

(Supreme Court Matter)  
Time Bound

HIMACHAL PRADESH  
PUBLIC WORKS DEPARTMENT

NO/PWE/88-14/PEN/REP/Sunder Singh Vs. State of H.P./ES--  
From-

Dated-

12929-13049

25/2/19  
25-2-19

Engineer-in-Chief,  
HPPWD Shimla-2.

To

All the Chief Engineers in HPPWD.  
All the Superintending Engineers in HPPWD.  
All the Executive Engineers in HPPWD/L.A.Os.

Subject:- Regarding allowing benefit in compliance to Supreme Court Decision in Civil Appeal NO.6309/2017 titled as Sunder Singh Versus State of HP and others to Class-IV employees situated Similarly to Shri Sunder Singh w.e.f. 01-01-2018.

I am forwarding herewith the instructions of Finance Department of Himachal Pradesh as issued vide letter NO.Fin(Pen)A(3)-10/2016 Dated 14<sup>th</sup> February, 2019, on the subject cited judgement which has been delivered in Civil Appeal No 6309 of 2017 titled as Sunder Singh versus State of H.P. & others and connected matters by the Hon'ble Supreme Court of India on 08-03-2018, for providing of pension to Class IV employees, those are situated similarly to Sunder Singh w.e.f. 01-01-2018.

The instructions of Finance Department and Para-2 and the operative part of the judgement, Para-6 is reproduced as under:-

"2. The appellants represent class of class-IV employees who were recruited initially as daily wagers such as peons/Chowkidar/Sweeper/Farrash/Malis/Rasoia etc. Their services, thereafter, were regularized pursuant to the decision of this Court in Mool Raj Upadhyaya Vs. State of H.P. and others 1994 Supp(2) SCC 316 under a Scheme. Regularization was after 10 years of service.

6. Accordingly, we direct that w.e.f. 01-01-2018, the appellants or other similarly placed class-IV employees will be entitled to pension if they have been duly regularized and have been completed total eligible service for more than 10 years. Daily wage service of 5 years will be treated equal to one year of regular service for pension. If on that basis, their service are more than 8 years but less than 10 years, will be reckoned as ten years."

2. The CCS (Pension) Rule, 1972 are applicable to regular government employees appointed on or before, 14-05-2003. In terms of Rule 2 of CCS (Pension) Rule, 1972, these rules apply to Government Servants who are appointed substantively to the Civil Services and posts in connection with the affairs of the State and who are borne on pensionable establishments. As per rule 2 (b) and 2 (c) of the rule ibid, the persons who are in casual and daily rated



employment and who are paid from contingencies are excluded from the purview of CCS (Pension) Rules, 1972. Therefore, the daily wage service rendered by the Government employees prior to their regularization is not countable for pensionary benefits.

3. The case of Shri Sunder Singh is that he was engaged as a beldar on daily wage basis in the IPH Department on 21-08-1989 and his services were regularised on completion of his 10 years of daily wage service with minimum 240 days in each calendar year w.e.f.01-01-2002 on the analogy of Mool Raj Upadhyaya's case and he retired on attaining the age of superannuation on 31-01-2011. On his retirement, he had rendered 9 years and 1 month regular service but pension was not granted to him as he had not completed the requisite qualifying service of 10 years as required under CCS (Pension) Rules-1972.

4. Despite provisions of the Rules, the Apex Court has passed orders in aforesaid judgement operative part of which is reproduced at Para 1 above. In view of the Apex Court Judgement dated 08-03-2018, the same would have an overriding effect on the provisions of CCS (Pension) Rules-1972 in respect of only the appellant Sunder Singh and similarly placed Class-IV Employees. The Court in its order has held that even though strictly construing the Rules, the appellants are not entitled to pension, however, reading the rules consistent with Article 14, 38, and 39 of the Constitution of India and applying the doctrine of proportionate equality, they may be given weightage of service rendered as daily wagers towards regular service for the purpose of pension. Some CWPs/OAs have thereafter been preferred by various persons in the Tribunal/High Court for allowing benefit pursuant to the Supreme Court judgement referred to above.

5. This matter was examined in the Finance Department. After due examination and with the approval of the Competent Authority, it has been decided to extend the benefit of the Supreme Court judgement to Class-IV persons who are similarly situated in order to avoid unnecessary litigation and in view of the reason cited by the Court in the judgement.

6. Therefore, the Administrative Department concerned, while implementing the judgement, may invariably keep the following points in view at the time of consideration of the case (s) for allowing the benefit for pension in respect of petitioner of Class-IV employees similarly situated to Shri Sunder Singh before forwarding it to the Accountant General HP:-

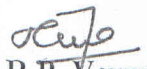
1. Such Class-IV Employees should have been regularized prior to 15-05-2003 and should be governed by the Central Civil Services (Pension) Rules-1972.
2. In view of Para-2 & 6 of the judgement, only similarly placed Class-IV employees who have been duly regularized and have completed 10 years daily wage service and whose cases are similar to appellant Shri Sunder Singh will be entitled to pension w.e.f. 01-01-2018. The weightage of service rendered as daily wage service of five years will be treated as one year of regular service for the purpose of pension.
3. While sending the cases to Accountant General H.P. for authorization of pension a certificate to the effect that the case is similar to the case of Shri Sunder Singh and is covered by the judgement of the Hon'ble Supreme Court of India may invariably be recorded.





