

HIMACHAL PR ADESH
PUBLIC WORKS DEPARTMENT

No. PW-LC-(120)CWP No. 1522/2015-
From:-

6508-6623 Dated:-

6/7/16

Engineer-in Chief
H.P.PWD, Shimla-2

To

1. All Superintending Engineers, HPPWD,
2. All Executive Engineers, HPPWD.
3. Deputy District Attorneys, HPPWD, Dharamshala, Mandi and Hamirpur.
4. Both Deputy District Attorneys, Labour Court at Judicial Complex, Chakkar, Shimla and O/o District Attorney, Dharamshala.

Subject: - Supply of copy of judgment passed in CWP No. 1522/2015 titled as Smt. Soma Devi vs State of HP, dated 9.10.2015.

Sir,

In the above cited subject, I am to enclose herewith a copy of judgment / order dated 09.10.2015 passed by Hon'ble High Court of HP in CWP No. 1522/2015. As per this verdict the second demand notice / claim of petitioner / workman for condoning the short period in service w.e.f. 25.1.1994 to 31.3.2001 has been declined by the Hon'ble High Court by upholding the award dated 02.12.2014 passed by Ld. Labour Commissioner, HP, operative part of judgment is reproduced as under:-

"...I have heard learned counsel for the parties and have gone through the records of the case carefully.

4. As per the admitted case of the petitioner the earlier reference i.e. Reference No. 167 of 2002 had been decided on merits by the learned Labour Court-cum-Industrial Tribunal, Dharamshala vide its award dated 30.5.2006 and the same was attained finality inasmuch as the petitioner has not cared to challenge the same. It is also not in dispute that the reference in the earlier award also pertained to the issue regarding artificial breaks being given to the petitioner for the period w.e.f. 25.1.1994 to 31.3.2001 and whereas even by way of demand notice now issued on 16.2.2012 which has been rejected on 2.12.2014, the petitioner has again sought to rake up the same issue regarding the artificial breaks for the period w.e.f. 25.1.1994 to 24.3.2001 which is impermissible in law. The claim now sought to be raised by the petitioner by way of demand notice is clearly barred by the principle of resjudicate in view of the issue having already been adjudicated in the earlier award dated 30.5.2006.

5. Resultantly not only the demand notice, but even the present petition is totally misconceived and is therefore, dismissed, leaving the parties to bear their own costs."

Therefore, being a strategic pronouncement of Hon'ble High Court on the issue of raking up of claims/filing of demand notice by regular workman repeatedly being barred on the principle of resjudicata as such, if raised by any workmen of PWD again upon its receipt this judgment be relied in the reply of department for opposing such claims.

This is for information and necessary action as the case may be.

Encls: as above

Jt. Director(Law)
For Engineer-in-Chief
HPPWD, Shimla-2

Copy forwarded for information and necessary action to the:-

1. The Addl. Chief Secretary (PW) to the Government of HP alongwith copy of this judgment with a request that Labour Commissioner may be requested to the extent that all the Labour Court reconciliation officers be also supplied copy of this judgment for deciding second claim of workmen as per this verdict of Hon'ble High Court.
2. The In-charge IT Cell in this office alongwith copy of this judgment with the request to kindly upload this strategic judgment on departmental official portal.
3. Guard file.

P.S. 5/2
Jt. Director(Law)
For Engineer-in-Chief
HPPWD, Shimla-2