliberation at highest level and which is dated 05.12.2017, in the interest of law and justice.*

- ii. *That appropriate writ order or direction may very kindly be issued directing respondents to hold a review DPC by reviewing the earlier DPC dated 18.02.2016 strictly in consonance with Annexure P-8 dated 05.12.2017 and to consider the candidates who were eligible for the post of Assistant Professor Pathology as on 06.10.2017, by further directing to promote the person strictly in accordance with Annexure P-8, in the interest of law and justice.*
- iii). *That appropriate writ order or direction may very kindly be issued directing the respondents to promote the petitioner to the post of Assistant Professor Pathology on and with effect from 06.10.2017 against the post of GDO with all consequential benefits of pay, arrear, seniority etc., in the interest of law and justice*
- iv) *That appropriate writ order and direction may very kindly be issued and the DPC conducted on 18<sup>th</sup> February 2016, whereby, respondent No. 4 was promoted to the post of Assistant professor Pathology in Dr. RPGMC Tanda may very kindly be quashed and set aside, in the interest of law and justice.*

2. Petitioner is aggrieved against the promotion granted to respondent No. 4, in February, 2016, on the post of Assistant Professor (Pathology) in Dr. Rajender

Prasad Government Medical College, Tanda (for short 'RPGMC Tanda').

3. Petitioner and respondent No. 4 both belonged to GDO cadre of State Health Services. Petitioner was appointed as GDO in June, 2000 and respondent No. 4 was appointed as regular GDO in the year 2007. Thus, the petitioner was senior to respondent No. 4 in the said cadre.

4. Both petitioner and respondent No. 4 had done their Post Graduation in Pathology.

5. **In November 2012**, petitioner and respondent No. 4 joined three-years Senior Residency Course in RPGMC, Tanda. The course was to complete in November, 2015. Respondent No. 4 completed the course in time but the petitioner could complete the same in June 2016 for the reason that she had to undergo maternity and other medical leave for six months during the period of the course.

6. As per Recruitment and Promotion Rules for the post of Assistant Professor in the department of Pathology in RPGMC Tanda (for short, "the Rules"), 50%

posts were to be filled by direct recruitment and 50% by promotion from the cadre of GDOs possessing the PG degree with three years teaching experience.

7. The case as set up by the petitioner is that in January, 2016 a post of Assistant Professor in the Department of Pathology in RPGMC, Tanda, had fallen vacant and as per roster, the same was to be filled up by direct recruitment. It is alleged that the respondents No. 1 to 3, in violation of the rules, initiated the process for filling up the vacant post of Assistant Professor (Pathology) by the mode of promotion and resultantly promoted respondent No. 4. The petitioner was not found eligible on account of delay in completion of her Senior Residency Course.

8. Thus, the grievance of the petitioner is that by wrongly promoting respondent No. 4 against vacancy meant for direct recruitment, the entire career of the petitioner has been ruined. Petitioner has explained that in case the vacancy was filled by direct recruitment in January, 2016, the next vacancy would have fallen to the category of promotees and by then the petitioner also

would have become eligible. The petitioner being senior to respondent No. 4, would have the right to be promoted ahead of respondent No. 4.

9. Petitioner has also alleged *malafide* against respondents in promoting respondent No. 4 against all settled norms and rules.

10. Petitioner had submitted a representation which was replied by the Additional Chief Secretary (Health) to the Government of Himachal Pradesh, on 28.03.2016. The relevant extract of said communication read as under: -

*"I am directed to refer to your representation dated 27.02.2016 on the subject cited above and to state that the DPC of Dr. Aruna has been held against the higher vacant posts of faculty and not against the post of resultant vacancy. **The likely vacancy of AP has been identified for direct candidate.** The next post of GDO quota will be available in the year 2017 and while filling up the said post in the year 2017 the candidature of eligible GDOs including you will be considered. This is for your information."*

*Emphasis added*

11. Thereafter, the petitioner was also designated as Assistant Professor w.e.f. 24.06.2006 and the petitioner is stated to have been working in the same capacity till the filing of the petition.

12. The petitioner filed yet another detailed representation dated 14.09.2017 to the respondent No.1. The said respondent *vide* communication dated 05.12.2017 conveyed the decision of the State Government to review the DPC for the post of Assistant professor (Pathology) in RPGMC, Tanda, held in February 2016. Accordingly, the names of eligible GDOs, as per their option, were called.

