

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CWP No.13050 of 2025**

a/w CWP Nos.13184, 13260, 13261, 13262, 13263, 13297, 13299, 13300, 13301, 13302, 13303, 13304, 13305, 13306, 13307, 13308, 13309, 14260, 14264, 14265, 14267, 14409, 14411, 14413, 14465, 14466, 14467, 14468, 14472, 14962, 14963, 14974, 14988, 15364, 15365, 15366, 15367, 15382, 15383, 15384, 15385, 15386, 15387, 15388, 15389, 15390, 15391, 15392, 15483, 15486, 15487, 15488, 15489, 15490, 15733, 15734, 15735, 15736, 15737, 15738, 15739, 15740, 15741, 15742, 15743, 15744, 15745, 15746, 15747, 15748, 15749, 15750, 15751, 15752, 15753, 15754, 15755, 17133, 17259, 17305, 17805 and 17808 of 2025.

Reserved on : 27.08.2026**Decided on : 08.09.2026****Uploaded on: 08.09.2026****1. CWP No.13050 of 2025**

Ashwani Kumar & Ors.

...Petitioners.

Versus

HPSEBL & Ors.

...Respondents.

2. CWP No.13184 of 2025

Ritika Chauhan.

...Petitioner.

Versus

HPSEBL.

...Respondent.

3. CWP No.13260 of 2025

Daleep Kumar.

...Petitioner.

Versus

HPSEBL.

...Respondent.

4. CWP No.13261 of 2025

Khem Singh.

...Petitioner.

Versus

HPSEBL.

...Respondent.

5. CWP No.13262 of 2025

Ghanshyam.

...Petitioner.

Versus

HPSEBL.

...Respondent.

6. CWP No.13263 of 2025

Sunita Kashyap.

...Petitioner.

Versus

HPSEBL.

...Respondent.

7. CWP No.13297 of 2025

Satish Kumar.

...Petitioner.

Versus

HPSEBL.

...Respondent.

8. CWP No.13299 of 2025

Kamal Kishore Dhiman.

...Petitioner.

Versus

HPSEBL.

...Respondent.

9. CWP No.13300 of 2025

Sarita Kumari.

...Petitioner.

Versus

HPSEBL.

...Respondent.

10. CWP No.13301 of 2025

Jitender Thakur.

...Petitioner.

Versus

HPSEBL.

...Respondent.

11. CWP No.13302 of 2025

Vikas Sharma.

...Petitioner.

Versus

HPSEBL.

...Respondent.

12. CWP No.13303 of 2025

Pratibha.

...Petitioner.

Versus

HPSEBL.

...Respondent.

13. CWP No.13304 of 2025

Arvind Sharma.

...Petitioner.

Versus

HPSEBL.

...Respondent.

14. CWP No.13305 of 2025

Manoj Kumar Sharma.

...Petitioner.

Versus

HPSEBL.

...Respondent.

15. CWP No.13306 of 2025

Pankaj Sharma.

...Petitioner.

Versus

HPSEBL.

...Respondent.

16. CWP No.13307 of 2025

Sunil Kumar.

...Petitioner.

Versus

HPSEBL.

...Respondent.

17. CWP No.13308 of 2025

Aarti Thakur.

...Petitioner.

Versus

HPSEBL.

...Respondent.

18. CWP No.13309 of 2025

Bhupender Kumar.

...Petitioner.

Versus

HPSEBL.

...Respondent.

19. CWP No.14260 of 2025

Sunil Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

20. CWP No.14264 of 2025

Ranjeet Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

21. CWP No.14265 of 2025

Usha Kumari.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

22. CWP No.14267 of 2025

Vinod Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Ors.

...Respondents.

