

**Himachal Pradesh
Public works Department**

Office Order

Whereas, Sh. Ravi Kant, Clerk (now Sr. Asstt.) S/o Shri Prakash Chand appointed on contract basis on 14.09.2012 and regularized on 05.05.2017 filed Original Application before the erstwhile Administrative Tribunal. The erstwhile Administrative Tribunal was abolished by the Govt. and the Original Application was transferred to the Hon'ble High Court, where it was registered as CWPOA No. 7242/2020.

And Whereas, the petitioner in the said petition has claimed that the respondents may be directed to count the contractual service of the applicant/petitioner w.e.f. date of his initial appointment on contractual basis for all intents and purpose i.e. seniority, pay scale revised from time to time annual increment, proficiency step up and promotion/designation to the post of junior Assistant etc. The petitioner also sought quashing of the order dated 26.09.2017 and to redraw the seniority list of the private respondents.

And whereas, the CWPOA was listed before the Hon'ble Court on 19.04.2024 when the same was disposed off by relying upon the judgment passed in CWP No. 2004/2017 titled as Taj Mohammad Vs. State of HP and by directing the respondents to extend the same and similar benefits to the petitioner as were extended to the petitioner Sh. Taj Mohammad in CWP No. 2004/2017 within a period of 4 weeks.

And whereas, the judgment was examined at the govt. level in consultation with the advisory department and advisory department/law. Department conveyed the opinion on dated 24.06.2024 to examine the facts and similarity of case with relied upon case of Taj Mohammad. Thereafter, the matter was examined in the office of the undersigned and after examination of the matter, vide letter dated 14.08.2024, Govt. was informed that the issue in both the matters is same and accordingly it was requested that the matter may be examined and advise may be conveyed so that further action in compliance to the directions of the Hon'ble High court may be taken. The Govt. after examinations has advised to file SLP against judgment before Apex Court. Meanwhile, the petition was listed before the Hon'ble Court on 02.09.2024, when the Hon'ble Court issued the directions as under:

“.....14. Accordingly matter is adjourned, with direction to respondents-State to ensure complete compliance of the order by next date of hearing, failing which Principal Secretary [PW] and Engineer-in-Chief, HPPWD, shall surrender on that day for explaining that why they be not

committed to civil imprisonment for ensuring compliance of order of the Court.

15. In case of non-compliance by next date, Chief Secretary to the government of Himachal Pradesh, is also directed to arrange the funds for subsistence allowance to be deposited for civil imprisonment of Principal Secretary [PW] and Engineer-in-chief, HPPWD, with the appropriate authority .

16. List for compliance report on 26.09.2024.”

And Whereas, the relied upon case of Taj Mohammad vs. State of HP in CWP No 2004/2017 pertains to department of Food & Civil Supply, govt. of HP. The judgment in Taj Mohammad was passed by the Hon’ble High Court on 03.08.2023 and the following directions were issued:

.....25. *Thereafter as the foundation of the order passed by the learned Tribunal subject matter of these writ petitioner, was the judgment of this Court in Narender Singh Naik;s case (supra), which judgment itself was bases on the Five Judge Bench judgment of the Hon’ble Supreme Court in Direct Recruit’s case(supra), and as the learned Tribunal rightly held that the services rendered by the original applications on contract basis were liable to be counted for the purpose of seniority and consequential benefits after their regularization, as the initial appointment of the original application on contract basis was after following the procedure prescribed in the Recruitment & Promotion rules, we do not find any infirmity in the said finding and further as we do not find any merit in the writ petitions, the same are dismissed by upholding the order passed by the learned Tribunal. No order as to costs. Pending miscellaneous applications, if any, stand disposed of.”*

The said judgment was assailed by the State by way of SLP © No. 25641-42/2023 before the Hon’ble Supreme Court. However, the SLP was also dismissed by the Hon’ble Apex Court on 04.12.2023.

Subsequently benefit of seniority was given to Sh. Ravi Kant w.e.f. initial appointment of the petitioner i.e. date of appointment 14.09.2012 vide office order No.9751-56 dated 25.09.2024. Further seniority was also re-assigned to him vide letter No. 18765-885 dated 05.12.2024 by circulating tentative seniority list as it stood on 31.12.2018.

And whereas, the Govt. of Himachal Pradesh has introduced the H.P. Recruitment and Conditions of service of Govt. Employees Act, 2024 which

have been notified vide notification no. LLR-D(6)-36/2024-LOOSE Dated 07.02.2025 and the Govt. vide Department of Personnel notification PER (AP)-C-A(3)-6/2024 dated 19.02.2025 has appointed 20th February 2025 as the date on which the provisions of the aforesaid act shall come in to force. The relevant provision of the Act ibid regarding **"Extension of service benefits"** is reproduced below:-

"(1). The service benefits available under various Central Services Rules, as applicable in the state, the H.P. Civil Services rules, and other service benefits such as, seniority, increments, promotion etc. shall be applicable only to the employees appointed on regular basis.

(2). No person working in any Govt. Department , who has not been appointed as per the provision of this act and rules made there under on regular basis shall be entitled service benefits available under the various Central Civil Services Rules, as applicable in the State, the H.P. Civil Services rules and other service benefits such as seniority, increments, promotion etc.:

Provided that a person shall be entitled for service benefits only on the date of regularization of his services:


Provided further, that a person whose service have been regularized after 12th December, 2003 shall also be entitled to service benefits on date of regularization, as it their service have been regularized under the provision of this act.

Provided also that service benefits already extended to the persons from the service other than regular service shall stand withdrawn."

In view of above provisions, the Act has taken away very basis of judgments passed by the Hon'ble High Court, therefore the contract period rendered by the petitioner cannot be counted for the purpose of seniority, increment and promotion etc.

NOW THEREFORE, in view of above provisions of Act. Sh. Ravi Kant, Sr. Asstt. is not entitled for any benefits such as seniority, increment, promotion etc. of contract services rendered by him before regularization. Hence, the benefits of seniority etc. as granted in his favour vide Memorandum dated 25.09.2024 and tentative seniority list circulated vide letter No. 18765-885 dated 05.12.2024 is hereby withdrawn with immediate effect.

May inform petitioner accordingly.



Engineer-in-Chief,
HPPWD, Shimla-02.

Sh. Ravi Kant, S/o Sh. Prakash Chand,
R/o Village Thana, P.O. Baroti, Tehsil
Sarkaghat, District Mandi, HP.

No.PWE-82-I-Apptt.(Court Case)/ESI- 4589-680 Dated:- 30-6-2025

Copy forwarded for information and n/a to:-

1. The Secretary (PW) to the Govt. of HP.
2. All the Chief Engineer/Architects in HPPWD
3. The Ld. Distt. Attorney, HPPWD Shimla-02.
4. All the Superintending Engineer in HPPWD
5. All the Executive Engineer in HPPWD
6. The Nodal Officer, IT Cell, to upload the same on Departmental website.


Registrar,
HPPWD, Shimla-02.