

387

HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT

NO. PWE. 88-14/Pen./ Rep./ES-I- 5153-5253 Dated:- 04/8/2023

From-

Engineer-in-Chief,
HP.PWD. Shimla-2.

To

All the Chief Engineers in HP.PWD.
All the Chief Architect HP.PWD.
All the Superintending Engineers in HP.PWD.
All the Executive Engineers in HP.PWD.
All the Land Acquisition Officers in HPPWD.

Subject:-

Regarding allowing benefit of Notification dated 21/02/2018 to the category of Class-IV Government employees, who had been engaged on part time/ daily wages basis prior to 10/05/2001 and regularised after 10/05/2001 in compliance to Hon'ble High Court Decision in Civil Writ Petition No. 2711/2017 titled as Baldev Singh Vs. State of HP & Ors.

Your personal attention is invited to this office letter No.PWE-95-3-75(Gen-Cir)-35/ES-I- 1565-1666 dated 09/05/2023 vide which instructions regarding retirement age of Class-IV employees engaged prior to 10/05/2001 issued by the Finance Department Govt. of HP vide letter No. Fin(C)A(3)-2/2013-L dated 28th April, 2023 in pursuance to Baldev's case has been circulated for strict compliance.

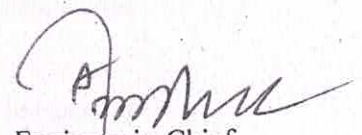
The Govt. of Himachal Pradesh vide Notification dated 21/02/2018 has carried out an amendment in Rule-56 of the Fundamental Rules and a proviso was inserted that a Class-IV Government servant, appointed on Part Time/ Daily Wages basis prior to 10/05/2001 and regularised on or after 10/05/2001 shall retire from service on the afternoon of the last day of the month in which he attains the age of 60 years. A workman namely Sh. Baldev filed CWP No. 2711 of 2017 in the Hon'ble High Court, seeking therein for consideration 60 years as his age of retirement instead of 58 years and all consequential benefits of salary and allowances, seniority & continuity. The said CWP was decided on 26/07/2022 by the Hon'ble High Court with the following directions to the respondent state: -

"There cannot be any discrimination amongst similarly situated Class-IV employees belonging to one homogenous Class. Therefore, the retirement date, of such of those employees, who had been engaged on daily wage basis prior to 10/05/2001, but regularized after 10/05/2001 and have actually been retired prior to the issuance of notification dated 21/02/2018 at the age of 58 years, shall be deemed to be the date when they otherwise attained the age of 60 years. Since these employees have

not actually worked beyond the age of 58 years, therefore, they will not be entitled to the actual monetary benefits of wages/ salary etc. for the period of service from the date of their actual retirement till deemed dates of their retirement. However, they will be entitled to notional fixation of their pay for the period in question for working out their payable pension and payment of consequential arrears of pension accordingly".

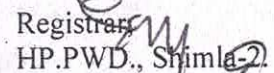
In this context, it is requested to allow the benefit of Notification dated 21/02/2018 as per the judgment passed in Baldev's case to the category of Class-IV employees who had been engaged on part time/daily wages basis prior to 10/05/2001 and regularised on or after 10/05/2001, but had retired before the issuance of Notification dated 21/02/2018 after attaining the age of 58 years. However, they will not be entitled to the actual monetary benefits of wages/salary etc. for the period of service from the date of their actual retirement till deemed dates of their retirement. However, they will be entitled to notional fixation of their pay for the period in question for working out their payable pension and payment of consequential arrears of pension accordingly.

Therefore, all the Chief Engineers, Superintending Engineers and Executive Engineers are directed that all such cases may be examined at Zonal Level, Circle Level and Divisional Level in the light of the ratio laid down in the Baldev's case and in accordance with the instructions issued by the Finance Department Govt. of HP and if found similar situated the same may be settled immediately to avoid any further litigations.


Engineer-in-Chief,
HP.PWD., Shimla-2

Copy to the Dy. Distt. Attorney in this office for information please.
Copy to Supdt. ES-III/Cash Section of this office for information and necessary action.

Copy to EE (ICT) wing H.P.W.D. Shimla-2 with direction to uphold this instruction on official website.


Registrar,
HP.PWD., Shimla-2