23. CWP No.14409 of 2025

Priyanka Kumari.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

24. CWP No.14411 of 2025

Lokender Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

25. CWP No.14413 of 2025

Sandeep Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

26. CWP No.14465 of 2025

Reeta Devi.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

27. CWP No.14466 of 2025

Parmeshwari Devi.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

28. CWP No.14467 of 2025

Chander Kanta.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

29. CWP No.14468 of 2025

Dharmender Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

30. CWP No.14472 of 2025

Rakesh Rana.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

31. CWP No.14962 of 2025

Raman Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

32. CWP No.14963 of 2025

Neeraj Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

33. CWP No.14974 of 2025

Pardeep Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

34. CWP No.14988 of 2025

Girija Kumari.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

35. CWP No.15364 of 2025

Manoj Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

36. CWP No.15365 of 2025

Yogender Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

37. CWP No.15366 of 2025

Amit Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

38. CWP No.15367 of 2025

Kapil Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

39. CWP No.15382 of 2025

Avtar Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

40. CWP No.15383 of 2025

Chaman Lal.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

41. CWP No.15384 of 2025

Ajay Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

42. CWP No.15385 of 2025

Raman Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

43. CWP No.15386 of 2025

Kusum Kumari.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

44. CWP No.15387 of 2025

Aman.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

45. CWP No.15388 of 2025

Malkiyat Walia.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

46. CWP No.15389 of 2025

Deepika.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

47. CWP No.15390 of 2025

Pradeep Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

48. CWP No.15391 of 2025

Yogesh Thakur.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

49. CWP No.15392 of 2025

Rohit Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

50. CWP No.15483 of 2025

Kala Ram.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

51. CWP No.15486 of 2025

Manoj Kumar Panila.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

52. CWP No.15487 of 2025

Harish Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

53. CWP No.15488 of 2025

Surender Mohan.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

54. CWP No.15489 of 2025

Surender Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

55. CWP No.15490 of 2025

Shiv Koundal.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

56. CWP No.15733 of 2025

Rajeev Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

57. CWP No.15734 of 2025

Manjeet Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

58. CWP No.15735 of 2025

Manoj Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

59. CWP No.15736 of 2025

Vijay Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

60. CWP No.15737 of 2025

Satish Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

61. CWP No.15738 of 2025

Pratap Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

62. CWP No.15739 of 2025

Pradeep Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

63. CWP No.15740 of 2025

Indu Patyal.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

64. CWP No.15741 of 2025

Vinod Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

65. CWP No.15742 of 2025

Sanjeev Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

66. CWP No.15743 of 2025

Yogesh Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

67. CWP No.15744 of 2025

Trilok Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

68. CWP No.15745 of 2025

Pratibha Kumari.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

69. CWP No.15746 of 2025

Neeraj Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

70. CWP No.15747 of 2025

Nishant Kumari.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

71. CWP No.15748 of 2025

Hemant Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

72. CWP No.15749 of 2025

Raju.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

73. CWP No.15750 of 2025

Kuldeep Kashyap.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

74. CWP No.15751 of 2025

Rajender Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

75. CWP No.15752 of 2025

Sunil Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

76. CWP No.15753 of 2025

Umesh Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

77. CWP No.15754 of 2025

Jitender Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

78. CWP No.15755 of 2025

Avinash Kumar.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

79. CWP No.17133 of 2025

Kuldeep.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

80. CWP No.17259 of 2025

Ranjeet Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Ors.

...Respondents.

81. CWP No.17305 of 2025

Kiran Kumari.

...Petitioner.

Versus

State of Himachal Pradesh & Ors.

...Respondents.

82. CWP No.17805 of 2025

Sukhvinder Singh.

...Petitioner.

Versus

State of Himachal Pradesh & Ors.

...Respondents.

83. CWP No.17808 of 2025

Shashi Kant.

...Petitioner.

Versus

State of Himachal Pradesh & Ors.

...Respondents.

Coram***Hon'ble Mr. Justice Vivek Singh Thakur, Judge.******Hon'ble Mr. Justice Ranjan Sharma, Judge.****Whether approved for reporting? ¹ Yes*

*For the Petitioner(s).**Mr. Devender K. Sharma and Mr. Pankaj Thakur, Advocates, for the petitioner(s) in respective petitions.**For the Respondents:**Mr. Anup Rattan, Advocate General with Mr. Ramakant Sharma, Additional Advocate General for respondents-State in all petitions.**Mr. Rajesh Kashyap, Mr. Rajinder Singh Thakur and Mr. Virbahadur Verma, Advocates, for respective respondents, in respective petitions.*

¹ Whether the reporters of the local papers may be allowed to see the judgment?