13. Respondent No. 4 approached the erstwhile H.P. Administrative Tribunal assailing the decision of State to hold review DPC by way of OA No. 31 of 2018. By interim order dated 04.01.2018, learned Tribunal stayed the operation of communication dated 05.12.2017. On abolition of the Tribunal, O.A. No. 31 of 2018 came to be transferred to this Court as CWPOA No. 348 of 2024. On 08.01.2020, a Division Bench of this Court modified the order dated 04.01.2018, passed by

learned Tribunal. The interim order was vacated and the recommendations of review DPC were ordered to remain subject to final outcome of the petition.

14. On 24.01.2020, the State Government reversed its decision dated 05.12.2017 and withdrew itself from holding review DPC for the post of Assistant Professor (Pathology) in RPGMC Tanda, held on 12.02.2016.

15. As a consequence, CWPOA No. 348 of 2020 was disposed of *vide* order dated 10.09.2020 as having been rendered infructuous.

16. In above factual backdrop, the petitioner has filed the instant petition for reliefs, as noticed above.

17. The official respondents have filed their reply. Their stand is that on 19.01.2016, Dr. Rashmi Kaul, who was holding the post of Assistant Professor (Pathology) in RPGMC Tanda, had become eligible for being promoted to the post of Associate Professor and accordingly, she was promoted. At that stage, petitioner was not eligible for the post of Assistant Professor and only respondent No. 4 was eligible, hence, she was promoted as Assistant

Professor by holding the DPC. It has further been submitted that one post of Associate Professor in the Department of Pathology in RPGMC, Tanda, was lying vacant since 10.04.2019 after promotion of Dr. Suman Singh to the post of Associate Professor. In order to accommodate petitioner being senior most eligible candidate, respondent No. 1 had taken a conscious decision to fill up the vacant post of Assistant Professor (Pathology, however, the process of DPC in respect of petitioner could not be initiated due to interim direction issued by this Court.

18. The official respondents have further submitted that since Dr. Rashmi Kaul was a promotee candidate on the post of Assistant Professor, therefore, the post vacated by her on her promotion as Associate professor, was to be filled by promotion only. As per official respondents, if the post was vacated by an incumbent who had been directly appointed, then vacancy would be filled by direct recruitment and if it was vacated by promotee candidate then the vacancy would be filled up by way of promotion. To be more

specific, it will be relevant to notice the stand of the respondents in para-5 of the reply, which reads as under: -

*“5. That the contents of this para are not disputed being matter of record. However, it is submitted that as per the Instructions of Department of Personnel, HP vide letter No.: Per(AP-II) A(3)-2/80-dated 7<sup>th</sup> November, 2001, copy of which is (Annexure R-1), the 'method of recruitment has been provided, whether by direct recruitment or by promotion, deputation, transfer and the percentage of "posts" to be filled in by various method, that means roster is to be concluded on the "post" means the incumbent (Assistant Professor) who has vacated the post, if was appointed by direct recruitment then vacancy will be filled up by direct recruitment and if it was filled up by way of promotion, then the vacancy will be filled up by way of promotion. As far as promotion of Dr. Rashmi Kaul, GDO (promottee candidate) wrongly mentioned in the petition as Dr. Ashwani Kaul is concerned, as per roster register maintained in the Department (Annexure- R-2) the same was filled up by promotion roster point as Dr. Rashmi Kaul is a promottee candidate. If is further submitted that as per record/memorandum of DPC (Annexure- R-3) the respondent No. 4 has been promoted on 18-02-2016 against the vacancy of Associate Professor in the concerned*

*specialty. It is further added here that as per MCI requirement there was requirement of four posts of Assistant Professor to recognize 100 MBBS seats as such respondent No. 4 was promoted against the higher post in the concerned specialty.”*

19. Respondent No. 4 has also filed a separate reply. Her defence is substantially the same as that of the official respondents. An objection as to delay in filing the petition has been taken additionally.

