

Government of Himachal Pradesh  
Public Works Department

No.PBW-A-B(7)-1/2017

Dated: Shimla-2, the

20<sup>th</sup> October, 2018

**NOTIFICATION**

Consequent upon the variation in date of promotion in respect of Assistant Engineers (Civil) due to review DPC held on the direction of the Hon'ble High Court in the matter of S.S.Kutlehria and others against the vacancies w.e.f. 1984 to 2012 and further on the recommendation of the Departmental Screening Committee, the Governor, Himachal Pradesh, in pursuance to the Finance Department notification No.Fin(PR)-B(7)-59/2010 dated 1<sup>st</sup> August, 2012 & 9<sup>th</sup> August, 2012 and No.Fin(PR)-B(7)-59/2010-loose dated 29<sup>th</sup> December, 2015, is pleased to release the four tier pay scale to the following Officers on completion of 04/09/14 years of service in the grade of Assistant Engineer (Civil), HP,PWD from the date(s) shown against their names subject to the approval of the Audit verification:-

SN	Name of Officer/ DOB/S/Sh./Smt.	Date of Apptt. as AE	Remarks
1.	Atma Ram Gupta/ 25.11.40	31.12.85	09 years pay scale Rs.12000-15500 w.e.f. 1.1.96 on notional basis and actual basis w.e.f. 8.1.10 as the date of promotion of the officer has been changed from 7.12.88 to 31.12.85 after receipt of judgment in S.S. Kutlehria case and he was not a petitioner.
2.	Rattan Kumar Sharma/1.11.75	22.3.2000	14 years pay scale Rs.37400-67000+8600 (GP) with initial start of Rs.46000 w.e.f. 1.1.2015.
3.	Ravi Kapoor/ 27.9.72	18.3.08	09 years pay scale Rs.15600-39100+ 7600 (GP) with initial start of Rs. 31320 w.e.f. 1.1.2018

The said notification is in modification of all previous notifications issued vide this department vide which four tier pay scale was granted to some of the above officers from time to time.

**Note (1): -**

The above pay scale to each incumbent is released subject to the pending dispute in CWP No.9184/2011 titled Sanjeev Kumar Soni & others Vs. State of HP & other connected matters with this writ petition. If upon reassigning of seniority any of the incumbent is found to have received any excess amount than in view of directions passed in COPC No. 248/2014 titled Ashok Kumar

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Vs. Narender Chauhan dated 15.10.2014, the entire excess amount shall be recovered by the Govt.

Note(2): -

That the Hon'ble High Court while deciding CWP(T) 2605/2008 titled Ashok Kumar & six others Vs. State of HP on 29.4.09, CWP 1358/2008 titled S.S. Kutlehria & two others Vs. State of HP and CWP(T) 2275/2008 titled Bikram Singh Mehta & two others Vs. State of HP through common verdict dated 08.01.2010 has also been pleased to further clarify in para-5 in its order dated 6.5.2010 in CMP No.1868 of 2010 in CWP No.1358 of 2008 and CMP No.421 of 2010 in LPA No.65 of 2009 dated 6.5.2010 to the following extent:

**"PARA-5:-**We are of the considered view that our judgment is very clear. However, since a clarification has been asked for, we clarify that the seniority has to be reworked in respect of all the persons whether they were parties in the petition or not. However, the monetary benefit on account of promotion etc. granted as a consequence thereof shall only be granted to those persons who were parties in the two petitions and the persons who were not parties will only get notional benefits."

Therefore, based upon the above direction/clarification, the incumbent appearing at Sl.No.1 above, shall be entitled for fixation of his pay only on "Notional basis" till the passing of this judgment dated 08.01.2010 and thereafter on actual basis. Besides the instructions issued by FD vide No. 01.08.2012, 09.08.2012 and 29.12.2015 may also be kept in view while fixing pay of the above incumbents.

By Order

Manisha Nanda  
Addl. Chief Secretary (PW) to the  
Government of Himachal Pradesh

Endst.No. As above. Dated: Shimla-2, the  
Copy forwarded to:-

1. The Accountant General, HP, Shimla-171003.
2. The Engineer-in-Chief, HP,PWD Shimla-2 and is requested to take further necessary action after completion of all codal formalities. It is also requested that an undertaking be obtained from each Assistant Engineer that in the event of overpayment if found to be made to them due to release of four tier pay scale/due to alteration of their date of promotion, as per decision rendered in CWP No. 9184/2011 and other connected matters upon convening of review D.P.C., the department shall be at liberty to recover this identified excess amount from their salary. Besides, some of the above officers has already been granted four tier pay scale before the receipt of above judgments/direction

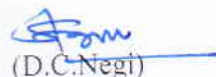
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of the Hon'ble High Court, hence, the pay fixed/arrears released to these officers may also be kept in view while re-fixing the salary of the these officer after issuance of said notification.

3. The Joint Secretary (Finance) to the Government of H.P w.r.t. his notification No.Fin(PR)-B(7)-59/2010 dated 9.8.12 & 29.12.2015.
4. All the Chief Engineers, HP,PWD.
5. All the concerned Superintending Engineers/Executive Engineers (Civil), HP,PWD and are requested to take further necessary action after completion of all codal formalities. It is also requested that an undertaking be obtained from the above Assistant Engineers that in the event of overpayment made to them due to release of four tier pay scale, in case their date of promotion is altered due to convening of review DPC, the department shall be at liberty to recover this identified excess amount in view of undertaking so made in COPC No. 248/2014 on 15.10.2014 before Hon'ble High Court by both the parties. Besides, some of the above officers has already been granted four tier pay scale before the receipt of above judgments/direction of the Hon'ble High Court, hence, the pay fixed/arrears released to these officers may also be kept in view while re-fixing the salary of the these officer after issuance of said notification.

  
(D.C.Negi)

Special Secretary (PW) to the  
Government of Himachal Pradesh

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