



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4521 of 2026

Decided on: 14.07.2026

Shishu Pal Mehta	... Petitioner
Versus	
The State of Himachal Pradesh and another	... Respondents
Coram	
Hon'ble Mr. Justice Ajay Mohan Goel, Judge.	
Whether approved for reporting? ¹ Yes	
For the petitioner:	Ms. Neha Thakur, Advocate.
For the respondents:	Mr. Rahul Thakur, Deputy Advocate General.
Ajay Mohan Goel, Judge (Oral)	

By way of this petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

- “i) A Writ of Mandamus be issued directing the Respondents to immediately transfer/ adjust the Petitioner to Rampur.
- ii) The Respondents be directed to finalize the creation of the Supernumerary Post at Rampur within a fixed period.
- iii) The Petitioner be permitted to discharge his duties at Rampur to ensure the safety of his life and the welfare of his dependent family.”

2. The case of the petitioner is that he is 100% visually impaired, his wife is also 75% visually impaired and they have a two year old child. He is serving presently against the post of District Inspector/District Audit Officer. According to him, in light of his medical and family circumstances, as it is not possible for him to serve at Shimla, a mandamus be issued to the respondent-

¹ Whether reporters of the local papers may be allowed to see the judgment?

Department, directing them to create a supernumerary post at Rampur under Section 20 (4) of Rights of Persons with Disabilities Act, 2016 (hereinafter to be referred as "RPwD Act, 2016") in terms of Annexure P-2 and post him at the said centre.

3. Learned counsel for the petitioner submitted that in light of the fact that the petitioner as well as his wife are both persons with disability and have a small child to look after, it is not possible for them to stay at Shimla on account of the topography of the town. She submits that the petitioner be posted at Rampur against any post and salary of the petitioner be paid to him from Shimla.

4. On the other hand, learned Deputy Advocate General, by referring to the reply filed by the State, submitted that the petitioner was initially appointed as an Inspector of the Co-operative Societies on contract basis on 26.11.2018, against the quota reserved for Persons with Benchmark Disabilities and his services were regularised on 19.01.2022. In terms of judgment dated 30.05.2025, passed by this Court in CWP No.8963 of 2023, the services of the petitioner were regularised as an Inspector of Co-operative Societies from the initial date of his appointment and thereafter, he was promoted against the post of District Inspector/District Audit Officer, on the basis of recommendations of the Departmental Promotion Committee. Learned Deputy Advocate General further submitted that on account of promotion conferred upon the petitioner, he was

posted at Solan. However, the petitioner again filed a petition before this Court, i.e. CWP No.17491 of 2025 and he was adjusted at Shimla in terms of the order passed by the Court in the said petition on 15.12.2025, against sanctioned post of District Inspector/District Audit Officer in place of his earlier posting in the office of Assistant Registrar, Co-operative Societies, Solan. Learned Deputy Advocate General also submitted that in this backdrop and more so in light of the fact that there is no post of District Inspector/District Audit Officer in the office of Inspector Co-operative Societies, Rampur, the petitioner cannot be ordered to be transferred to Rampur. He submitted that the Department is not averse to posting the petitioner at a station where the post of District Inspector/District Audit Officer exists, but the insistence of the petitioner to be posted at Rampur only is totally arbitrary.

5. I have heard learned Counsel for the parties and have also carefully gone through the pleadings on record.

6. The petitioner is praying for him being posted at Rampur by creating a supernumerary post of District Inspector/District Audit Officer. Annexure P-2 is being relied upon, which is a communication dated 01.11.2025, addressed by Registrar of Co-operative Societies, Himachal Pradesh, to Secretary Cooperation, in which it is mentioned that if the petitioner is to be retained at Rampur on his promotion as a District Inspector/District Audit Officer, a supernumerary post will be required to be created as per

the Proviso under sub-section (4) of Section 20 of the RPwD Act, 2016.

7. Before proceeding further, at this stage itself, this Court would like to refer to the provisions of Section 20 of the RPwD Act, 2016. Section 20 of the RPwD Act, 2016 provides as under:-

“20. Non-discrimination in employment.—(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.”

8. Sub-section (4) of Section 20 of the RPwD Act, 2016, provides that no Government Establishment shall dispense with or reduce in rank an employee who acquires a disability during his or her service. The Proviso to said sub-section provides that if an employee after acquiring disability is not suitable for the post he was holding, then the employee shall be shifted to some other post with the same pay scale and service benefits with a further Proviso that if it is not possible to adjust the employee against any post, he/she may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation whichever is earlier.

9. Therefore, a plain reading of sub-section (4) of Section 20 of the RPwD Act, 2016 demonstrates that this sub-section comes into picture only when an employee acquires a disability during service. This sub-section is not at all attracted in the facts of the present case, because the petitioner was appointed in service on account of him being a person with disability. Thus, reliance being placed on sub-section (4) of Section 20 of the RPwD Act, 2016 and the Provisos thereto by the petitioner as also by Registered Co-operative Society is totally misconceived and a result of misreading of this statutory provision.

10. Therefore, this Court has no hesitation in holding that the scheme of the RPwD Act, 2016 does not provide for creation of

any supernumerary post for adjustment of a person with disability who is appointed in his or her capacity as such.

11. Now, coming to the facts of the present case, the petitioner is seeking a mandamus for him being posted as a District Inspector/District Audit Officer in the Office of Inspector, Co-operative Societies, Rampur. It is evident from the pleadings itself that the petitioner was initially appointed as an Inspector and thereafter, he stands promoted against the post of District Inspector.

12. But natural, in the Office of Inspector Co-operative Society, there cannot be a post superior to the post of Inspector. Therefore, as Inspector Co-operative Society, Rampur happens to be the senior most Officer in the said Office, by no stretch of imagination, a District Inspector, who is the senior Officer of the Inspector, can be ordered to be posted at said station. It is not the case of the petitioner that despite availability of the post of District Inspector at Rampur, he is not being posted there. Petitioner wants his posting at a place where the post does not exists.

13. As already observed hereinabove, there is no question of any mandamus being issued for creation of any supernumerary post, because neither sub-section (4) of Section 20 of the RPwD Act, 2016 is attracted in the present case, nor the Provisos thereunder.

14. Therefore, in light of the above observations, as the present petition is completely misconceived, because no mandamus can be issued to the Authorities to post the petitioner at a place

where the post being held him is not available, this petition is dismissed. However, it is observed that wherever the post of District Inspector/District Audit Officer is available and in case the petitioner makes a request for his adjustment at any of the said stations, then his request be considered sympathetically. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

July 14, 2026
(Rishi)