20. I have heard learned counsel for the parties and have also gone through the record of the case carefully.

21. It is not in dispute that the posts of Assistant Professor in the Department of Pathology in RPGMC, Tanda are to be filled by two modes i.e. direct recruitment and promotion. The quota for each mode is 50%, which means that the sanctioned strength of Assistant Professor has to be filled by maintaining the quota of 50% in each category.

22. The issue is, by which mode, vacancy available to the post of Assistant Professor (Pathology) in February, 2016 in RPGMC, Tanda, was to be filled?

23. As per petitioner the vacancy was to be filled by direct recruitment. On the other hand, the stand of respondents has throughout been ambiguous and murky. They have not come out with a clear and specific stance in their pleadings. The situation, thus, warrants a look at other material on record for this purpose. In paragraph-13 of the reply of official respondents, the vacancy position of faculty members of Pathology Department in RPGMC, Tanda, in the year 2016 has been shown as under:-

**Status of Associate Professor=2 sanctioned post:-**

| <b>Sr. No.</b> | <b>Name of faculty member</b> | <b>Remarks</b>                                                                      |
|----------------|-------------------------------|-------------------------------------------------------------------------------------|
| 1.             | -                             | Both were vacant due to non-availability of eligible candidate in the feeder cadre. |
| 2.             | -                             |                                                                                     |

**Status of Assistant Professor=3 sanctioned post:-**

| <b>Sr. No.</b> | <b>Name of faculty Member</b>                   | <b>DOJ as AP</b> | <b>Remarks</b>                                                                                                                      |
|----------------|-------------------------------------------------|------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 1.             | <i>Dr. Rashmi Kaul<br/>(promotee candidate)</i> | 19.01.2011       | <i>As per instructions of DOP, after promotion of this incumbent, this post of AP is to be filled up by promotion roster point.</i> |
| 2.             | <i>Dr. Bal Chander<br/>(Direct candidate)</i>   | 04.10.2012       | <i>As per instructions of DOP, after promotion of this incumbent, this post of AP is to be filled up by direct roster point.</i>    |
| 3.             | <i>Dr. Suman Singh<br/>(promotee candidate)</i> | 18.11.2013       | <i>As per instructions of DOP, after promotion of this incumbent, this post of AP is to be filled up by promotion roster point.</i> |

24. Thus, it was clear that the first post of Assistant Professor was filled on 19.01.2011 by Dr. Rashmi Kaul as promotee candidate. The next post was filled on 04.10.2012 by direct candidate and then again, the third post was filled on 18.11.2013 by Dr. Suman Singh as a promotee candidate. Obviously, the next vacancy that had occurred in February, 2016, had to be filled by direct candidate to complete the roster. Otherwise, the percentage of promotee candidates would remain higher in perpetuity.

25. Petitioner has filed alongwith her petition a copy of reply submitted by the official respondents in O.A. No. 31 of 2018, titled as Dr. Aruna Vs. State of Himachal Pradesh and Ors. It will be relevant to reproduce the relevant extract of preliminary submissions as under: -

*“It is submitted respectfully that the Original Application preferred by the applicant is not maintainable. In fact, one Dr. Swati Aggarwal made a representation on 14.09.2017 to the replying respondent No. 1 with the request to review the DPC of Dr. Aruna. In this representation detailed submissions were*

made by Dr. Swati Aggarwal. On consideration of the representation made in the representation it was found that had DPC been convened on regular posts i.e. in the year, 2017 then she would have been at Sr. No. 1 in the zone of consideration as she had completed her Senior Residency in June, 2016. **It was also found that there was no vacant post of Assistant Professor for GDO quota at the time when DPC was convened in the year, 2016** and Dr. Aruna was promoted against higher post. **Therefore, it was realized that a procedural irregularity had occurred in convening the DPC in the absence of clear vacancy and therefore, the same had to be reviewed and accordingly impugned order dated 05.12.2017 (Annexure A-5) was issued.** Keeping in view all these aspects of the case it is clear that the respondent State has not done anything deliberately. It is further submitted that the promotion given to the applicant though was result of procedural irregularity but the result of bonafide intention. However, as soon as the procedural irregularity was noticed the same was required to be rectified and with this purpose only Annexure A-5 was issued.”