Vivek Singh Thakur, Judge

For request made on behalf of petitioners as well as respondents, as common question of law and facts are to be adjudicated, all these petitions have been clubbed together and are being decided by this common judgment.

2. Petitioners were recruited and appointed and are serving as Junior Office Assistant in Himachal Pradesh State Electricity Board Limited-respondent No. 1. They have approached this Court, seeking direction to the respondents to count their contract services, followed by regular service without interruption for all consequential benefits, including seniority benefits related thereto and to promote the petitioners to the post of Senior Assistant on completion of 7 years, which is minimum requisite service as JOAs required for promotion to the post of Senior Assistant.

3. A request was made by the Board, by filing an application, i.e., CMP No. 27503 of 2025, to consider reply filed in CWP No. 13050 of 2025 as reply in all connected petitions, which has been stated to be detailed, exhaustive and comprehensive, dealing with all aspects of law and facts, and policy involved. Accepting the request of the Board, reply filed by the Board in CWP No. 13050 of 2025 has been considered reply filed to all petitions clubbed in this bunch.

4. No separate reply was intended to be filed by and on behalf of other respondents. Accordingly, all petitions are being decided on the basis of pleadings in CWP No. 13050 of 2025.

5. Summary of the reliefs sought by the petitioners in these petitions is as under:

- A. The Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 be declared ultra vires of the Constitution and quashed.
- B. Impugned Office Order dated 17.07.2025 (Annexure P-11), whereby decision of the HP Electricity Board Limited to adopt Employees Act, 2024, issued vide letter No. PER(AP)-C-A(3)-6/2024, dated 20.02.2025, issued by Under Secretary (Personnel) and notification regarding requisition of vacancies, selection process, offer of appointment and guidelines of trainees issued by the Under Secretary (Personnel) vide letter number PER (AP)-C-B(15)-3/2024-Loose dated 14th May, 2025, has been notified, be quashed and set-aside.
- C. Respondent-Board be directed to count contractual service of petitioners for all service benefits, including seniority with all consequential benefits.

- D. Arrears accrued on account of counting of contract service for all purposes be paid to the petitioners with interest @ 9% per annum till the date of regularization.
- E. DPC to promote the JOAs to the post of Senior Assistant be held and eligible petitioners be promoted from the date of completion of 7 years service, from date of initial appointment on contract basis, to the post of Senior Assistant as per available vacancies in the year 2024 in the cadre of Senior Assistant along with clerks, who were promoted prior to petitioners, despite being junior, but for considering petitioners ineligible, however, without counting their contract service towards eligibility to grant seniority.
- F. Direction to promote the petitioners/JOAs, on completion of 7 years service by counting their contract services for completing 7 years as JOA against available vacancies in respective year with all consequences from the date which their juniors were promoted.

6. Undisputed facts are that respondent Board updated the Recruitment and Promotion Regulations (R&P Rules) for the post of Senior Assistant published vide notification No. HPSEBL (SECTT) /R&E/

106-10/22-23-59314-534, dated 13.09.2022 (Annexure P-4), prescribing method of recruitment to the post of Senior Assistant 100% by promotion, wherein 43% quota has been prescribed for clerks and 57% quota has been prescribed for Junior Assistant.

7. Respondent-Board sent requisition(s) to H.P. Staff Selection Commission, Hamirpur for recruitment of Junior Office Assistant (IT) in the respondent-board in accordance with eligibility and procedure prescribed in R&P Rules, applicable to recruitment of JOA(IT) on regular basis, however, inviting applications for contractual appointments.

8. In pursuance to the requisition(s) of the respondent-Board, Staff Selection Commission, Hamirpur issued Advertisement(s) time to time. In response thereto, petitioners being eligible in all respect to be appointed as a regular JOA(IT) fulfilling eligibility criteria prescribed under R&P Rules framed by the respondent-Board under proviso to Article 309 of the Constitution, applied for the said post and process was completed by the Staff Selection Commission by following proper procedure, as prescribed under aforesaid R&P Rules for the appointment to the post of Junior Office Assistant.

