

Government of Himachal Pradesh
Public Works Department

No.PWD-A-E0(1)-60/2025

Dated: Shimla-171002, the

12/11/ 2025

ORDER

WHEREAS, Sh.Gyan Chand, Assistant Engineer (Civil) has filed a Writ petition CWP No.7898 /2025 before the Hon'ble High Court seeking relief to convene DPC for promotion to the post of Executive Engineer (Civil) and order his promotion, if found eligible. In case, he is retired from service during the pendency of the writ petition, the Department may be directed to consider him for promotion to the post of Executive Engineer from due date with all consequential benefits.

AND WHEREAS, reply to the said petition was filed and petition is still pending subjudice before HHC;

AND WHEREAS, the applicant was appointed as Junior Engineer (Civil) in Public Works Department in year 2004. He was promoted to the post of Assistant Engineer (Civil) on 04.07.2016 and who passed Departmental Examination on 17.02.2025. That as per provisions contained in Recruitment & Promotion Rules of the post of Executive Engineer (Civil), the qualifying service of eight years as Assistant Engineer (Civil) is provided, thus he becomes eligible for consideration to the post of Executive Engineer (Civil) after passing departmental examination in February, 2025 but due to dispute over the seniority list of Assistant Engineer (Civil), the department was not in the position to update seniority list of Assistant Engineer (Civil) as well as to make promotion to the post of Executive Engineer (Civil).

AND WHEREAS, the final seniority list of Assistant Engineer (Civil) showing position as on 31.12.2022 was issued on 14.08.2023 which was sub-judice before the Hon'ble Court in COPC No.420/2024 in CWP No.4042 of 2024 titled as Vipin Sharma & ors. Vs State and as per Hon'ble Court's directions dated 13.12.2024 to assign contractual seniority, a tentative seniority list of Assistant Engineer (Civil) was circulated on 19.12.2024 to invite objections but in between the State Government enacted the "The Himachal Pradesh Government Employees Recruitment and Conditions Act, 2024 (Act No. 23 of 2025)" which provides that all service benefits including seniority are admissible from the date of regularization.

AND WHEREAS, the Hon'ble High Court vide judgment dated 01.08.2025 disposed of the COPC No.420/2024 but in the meanwhile, the Hon'ble High Court vide judgment dated 09.07.2025 in CWP No. 3384/2024- titled as Niteesh Sharma & Anr. Vs State of HP quashed and set aside the final seniority list of Assistant Engineer (Civil) dated 14.08.2023 with direction to re-draw the Seniority list of Assistant Engineers (Civil).

AND WHEREAS, in pursuant to ibid directions dated 09.07.2025, the Department issued tentative seniority list of Assistant Engineer (Civil) on 04.09.2025 to invite objections but the Hon'ble High Court vide order dated 10.09.2025 in LPA No.630/2025 titled Rajan Kumar Gupta Versus State of Himachal Pradesh and others stayed the operation of judgment dated 09.07.2025 passed in CWP No. 3384/2024;

AND WHEREAS, the up-dation of seniority list of Assistant Engineer (Civil) was necessary before considering the promotion to the post of Executive Engineer (Civil) and as per directions dated 19.09.2025 in CWP No. 11301/2025, the updated seniority list of Assistant Engineer (Civil) showing position as on 31.12.2024 was circulated on 20.09.2025 to invite objections and after considering the objection(s), the final seniority list was issued on 29.10.2025 but in the meantime, the applicant was retired from services on 31.05.2025 on attaining the age of superannuation;

AND WHEREAS, as per provisions contained in para 16.25(g) (vii) of Handbook in Personnel Matters (Vol.I), promotions will have only prospective effect even in cases where the vacancies relate to an earlier year. Further, Government (Department of Personnel) instruction dated 25.06.2013, provides that the names of retired officials may be included in the panels if such officials falls within the zone of consideration against the vacancies of the relevant years(s), however, such retired officials would, have no right for actual promotion, which has also been upheld by Double Bench of Hon'ble High Court vide its judgment dated 05.06.2014 passed in LPA No. 631/2011 titled as State of HP & others Vs Amar Dogra, and on its basis, the Hon'ble High Court in CMP (M) No. 92/2024 in Review Petition No. 80/2024 titled as State of HP vs Janam Singh has reviewed its judgment dated 01.08.2024 passed in CWP No. 2781/2023 titled Janam Singh Vs State. The Hon'ble Apex Court in Amal

Satpathi case has also held that a retired employee is not entitled to retrospective promotion or notional/retrospective financial (pensionary) benefits where the promotion could not be effectuated before superannuation because a promotion becomes effective only when the officer actually assumes the duties of the higher post, and mere recommendation/ occurrence of vacancy does not create a right to the higher pay;

AND WHEREAS, in pursuant to instruction dated 25.06.2013, name of Sh. Gyan Chand, Assistant Engineer (Civil) was duly considered by the Departmental Promotion Committee in its meeting held on 04.11.2025 for promotion to the post of Executive Engineer (Civil) but found 'Unfit' for promotion.

THEREFORE, in view of facts stated above, Sh. Gyan Chand, Assistant Engineer (Civil) who retired from services on 31.05.2025 on attaining the age of superannuation, is not entitled for retrospective promotion to the post of Executive Engineer (Civil), hence claim is rejected.

By Order

Principal Secretary (PW) to the
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-171002, the

12/11/ 2025

Copy for information and necessary action forwarded to:-

1. Ld. Advocate General, State of HP
2. The Engineer-in-Chief, HPPWD Nigam Vihar, Shimla-171002.
3. The Sh. Gyan Chand, Assistant Engineer (Civil) (Retd.) through Engineer-in-Chief, HPPWD Shimla.
4. The Nodal Officer (IT) O/o Engineer-in-Chief, HPPWD, Shimla for uploading in the official website.
5. Guard File.

Signed by

Surjeet Singh Rathore

Date: 12-11-2025 17:29:40

(Surjeet Singh Rathore)
Additional Secretary (PW) to the
Government of Himachal Pradesh
Phone: 0177-2620159