**Emphasis added**

26. Thus, there was a clear admission of official respondents by way of reply filed in O.A. No. 31/2018

that there was no vacancy of Assistant Professor for GDO quota at the time when DPC was convened in the year 2016 and Dr. Aruna was promoted against higher post. The extract of letter dated 28.03.2016, as reproduced in para 10 above, also is a clear pointer.

27. In the above background, it stands established that the vacancy against which private respondent No. 4 was promoted in February, 2016, was to be filled by direct recruitment.

28. The stand now taken by the respondents that since Dr. Rashmi Kaul was a promotee incumbent on the post of Assistant Professor and on her promotion as Associate Professor, the vacancy had to occur in the same quota of promotee candidate is unsustainable. A Division Bench of this Court (in which, I was one of the member) while deciding **CWP No. 907 of 2021, titled as Dr. Nikita Verma Vs. State of H.P. and Ors.** vide judgment dated 13.08.2021, has rejected the similar stand of official respondents in identical fact situation in following terms:

*“12. Respondents No. 1 and 2 have specifically submitted that to maintain prescribed ratio of*

*50:50 between promotee incumbents and direct recruits, roster provided in explanation to Clause 6 of Chapter 13 of Handbook on Personal Matters, Volume, will be applicable, which reads as under:*

*“6. Relative seniority of direct recruits and promotees: -*

*(a) Provision in general: The relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quotas of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules.*

***Explanation:-***

*A roster should be maintained based on the reservation for direct recruitment and promotion in the Recruitment Rules. Where the reservation for each method is 50% the roster will run as follows: (1) Promotion, (2) Direct Recruitment, (3) Promotion, (4) Direct Recruitment and so on. Appointment should be made in accordance with this roster and seniority determined accordingly.*

***Illustration:***

*When 75% of the vacancies are reserved for promotion and 25% for direct recruitment, each direct recruit shall be ranked in seniority below 3 promotees. Where the quotas are 50% each, every direct recruit shall be ranked below a promotee. If for any reason, a direct recruit or a promotee ceases to hold the appointment in the grade, the seniority list shall not be re-arranged merely for the purpose of ensuring the proportion referred to above.”*

*13. Respondents have further contended that column No. 10 of the proforma for R & P Rules was amended and term ‘posts’ was incorporated in place of term ‘vacancies’, which as per respondents, necessarily meant that the roster is to conclude on the post and once the roster is concluded then the ensuing vacancies*

*shall be filled from the quota (direct or promotion) in which vacancy had occurred.*

*14. There is no dispute that cadre strength is always measured by the number of posts comprising the cadre and there must be a post in existence to enable the vacancy to occur. This, however, will not imply that the application of roster will come to an end on filling of the entire cadre strength. Application of roster is not the end but only a mean to achieve the object.*

*15. The object is defined by R & P Rules, wherein specific quota of 50% each for direct and promotee candidates has been reserved as source for recruitment for the post of Assistant Professor. In case the interpretation adopted by respondents is accepted, reservation of 50% of the total posts for direct candidates will never be achieved and practically it shall be 60% in favour of promotees and 40% for direct recruits. Such an interpretation, that stares at the face of object sought to be achieved, cannot be countenanced.*

*16. Thus, such an understanding, in our view, is not legally sustainable for the simple reason that it impedes at the very basis of Recruitment and Promotion Rules providing for reservation in the ratio of 50 : 50 between promotees and direct recruits.*

*17. While dealing with almost identical proposition in State of Punjab and others vs. Dr. R.N. Bhatnagar and another, (1999) 2 SCC 330, Hon'ble Supreme Court has held as under:*

*“11. On the other hand, the situation which has fallen for our consideration in the present case in the light of Article 16(1) is squarely covered by a decision of this Court in Paramjit Singh's case (supra) as clarified by a latter decision in the very same case reported in [1982] 3 SCC 191. In the aforesaid main case, D.A.*

*Desai, J, speaking for the bench of two learned Judges of this Court, had to consider in paragraph 11 of the Report a recruitment rule which permitted fixed percentage of posts to be filled up in the given cadre from two different sources, namely, promotees and direct recruits. Rule 6 of the Punjab Police Service Rules, 1959, which came for consideration in that case provided for a method of recruitment from two different sources i.e. 80% by promotion from the rank of Inspectors and 20% by direct recruitment. Examining the working of the aforesaid quota rule for recruitment in the light of the relevant rotational scheme of vacancies in the cadre to which such recruitment was to be made, the following pertinent observations were made in paragraph 11 of the Report: (SCC p. 485)*