9. After competing with all eligible candidates, who had responded to the advertisement published, inviting application from all eligible candidates desirous to compete, the petitioners were successful

in selection process and in terms of recommendation of Selection Commission, they were appointed on contract basis on various dates from 19.06.2017 to 31.03.2022, including Office Orders dated 19.06.2017, 22.08.2017, 16.09.2017, 27.09.2017, 24.01.2018, 20.10.2018 and 31.03.2022 etc.

10. The appointment offered to the petitioners was contractual in nature, which continued till their regularization on completion of three years, in terms of Policy decision of the State, and petitioners were regularized on various dates from 06.10.2020 to 06.06.2024 during the year 2020 to 2024.

11. Petitioners in CWP No. 13050 of 2025, combined with their contractual service, completed 7 years of services in June 2024. Therefore, they preferred a writ petition 6993 of 2024, titled Ashwani Kumar and others versus State of HP on 12.07.2024 for counting their contract service for extending all service benefits including seniority with all consequences. The said petition was disposed of by a Single Bench of this High Court, vide judgment dated 19.07.2024 (Annexure P-6) with the direction to the respondent to consider and decide the representation of the petitioner within 6 weeks strictly in terms of judgment (Annexure P-5) passed by this High Court in CWP No. 2004 of 2017, titled as Taj Mohammad and others vs. State of Himachal Pradesh and Others.

12. Vide order dated 19.09.2024 (Annexure P-7), respondent Board issued order for holding DPC of clerks who were appointed after the appointment of the petitioners.

13. Petitioners in CWP No. 13050 of 2025 filed an Execution Petition No. 1145 of 2024, titled *Ashwani Kumar vs. State of Himachal Pradesh* on 26.09.2024. For placing on record order dated 09.01.2024 (Annexure P-9), whereby representation of the petitioners was stated to have been rejected, the Execution Petition (Annexure P-8) was disposed on 28.03.2025 with liberty to the petitioners to approach the Court by way of appropriate application in case they were aggrieved by the rejection of the representation.

14. In the meanwhile, State of Himachal Pradesh enacted Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (in short 'Employees Act, 2024') (Annexure P-10), which was assented by the Governor on 07.02.2025. Respondent Board adopted the said Act as well as Notification regarding requisition of vacancies, selection process offer of appointment-guidelines of Trainee and the decision of adoption was circulated vide Office Rrder dated 17.07.2025 (Annexure P-11).

15. It is apt to record that in all petitions, except one, i.e., CWP No. 17808 of 2025, representations were rejected prior to enactment of

Employees Act, 2024, and there is no reference of the Employees Act for rejecting the representation. However, representation in CWP No. 17808 of 2025 was decided on 08.04.2025, wherein one reason for rejection was also added along with other grounds for rejection on the basis of enactment of Employees Act, 2024.

16. In response to the petitions, in reply filed on behalf of respondent-Board along with other grounds, a ground for repelling the claim of the petitioners has been taken on the basis of enactment of Employees Act 2024.

17. Admittedly, issue with regard to enactment of Employees Act 2024, which has been challenged by the petitioners, but has been relied upon by the respondents, to pray for rejection of the petition, has already been adjudicated and decided vide judgment dated 25.04.2026 passed in CWP No. 3361 of 2025, titled as Devinder Kumar & others vs State of H.P and others connected matters, wherein, it has been observed as under:-

“2. In all these petitions, the petitioners are mainly aggrieved by the enactment of the Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (Act No. 23 of 2025) (in short '**Govt. Employees Act**'/the Act/the impugned Act).

3. In this common judgment, we are adjudicating only the constitutionality, validity, and legality of the Govt. Employee Act. For other reliefs, the consequences shall follow accordingly, and in case

any further relief(s) is/are required to be determined after adjudication of additional facts, not discussed or adjudicated or covered in this judgment, the petitioners shall be at liberty to avail appropriate remedies, including the filing of fresh petitions for redressal of grievance based on such other issues raised or not raised in these petitions.

.....

