IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Writ Petition No.14548 of 2025
Date of Decision: 23.09.2026

The Rishi Markandey Exserviceman Transport and Welfare Society

.....Petitioner

Versus

The HP Ex-Serviceman Corporation Hamirpur & Anr.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?
For the Petitioner: Mr. Surinder Saklani, Advocate.

For the respondents: Mr. Mukul Sod, Advocate, for respondent No.1.

Mr. Anil Kumar Sood, Advocate, for respondent No.2.

Sandeep Sharma, J. *(Oral)*

Being aggrieved and dissatisfied with order dated April, 2025 (Annexure P-4), passed by the Chairman-cum-Managing Director, HP Ex-Servicemen Corporation, Hamirpur, whereby request made by the petitioner for attachment of 05 multi axle trucks in place of normal trucks (six tyres) came to be rejected, petitioner, which is a Transport and Welfare Society, has approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein for the following main reliefs:

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> *"a. That a writ in the nature of certiorari may very kindly be issued and impugned order dated April, 2025 as contained in Annexure P-4, may very kindly be quashed and set aside.*
>
> *b. That a writ in the nature of Mandamus may very kindly be issued and respondent No.1 may very kindly directed to accord approval for plying five multi axle vehicles in respondent No.2 Company."*

2. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Surinder Saklani, learned counsel representing the petitioner, is that respondent-Corporation, while passing impugned order dated April, 2025 (Annexure P-4), wrongly placed reliance upon judgment passed by Division Bench of this Court in CWP No. 4982 of 2012, titled as ***Smt. Damodari Devi Vs. Himachal Pradesh Ex-servicemen Corporation & Ors***., decided on 22.08.2012, whereas case of the petitioner-society ought to have been considered independent of the findings given in the aforesaid judgment, which was passed in peculiar facts and circumstances, as has been clarified by the Division Bench of this Court in order dated 04.08.2025 passed by the Principal Division Bench of this Court in CMP No. 17492 of 2025 in CWP No. 4982 of 2012 (Annexure P-7).

3. Material adduced on record by the parties to the *lis* clearly reveals that petitioner-society is working with respondent No.2-Cement Company since the year 2015 and since then, members of the aforesaid company have been plying their vehicles for transportation of

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cement. Vide application/representation dated 05.03.2025 (Annexure P-3), petitioner-society made a request to respondent No.1 for plying five multi axle vehicles. While making aforesaid prayer, petitioner-society stated in the application/representation that respondent No.2 has already been granted permission to ply five multi axle vehicles, however, such request of the petitioner-society came to be rejected vide communication dated April, 2025 (Annexure P-4).

4. Careful perusal of the aforesaid communication reveals that request for attachment of 05 multi axle trucks in place of normal trucks (six tyres) came to be rejected on the basis of judgment passed by the Division Bench of this Court in CWP No. 4982 of 2012, decided on 22.08.2012, wherein it came to be observed that Corporation will not accord any permission for purchase of new multi axle trucks without permission of this Court.

5. After passing of the aforesaid order, petitioner herein filed an application being CMP No. 17492 of 2025 (Annexure P-7) in CWP No. 4982 of 2012, titled *Smt. Damodari Devi vs. Himachal Pradesh Ex-servicemen Corporation, Hamirpur*, praying therein for modification of order dated 22.08.2012. However, Division Bench of this Court passed the following order:

> *"The application has been filed under Section 151 of the Code of Civil Procedure (CPC) for modification of the order dated 22.08.2012, passed by the Division Bench of this Court in CWP*

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No.4982 of 2012-I titled ***Smt. Damodari Devi Vs. Himachal Pradesh ExServicemen Corporation, Hamirpur and others***.

2. Apparently, the applicant/petitioner-Rishi Markande Ex-Serviceman, Transport and Welfare Society was not a party to the said litigation. The cause of action as such is now independent on account of an order having been passed by the Himachal Pradesh Ex-Serviceman Corporation in April, 2025 (Annexure A-3), which is based on directions issued by the Division Bench of this Court on 22.08.2012.

3. In such circumstances, we are of the considered opinion that it is open to the present applicant/petitioner to file a separate writ petition raising challenge to the said order of April, 2025 in independent proceedings, as prima facie not being a party it would not bind them to any directions passed by the earlier Division Bench.

4. Keeping in view of above, counsel for the applicant/petitioner does not press the present application with liberty to seek appropriate remedy in accordance with law.

5. The application stands disposed of accordingly.

6. Since Division Bench of this Court in the aforesaid application clarified that petitioner is not bound by any directions passed by the Division Bench of this Court in CWP No. 4982 of 2012, coupled with the fact that petitioner-society was also permitted vide aforesaid order to file a separate writ petition, petitioner has approached this Court in the instant proceedings.

7. Though in terms of notices issued in the instant proceedings, respondents No.1 and 2 have already filed reply, but Mr. Mukul Sood, learned counsel representing the respondent-

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Corporation, fairly states that in terms of order dated 04.08.2025 passed by the Division Bench of this Court in CMP No. 17492 of 2025 in CWP No.4982 of 2012, application/representation having been filed by petitioner (Annexure P-3) is required to be decided afresh. There appears to be merit in the contention of Mr. Sood, learned counsel representing the respondent-Corporation, for the reason that impugned order dated April, 2025 (Annexure P-4) is totally based upon observations, if any, made by the Division Bench of this Court while deciding CWP No. 4982 of 2012 on 22.08.2012. Since Division Bench of this Court has already clarified that directions, if any, passed in the aforesaid order shall have no bearing on the case of the petitioner, coupled with the fact that petitioner was further permitted to file an independent petition, laying therein challenge to order dated April, 2025, this Court finds that application/representation of the petitioner is required to be considered afresh by the respondent-Corporation.

8. Consequently, in view of the above, this Court finds merit in the present petition and accordingly, the same is allowed. Impugned order dated April, 2025 (Annexure P-4) is quashed and set aside with a direction to the respondent-Corporation to decide application/representation of the petitioner (Annexure P-3) afresh without being influenced by the findings or observations, if any, made by the Division Bench of this Court in CWP No. 4982 of 2012, decided on 22.08.2012. However, while doing the needful in terms of the

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instant order, respondent-Corporation may specifically take note of various judgments passed by this Court from time to time, as have been taken note of by the respondent-Corporation in its reply. Needless to say, authority concerned, while doing the needful in terms of the instant order, shall afford an opportunity of hearing to the petitioner and pass appropriate orders.

The petition stands disposed of in the aforesaid terms along with pending application(s), if any.

(Sandeep Sharma)
Judge

September 23, 2026
(sunil)

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