*"11. Where recruitment to a cadre is from two sources and the Service Rules prescribe quota for recruitment for both sources a question would always arise whether the quota rule would apply at the initial stage of recruitment or also at the stage of Confirmation, Ordinarily, if quota is prescribed for recruitment to a cadre, the quota rule will have to be observed at the recruitment stage. The quota would then be correlated to vacancies to be filled in by recruitment but after recruitment is made from two different sources they will have to be integrated into a common cadre and while so doing, the question of their inter se seniority would surface.,....."*

*As there was some doubt about the observations found in the aforesaid paragraph 11 and as to how the recruitment rule in question was to be operated in the light of the quota prescribed therein and the rotational method of achieving the said quota of recruitment from two sources, a later Bench clarified the position in the subsequent judgment in the case of Paramjit Singh (supra). Another bench of two learned Judges, wherein D.A. Desai, J., was common, clarified the observation in paragraph 11 of the earlier Report as under: (SCC pp. 195-96, paras 6 and 7)*

*“6. In our opinion there is no ambiguity in the judgment. Ordinarily speaking, where recruitment is from two sources with a view to integrating recruits from both sources after the recruitment seniority is determined from the date of entry into the cadre except where there has been a substantial violation of the quota giving undeserved advantage to one or the other source. Seniority ordinarily speaking is determined with reference to the date of entry into the cadre which in service jurisprudence is styled the date of continuous officiation. These notions of service jurisprudence may have to yield place to the specific rules and the fact situation with reference to Rule 10 did compel this Court to depart from the normal concept in service jurisprudence. However, introduction of a roster system is very well-known in-service jurisprudence. What this Court meant while saying that when a quota rule is prescribed for recruitment to a cadre it meant that quota should be co-related to the vacancies which are to be filled in. Who retired and from what source he was recruited may not be very relevant because retirement from service may not follow the quota rule. Promotees who came to the service at an advanced age*

*may retire, early and direct recruits who enter the service at a comparatively young age may continue for a long time. If, therefore, in a given year larger number of promotees retire and every time the vacancy is filled in by referring to the source from which the retiring person was recruited it would substantially disturb the quota rule itself. Therefore, while making recruitment quota rule is required to be strictly adhered to. That was what was meant by this Court when it said : (SCC p. 486, para 14: SCC (L&S) p. 318)*

*'The quota rule would apply to vacancies and recruitment has to be made keeping in view the vacancies available to the two sources according to the quota.'*

*The quota in the present case is 4:1 that is, four promotees to one direct recruit. Therefore, whenever vacancies occur in the service the appointing authority has to go on recruiting according to quota. In other words, whenever vacancies occur, first recruit four promotees irrespective of the factors or circumstances causing the vacancies and as soon as four promotees are recruited bring in a direct recruit. That was what was meant by this Court when it said that a roster has to be introduced and this roster must continue while giving confirmation. The sentence which seems to have created a difference of opinion reads as under : (SCC p.486, para 14 : SCC (L&S) p.318)*

*"A roster is introduced while giving confirmation ascertaining every time which post has fallen vacant and recruit from that source has to be confirmed in the post available to the source."*

7. The sentence cannot be read in isolation. It has to be read with the

*earlier sentence that the quota rule would apply to the vacancies and recruitment has to be made keeping in view the vacancies available to the two sources according to the quota. The Court then proceeded to say that if the quota rule is strictly adhered to there will be no difficulty in giving confirmation keeping in view the quota rule even at the time of confirmation."*

*The aforesaid decision which squarely applies to the facts of the present case, therefore, leaves no room for doubt that when under the recruitment Rule 9 in question there is no reservation of any given category of candidates like SCs, STs or BCs to the posts in the cadre of Professors, appointments to the posts in the cadre have to be made in the light of the percentage of vacancies in the posts to be filled in by promotees or direct recruits. The quota of percentage of departmental promotees and direct recruits has to be worked out on the basis of the roster points taking into consideration vacancies that fall due at a given point of time. As stated earlier, as the roster for 3 promotees and one direct recruit moves forward, there is no question of filling up the vacancy created by the retirement of a direct recruit by a direct recruit or the vacancy created by a promotee by a promotee. Irrespective of the identity of the person retiring, the post is to be filled by the onward motion of 3 promotees and one direct recruit. Consequently, learned counsel for the appellant and learned senior counsel for the intervenor were right when they contended that the High Court in its impugned judgment had patently erred in invoking the ratio of decision of this Court in R.K. Sabharwal's case (supra) which was rendered in an entirely different context for resolving an entirely different controversy which did not arise on the facts of the present case. They*