202. Accordingly, in view of above discussion and considering the ratio of law laid down by the Apex Court, the impugned Act is quashed and set aside.

203. In view of quashing of the impugned Act, all consequential action, omission and commission of the respondents-State and its functionaries, based on the impugned Act, are declared illegal, unconstitutional and nullify, and resultantly orders/rejection/directions, withdrawal, denying benefits or proposing recovery of already granted reliefs, based on the impugned Act, in conflict with the mandate of the Court are also quashed and set aside and competent authority(ies) is directed to ensure extension of benefits to the employees in terms of judgments passed by the competent Courts, latest by three months from today by issuing appropriate orders, if so required, in consonance with the Constitutional mandate and verdict of the Court(s)."

18. The aforesaid judgment has been affirmed by the Apex Court by dismissing the SLP preferred by the State, i.e., SLP(C) No. 24885 of 2026, titled State of Himachal Pradesh vs. Devinder Kumar & others, vide order dated 29.07.2026.

19. Therefore, as agreed, finding returned in CWP No.3361 of 2025 titled Devinder Kumar & others vs State of HP and others shall be applicable *mutatis mutandis* to present matter to all intents and purposes.

20. Accordingly, the impugned Office Order(s), rejecting the claim of the petitioners on the base of Employees Act 2024, has been quashed and set aside with further observation that prayer for rejecting the petition as well as claim of the petitioners on the basis of enactment of Employees Act 2024 also stands rejected in terms of the judgment passed in *Devender's case*, supra.

21. Plea based on enactment of Employees Act, 2024 to repel the claim of petitioners, is not available to the respondents and, thus, the same is rejected.

22. Now, main issue remains to be adjudicated for the rest of the prayer is that as to whether petitioners are entitled for counting of their contract service for all intents and purposes, after regularization, including seniority and consequential benefits, or not.

23. Petitioners are claiming their right for counting of contract services for all service benefits including seniority, which has been followed by regularization/regular appointments, without interruption of contract service of 3 years or more because for appointment on contract, petitioners successfully competed with all eligible candidates, who had applied for the post along with petitioners in response to the Advertisement inviting applications for recruitment issued in open market

to the public at large, by facing the rigors prescribed for appointment in R&P Rules, framed under Article 309 of the Constitution.

24. To substantiate their claim, petitioners are relying upon judgment passed by the Apex Court in case titled **Direct Recruits Class II Engineering Officer's Association vs. State of Maharashtra and others**, reported in **(1990) 2 SCC 715**, as well as judgment dated 03.08.2023 passed by Principal Division Bench of this Court in CWP No. 2004 of 2017, titled as *Taj Mohammad and others vs. The State of Himachal Pradesh and others* and CWP No. 629 of 2018, titled as *State of Himachal Pradesh and another vs. Lekh Ram and others*.

25. The aforesaid judgment was assailed by State of HP in the Supreme Court by filing SLP (C) No. 25641-25642/2023 titled State of HP vs. Lekh Ram and others which was dismissed on 4.12.2023 with observation that after hearing the learned counsel for petitioner for a considerable time, impugned order was found perfectly justified and did not call for interference.

26. Thereafter, Review Petition No. 146 of 2023 titled Taj Mohammad and others vs. State of HP preferred by Taj Mohammad and others was also dismissed by the Division Bench of this High Court vide judgment dated 06.03.2024.

27. The Government had also preferred Review Petition along with application for condonation of delay CMP(M) No. 428 of 2024 titled State of HP vs. Lekh Ram and others, which was also dismissed by the Division Bench on 5.9.2024 alongwith unregistered Review Petition by rejecting the reasons for preferring the Review Petition.

28. Relevant conclusion in *Direct Recruit's* case referred by the petitioners is as under.

“47. To sum up, we hold that:

(A) Once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

The corollary of the above rule is that where the initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority.

(B) If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted.

(C) When appointments are made from more than one source, it is permissible to fix the ratio for recruitment from the different sources, and if rules are framed in this regard they must ordinarily be followed strictly.

(D) If it becomes impossible to adhere to the existing quota rule, it should be substituted by an appropriate rule to meet the needs of the situation. In case, however, the quota rule is not followed continuously for a number of years because it was impossible to do so the inference is irresistible that the quota rule had broken down.

