

Government of Himachal Pradesh
Department of Public Works
Section-A

File No.PBW-A-E(1)-172/2015

Dated: Shimla-2, the

7th December, 2018

ORDER

Whereas, the OA No.4756 of 2015 filed by Sh.Sohan Lal Gupta V/S State of HP was finally disposed of by the Hon'ble HP Administrative Tribunal on 14.9.2018 and the operative part of the order is as under:-

PARA-2:-In the facts and circumstances of the case, the original application is disposed of with a direction that the applicant may file a supplementary representation for redressal of his grievance alongwith certified copy of this order to 2nd respondent within two weeks. 2nd respondent shall decide the same after affording an opportunity of being heard to the applicant, by 30th October, 2018.

As per direction passed by the Ld. Tribunal on 14th September, 2018, applicant viz Sh.Sohan Lal Gupta has filed supplementary representation on 2.10.18 and has submitted that he was promoted to the post of Assistant Engineer w.e.f. 31.12.1985 whereas one Sh.Amar Chand Gupta was promoted as such w.e.f. 31.12.1984 as per final seniority list of AE (Civil) circulated on 1.3.16. The officer has further submitted that in the said seniority list, Sh.Amar Chand Gupta, AE is appearing at Sr.No.4 and applicant at Sr.No.41. On completion of 9 and 14 years service as AE, Sh.Amar Chand Gupta, was granted higher pay scale of Rs.12000-15500 w.e.f. 1.1.96 and Rs.14300-18150 w.e.f. 1.1.99 and amount of arrears was released in his favour by the IPH Department as revealed from notification dated 20.10.16. Similarly, one Sh.Vijay Kumar Sood, who was promoted as AE w.e.f. 31.12.86 and appearing at Sr.No.89, has also been granted pay scale of Rs.12000-15500 w.e.f. 1.1.96 on completion of 09 year service and pay scale of Rs.14300-18150 w.e.f. 1.1.01 after completion of 14 years of service as AE by the IPH Department on 4.8.18 on actual basis. Both the officers viz Sh.Amar Chand Gupta and Sh.Vijay Kumar Sood, were not parties in S.S.Kutlehria case. The applicant has further submitted that he was treated discriminately and differently in the matter of release of financial benefits on account of grant of 9 years pay scale of Rs.12000-15500 w.e.f. 1.1.96 and 14 years pay scale of Rs.14300-18150 w.e.f. 1.1.2000 and both the pay scale has been granted on notional basis upto 8.1.2010 and thereafter on actual basis vide notification dated 7.7.18 issued by the HPPWD. The applicant has further submitted that denial for not granting benefits has been taken by the department is

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-:2:-

that he was not petitioners in S.S.Kutlehria case whereas no such grounds has been taken by the IPH department while releasing financial benefits to Sh.Amar Chand Gupta and Sh.Vijay Kumar Sood and these officers have been given full financial benefits for the entire period, which is clear case of discrimination. In the end, the applicant has requested that he may kindly be allowed the benefit of grant of 09 year pay scale of Rs.12000-15500 w.e.f. 1.1.96 and 14 years pay scale of Rs.14300-18150 w.e.f. 1.1.2000 on actual basis instead of notional basis and notification dated 7.7.18 may kindly be modified to this extent.

And whereas, as per direction passed by Hon'ble HP Administrative Tribunal, the applicant was given personal hearing on 5th December, 2018. During the course of hearing, no new facts have been brought into notice by the applicant rather made submission to release him higher pay scale on actual basis after completion of 09 year service w.e.f. 1.1.96 and 14 years of service as on 1.1.1999 as have been done by the IPH Department in the cases of Sh.Amar Chand Gupta and Sh.Vijay Kumar.

And whereas, the undersigned has gone through the record of the case, supplementary representation made by the applicant, as well as submission made during the course of hearing. After going through the record, it has been found that CWP No.1358/2008 filed by Sh.S.S.Kutlehria and others V/S State of HP was decided on 8.1.2010 by the Hon'ble High Court and in last para of the said order, the Hon'ble High Court had directed as under:-

“Therefore CWP No.1358 of 2008 is allowed and the order of the learned Tribunal passed in OA No.1975 of 1995 dated 23.5.08 is set aside. On the same grounds LPA No.65 of 2009 is dismissed.

Both the cases are disposed of in the aforesaid terms. No order as to costs. The State is directed to re-work the seniority list on the aforesaid terms. Is it however made clear that the benefit of this judgment shall be available only to the original petitioners who are parties and shall not be given to those persons who had not approached the Tribunal or this Court. No cases in this regard shall be entertained hereinafter because of the huge lapse of time.”

After receipt of judgment in S.S.Kutlehria case, this department had filed CMP No.1868 of 2010 against the order dated 8.1.10 passed in CWP No.1358/08 & others and CMP No.421 of 2010 in LPA No.65 of 2009, whether the benefit of this judgment will also be given to the other officers who were not parties. Both the CMPs were disposed of by the Hon'ble High Court on 6.5.2010 and in para-5 of the said order had clarified as under:-

“PARA-5:-We are of the considered view that our judgment is very clear.

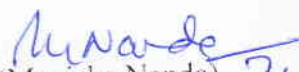
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However, since a clarification has been asked for, we clarify that the seniority has to be reworked in respect of all the persons whether they were parties in the petition or not. However, the monetary benefit on account of promotion etc. granted as 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."

In review DPC, the date of promotion of Sh.Sohan Lal Gupta has been changed from 14.9.88 to 31.12.85. All the officers including Sh.Sohan Lal Gupta, who were not parties in S.S.Kutlehira case, has been considered for release of 4/9/14 years of pay scale as per recommendation of review DPC. However, as per clarification received in CMP No.1868 of 2010 and CMP No.421 of 2010, Sh.Sohan Lal Gupta, has rightly been given notional benefit upto 8.1.2010 while releasing 9 years pay scale Rs.12000-15500 w.e.f. 1.1.96 and 14 years pay scale w.e.f. 1.1.2000 and no discriminatory treatment has been done to the applicant. In the HP, Public Works Department, all the officers, who were not petitioners in S.S.Kutlehira case and connected matters, have been given notional benefits.

Now therefore, in the light of above discussion, there is no merit in supplementary representation of Sh.Sohan Lal Gupta, Assistant Engineer (Retd.), hence, the same is hereby rejected.


(Manisha Nanda) 7.12.18

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

REGISTERED

Sh.Sohan Lal Gupta, AE (Retd.),
Village Chipnu, PO Bijni,
Distt.Mandi, HP, PIN-175001.

Endst.No. As above

Dated: Shimla-2, the

 December, 2018

Copy for information and necessary action to:-

1. The Accountant General, HP, Shimla-171003.
2. The Engineer-in-Chief, HP,PWD, Nigam Vihar, Shimla-171002.
3. The Chief Engineer (CZ), HP,PWD, Mandi.
4. The Superintending Engineer, HPPWD, Circle, Mandi.


(D.C.Negi)

Special Secretary (PW) to the
Government of Himachal Pradesh