4. The financial benefits shall accrue w.e.f. 01-01-2018 only.

In this regard, all the Chief Engineers, Superintending Engineers and Executive Engineers are directed to start the process immediately to implement the aforementioned judgement to provide the benefit of pension to Class IV Employees, similarly situated to Sunder Singh in accordance with the instructions issued by the Finance Department of Himachal Pradesh referred as above and copy of this may be downloaded from <http://himachal.nic.in/finance>. Compliance report to implement the orders may be sent to this office at the earliest please.

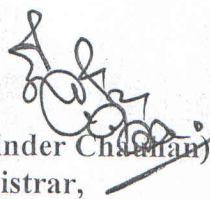
  
( Er. R.P. Verma)  
Engineer-in-Chief,  
HPPWD Shimla-2.

Copy for information and necessary action to:-

Copy to Chief Architect in this office.

Copy to Learned D.A in this office.

Copy to Supdt. ES-III, Supdt./ Cash Section in this office.

  
(Brinder Chaman)  
Registrar,  
HPPWD Shimla-2.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6309 OF 2017

SUNDER SINGH

... APPELLANT(S)

VERSUS

THE STATE OF HIMACHAL PRADESH & ORS.

... RESPONDENT(S)

WITH

SLP(C) NO. 1866 OF 2013

SLP(C) NO. 5269 OF 2013

SLP(C) NO. 13674-13675 OF 2013

O R D E R

1. Heard learned counsel for the parties.

2. The appellants represent class of Class-IV employees who were recruited initially as daily wagers such as Peon/Chowkidar/Sweeper/Farrash/Malis/Rasoia etc. Their services, thereafter, were regularized pursuant to the decision of this Court in Mool Raj Upadhyaya Vs. State

of H.P. and Ors. 1994 Supp(2) SCC 316 under a Scheme.

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MADHU BABA  
Date: 2014.03.12  
17:45:13 IST  
Reason: I

Regularization was after 10 years of service.

3. It is undisputed that the post-regularization

an employee who had served for 10 years is entitled pension for which work charge service is counted. Earlier, in terms of O.M. dated 14.05.1998, 50% of daily-wage service was also counted for pension after regularization but the rules have undergone change.

4. Since the appellants have not rendered the requisite 10 years of service they have been denied pension.

5. Even though strictly construing the Rules, the appellants may not be entitled to pension. However, reading the rules consistent with Articles 14, 38 and 39 of the Constitution of India and applying the doctrine of proportionate equality, we are of the view that they are entitled to weightage of service rendered as daily wagers towards regular service for the purpose of pension.

6. Accordingly, we direct that w.e.f 01.01.2018, the appellants or other similarly placed Class-IV employees will be entitled to pension if they have been duly regularized and have been completed total eligible service for more than 10 years. Daily wage service of 5 years will be treated equal to one year of regular service for pension. If on that basis, their services are more than 8 years but less than 10 years, their service will be reckoned as ten years.



7. The appeal as well as special leave petitions are disposed of in above terms.

.....J  
[ADARSH KUMAR GOEL]

.....J.  
[ROHINTON FALI NARIMAN]

NEW DELHI  
8<sup>th</sup> MARCH, 2018

.....J.  
[UDAY UMESH LALIT]

ITEM NO.101

COURT NO.11

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6309/2017

SUNDER SINGH

Appellant(s)

VERSUS

THE STATE OF HIMACHAL PRADESH IPH PRINCIPAL SECRETARY &amp; ORS.

Respondent(s)

WITH

SLP(C) No. 13674-13675/2013 (XIV)SLP(C) No. 1866/2013 (XIV)SLP(C) No. 5269/2013 (XIV)

Date : 08-03-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s)

Mr. Amit Anand Tiwari, Adv.

Mr. Vinod Sharma, Adv.

Mr. Arun Singh, Adv.

Mr. Bhaskar Y. Kulkarni, AOR

Mr. Ashwini Kumar Gupta, Adv.

Mr. Vikrant Yadav, Adv.

Mr. Piyush Kant Roay, Adv.

Mr. M. C. Dhingra, AOR

Mr. Balraj Dewan, AOR

Ms. Pragati Neekhara, AOR

For Respondent(s)

Mr. P.S. Patwalia, Sr. Adv.

Mr. Abhinav Mukerji, AAG

Mrs. Bihu Sharma, Adv.

Ms. Purnima Krishna, Adv.

Mr. Dhruv Sheoran, Adv.

Mr. Siddharth Garg, Adv.

Mr. Y.P. Adhyaru, Sr. adv.

Mr. K. Parameshwar, Adv.

Mr. Mukul Singh, Adv.

Mr. Mukesh Kumar Maroria, AOR

Mr. Varinder Kumar Sharma, AOR

Mr. B. V. Balaram Das, AOR

Ms. Pragati Neekhara, AOR

Mr. M. C. Dhingra, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The civil appeal as well as special leave petitions are disposed of.

Pending application(s), if any, shall also stand disposed of.

(MADHU BALA)

COURT MASTER (SH)

(Signed order is placed on the file)

(PARVEEN KUMARI PASRICHA)  
BRANCH OFFICER