- (E) Where the quota rule has broken down and the appointments are made from one source in excess of the quota, but are made after following the procedure prescribed by the rules for the appointment, the appointees should not be pushed down below the appointees from the other source inducted in the service at a later date.
- (F) Where the rules permit the authorities to relax the provisions relating to the quota, ordinarily a presumption should be raised that there was such relaxation when there is a deviation from the quota rule.
- (G) The quota for recruitment from the different sources may be prescribed by executive instructions, if the rules are silent on the subject.
- (H) If the quota rule is prescribed by an executive instruction, and is not followed continuously for a number of years, the inference is that the executive instruction has ceased to remain operative.
- (I) The posts held by the permanent Deputy Engineers as well as the officiating Deputy Engineers under the State of Maharashtra belonged to the single cadre of Deputy Engineers.
- (J) The decision dealing with important questions concerning a particular service given after careful consideration should be respected rather than scrutinised for finding out any possible error. It is not in the interest of Service to unsettle a settled position.”

29. Principal Division Bench of this Court in *Taj Mohammad's* case, after referring pronouncements of the Apex Court i.e., in cases titled ***State of West Bengal and Others vs. Aghore Nath and Others***, reported in (1993) 3 Supreme Court Cases 371, ***Siraj Ahmad vs. State of Uttar Pradesh and Another***, reported in (2020) 19 Supreme Court Cases 480, ***Registrar General of India and Another vs. Thipa Setty***

and Others, reported in **(1998) 8 Supreme Court Cases 690**, **R.K. Mobisana Singh vs. Kh. Temba Singh and Others**, reported in **(2008) 1 Supreme Court Cases 747**, **Surendra Kumar and Others vs. Greateer Noida Industrial Development Authority and Others**, reported in **(2015) 14, Supreme Court Cases 382** and relying upon case titled **Direct Recruits Class II Engineering Officer's Association vs. State of Maharashtra and others**, reported in **(1990) 2 SCC 715**, has held that services of the petitioners on contract basis from their initial date of appointment on contract made by following the eligibility criteria and procedure prescribed under the R&P Rules for appointment, shall be liable to be counted for the purpose of seniority and consequential benefits after their regularization.

30. Plea taken by the respondent-Board to repel the claim of the petitioners in its rejection order as well as reply, is that petitioners' case is neither covered by the decision of Division Bench of this High Court passed in *Taj Mohammad's* case, referred *supra*, nor by judgment of the Apex Court in *Direct Recruit's* case, referred *supra*, with explanation that, in *Taj Mohammad's* case, petitioners were recruited on contract basis prior to quota provided for the departmental candidates for their recruitment/induction to the post of Food Inspector Grade I, and therefore, direct recruited candidates were held entitled for seniority from the date of

their direct recruitment over and above the departmental candidates who were subsequently appointed on regular basis, and seniority was granted over and above the direct recruited Food Inspector Grade-I on contract basis. It has been contended that in present case, there is no such dispute.

31. Another ground taken by the respondents in rejection order, is that judgment dated 06.05.2024, rendered in **CWPOA No. 2604 of 2020**, titled **Manohar Lal and Others vs. State of H.P. and Others**, is also not attracted in the facts and circumstances of the present case, as seniority amongst the directly recruited JOA (IT) against various quotas will be considered in accordance with Rules/law and, thus, it has been contended that *Taj Mohammad's case* is different and distinguishable and, thus, it has been communicated that petitioners in the present matter cannot be granted seniority for the period, particularly when their appointment was on contract basis, which was accepted by the petitioners, the same was renewable on year to year basis, and on every such renewal, it was a fresh contract of employment, which was further depending upon the requirement of the service of such appointee and further subject to high standard of work, conduct, and performance.

32. It is case of the respondents that the petitioners were appointed on one year contract, which was extendable, but at the same

time, contract services could have been terminated even during the currency of the year on various grounds like failure in making high standard of work, conduct, and performance.