*were also right in contending that the ratio of the decision of this Court in Paramjit Singh's case (supra) read with the decision of this Court in the same case reported in [1982] 3 SCC 191 would get squarely attracted in the facts of the present case. Once that conclusion is reached, the result becomes obvious. Whenever in the cadre of Professors of Ophthalmology vacancies arise for being filled in at any given point of time, those vacancies in the posts have to be filled in by operating the roster in such a way that available vacancies get filled up by allotting 75% of them to departmental promotees and 25% to direct recruits.....”*

18. The above noted exposition keeps none in the realm of doubt as to how the roster is to be applied in respect of appointment to the posts in a particular cadre which admits of entry from different source.

19. We are also dealing with the fact situation where the source of recruitment to the post of Assistant Professor in Himachal Pradesh Medical Education Service is from two sources i.e. direct 15 recruitment and by way of promotion in the ratio of 50 : 50. Thus, we have no hesitation to hold that in such situation each ensuing vacancy in the cadre shall be filled by applicable roster and not otherwise.

20. In the Department of Radiology, IGMC, Shimla, undisputedly, out of first 4 posts, 2 were filled by promotee candidates and next 2 were filled by direct recruits. It is stated that the appointments to first 4 posts were not made in accordance with applicable roster as first 2 posts went to promotees and next 2 posts went to direct recruits, whereas the 2nd post should have gone to direct recruit, 3rd post to promotee and then 4th post again to direct recruit. Be that as it may, the appointments to first 4 posts in the manner noted above, will not be of much relevance for deciding the issue before us. Such factor may be relevant for

*deciding the dispute, if any, as to inter se seniority between the incumbents holding first 4 posts, with which we are not presently concerned.*

*21. There is no dispute that 5th post again went to promotee candidate. Though, by filling of 5th post, the appointments to entire cadre strength were made but what remained to be achieved was the fulfilment of quota/reservation in the ratio of 50 : 50 between promotees and direct recruits. In this manner, the promotees got 16 60% reservation against prescribed 50% quota and direct recruits could get only 40% instead of 50% quota. In case the vacancy now available is again filled by promotee candidate, the discrimination already meted to direct recruits shall be perpetuated. On the other hand, the appointment on existing vacant post by direct recruit shall achieve the fulfillment of the respective quota of 50% prescribed for direct recruits and in future adherence to exposition in State of Punjab and others vs. Dr. R.N. Bhatnagar and another (supra) shall serve the ends of applicable R & P Rules and in this manner, the balance shall also be maintained between the promotes and direct recruits in achieving their respective quota of reservation to the extent of 50% each.”*

29. Further, the changing stand of official respondents as noticed in their reply to O.A. No. 31 of 2018 and now in the instant petition speaks volumes of the intent behind their conduct. Such conduct cannot be *bonafide*. It is not expected from the executive of a welfare State to be partisan with one of its employees as against the other. Its role has to be of a model employer

and a neutral umpire. Its legal obligation is to act in accordance with law.

30. In light of above discussion, the writ petition is allowed. The impugned order/Communication dated 24.01.2020 (Annexure P-14), is quashed and set aside. Respondents No. 1 to 3 are directed to hold a review DPC in terms of its earlier decision dated 05.12.2017 (Annexure P-8) for the post of Assistant Professor (Pathology) in RPGMC, Tanda. The entire exercise shall be completed by the official respondents within four weeks from the date of passing of this judgment.

31. The petition is, accordingly, disposed of in the aforesaid terms, so also the pending miscellaneous application(s) if any.

32. For compliance, list on 8.8.2025.

5<sup>th</sup> June, 2025  
(sushma)

**(Satyen Vaidya)**  
**Judge**