33. It is also case of the respondents that the services of petitioners on contract could have been terminated at any point of time, even prior to expiry of one year. In fact, there is no continuation of contract service, but it has been renewed after every one year.

34. It has been further submitted that before regularization, there is no crystallized right in favour of the petitioners or other similarly situated persons, and therefore, for period before regularization, they were and are never entitled for any benefit except as provided in the contract as well as Rule 15-A of R&P Rules.

35. It has been further submitted on behalf of respondents that petitioners had applied for the contract service, and accepted their appointment as contract employee, and submitted themselves to the rigors of Rule 15-A of the R&P Rules, and therefore, they have no right, at this juncture, to claim for benefits of contract service, conditions whereof were very clear, providing that no person so appointed will have any right to claim regularization or permanent absorption in HPSEBL, and therefore, petitioners cannot claim service benefits of period of contract service, except in terms of provisions of Rule 15A as well as contract.

36. It has been submitted on behalf of Board that services of the petitioners are to be governed by the terms and conditions of the contract entered into between the petitioners and the respondent Board, as well as provisions of Rule 15-A of the R&P Rules, which provide that candidate selected for appointment on contract basis will be initially appointed for one year, which could be extendable for further depending upon the requirement of service of such appointee, and further subject to high standard work, conduct and performance of appointee. However, their services may be terminated even prior to completion of contract period, by issuing one month notice, or payment of one month salary in lieu of notice, if their services are not required, due to non-availability of work, and principle of 'first come, last go' shall be followed and their services may be terminated during the contract period, if the conduct and performance is not found satisfactory, for which notice shall be given.

37. Similarly, it has been claimed on behalf of the respondent-Board that emoluments payable to contract appointee have also been specified and stated in the policy, which provides monthly emoluments at the rate of initial of the pay scale of the post, plus dearness pay therein.

38. It has been contended by learned counsel for the Board that after entering into contract with open eyes, now petitioners cannot take U-turn; therefore, their petitions are liable to be rejected.

39. In *Taj Mohammad's* case, contrary to the plea taken by the respondent-Board, the main issue was that as to whether a contract employee appointed through prescribed agency, by facing rigors of procedure and eligibility criteria prescribed under R&P Rules, on regularization of his continuous contract service without interruption, shall be entitled for counting of contract service, after regularization, for all service benefits including seniority with all consequential benefits or not.

40. A similar issue has been adjudicated by five Judges Constitutional Bench of the Hon'ble Supreme Court in *Direct Recruit's* case. Petitioners' case falls in the first part of conclusion 'A' in para 47 of *Direct Recruit's* case, and therefore, plea of the respondents that cases in *Direct Recruit's* case or *Taj Mohammad's* case are different in nature, is misconceived.

41. In *Taj Mohammad's* case, there may be dispute between employees recruited on contract basis prior to quota provided for departmental candidates and the departmental candidates who were subsequently appointed on regular basis. The issue involved in the present matter is not an issue between different quota provided for the Clerk and the JOAs (IT). However, basic claim of the petitioners is that they are entitled for counting of entire contract service from the initial date of appointment. Though there is a reference of promotion of Clerks in the

pleadings, however, promotions of the Clerk has to be made against the quota provided to them, i.e., 47%, whereas promotions of the JOAs (IT) to the post of Senior Assistant shall be against the quota meant for them, i.e., 53%. However, issue involved in present case is as to whether petitioners are entitled for counting of contract service and if answer is in yes, then definitely parties and action of the Board would be affected and, therefore, issue involved in present case, regarding entitlement for granting of contract service for all intent and purposes after regularization, is similar to the issue involved in *Taj Mohammad's* case.

42. Though it is contended on behalf of the Board that contract was initially for one year, which was extendable on the basis of recommendation based on conduct and performance of the recruited person, and their services could have been terminated at any point of time, and during contract no right accrued in their favor and there was no crystallized right in favor of the petitioners, however, it is apt to record that it is not a case where after one year contract or prior to that, services were terminated on account of completion of one year or on the basis of conduct and behavior. It is also true that during contract service, no right accrued or had crystallized in favour of the petitioners. However, it is a matter of fact that service of none of the petitioners was terminated, rather, after successful completion of three years contract service, their

services have been regularized and, thus, hypothetical objections taken in reply as well as for rejecting the petitions, are not sustainable.

43. The rigors of Rule 15A and contract signed between the petitioners and the respondent-Board were enforceable during the contract period of service in given facts and circumstances. No such circumstances occurred and, therefore, no adverse action was taken against petitioners. However, after successful contract service to the satisfaction of superiors, petitioners have been regularized. The right has accrued in favor of the petitioners after regularization only, and thus, the claim of the petitioners is based on regularization of their service, but not before regularization. It is made clear that the moment petitioners have been regularized after successful completion of contract service for requisite period without interruption, they have become entitled for the relief claimed. Before regularization, petitioners could not have claimed, as the right to claim accrued to them when they were regularized and thereafter on the date when they were and/or are going to complete seven years, including contract services and immediately on accrual and crystallization of right in the year 2024, petitioners approached the Court as well as respondents for redressal of their grievance.

44. It is also apt to record that at the time of first appointment, unemployed youth has no other option except to sign the agreement. It is

a case of dotted line contract, change wherein are not possible at the instance of the person going to be appointed, who is on receiving end and, therefore, the contract in reference is a one-way traffic.

45. Therefore, provisions of Rule 15A or terms of the contract have no impact on the claim of the petitioners, which is being claimed by them after successful continuous contract service for requisite period followed by regularization of their contract appointment made in accordance with R&P Rules.

46. In view of above discussion, we are of the considered opinion that claim of the petitioners is squarely covered by the pronouncement of the Apex Court in Direct Recruit's case, especially Para 47-A of conclusion thereof, which has also been followed by this High Court in *Taj Mohammad's* case, referred supra.

47. Though, the State and private respondents have adopted the reply filed on behalf of the Board, but otherwise also there shall be no impact on counting of contract service of the petitioners for all service benefits including seniority and eligibility for to be promoted as a Senior Assistant, because private respondents have been provided separate quota of 43% for posts of Senior Assistant and JOAs have been provided separate quota of 57% and they will get the promotion in their own channel, subject to availability of the post in a particular year or at a

relevant point of time, as and when vacancy for promotion is available. There is no clash between eligible candidates falling in separate categories, i.e., category of Clerk as well as in category of JOA (IT).

48. In view above discussion, after their regularization, respondents are directed to count the contract service of the petitioners, for all service benefits, including seniority and consequential benefits thereof as well as annual increment if not already granted at the time of contract service.

49. Respondents are also directed to consider the petitioners for promotion to the post of Senior Assistant, subject to eligibility and falling in zone of consideration after counting of their contract service for all intents and purposes, as directed supra against the vacancies available in the year 2024 and, so on every year thereafter, against the post(s) provided in R&P Rules in the quota of JOAs.

50. Annual increment for the contract period, if not already granted under the contract, shall be on national basis for the purpose of calculating future salary at the time of regularization as well as determining the pensionary benefits. However, in case it has already been paid actually, the same is not being interfered with.

51. It is also relevant to record here that in terms of contract as well as Rule 15-A(II), contract employee was and is entitled for 3% annual

increase after extension of contract beyond one year. In case annual increment is the same, i.e., 3% annual increase, no additional increment shall be payable and if annual increment is less, pay increment shall not be withdrawn and if annual increment is higher then difference shall be paid.

52. Needless to say, emoluments payable to the petitioners shall remain same, as has been agreed in the advertisement of initial recruitment as well as in the contract.

53. We are not passing any direction at this stage to pay interest on the arrears, if any. However, the arrears shall be paid to the petitioners on or before 31.12.2026, failing which respondents shall be liable to pay interest at the rate of 6% per annum from the date of accrual, till date of payment/disbursement of the arrears.

54. Accordingly, these petitions are allowed and disposed of in aforesaid terms. Pending miscellaneous application(s), if any, also stand disposed of in same terms.

**(Vivek Singh Thakur),
Judge.**

**(Ranjan Sharma),
Judge.**

8th September, 2026 (susheel)