

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP(M) No. 1628 of 2026 in
LPA No.583 of 2026
Decided on : 06.10.2026

HPSEBL and others

...Appellants

Versus

Duli Chand

...Respondent.

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the appellants:

Ms. Sunita Sharma, Sr. Advocate, with Ms.
Harshita Dogra and Ms. Manisha Kumari,
Advocates.

G.S. Sandhawalia, Chief Justice (Oral)

CMP(M) No. 1628 of 2026

Keeping in view of the averments made in the application,
duly supported by the affidavit of the official, delay of 55 days in filing the
appeal is condoned.

Application stands disposed of.

LPA No. 583 of 2026

Consideration is sought of the order of the learned Single
Judge passed in CWP 3235 of 2024, titled *Duli Chand vs. HPSEB
Limited*, dated 7.7.2026, whereby the writ petition filed by the employee-
respondent as such was allowed and order dated 29th December, 2023
(Annexure P-9) was quashed and set aside, wherein the request of the

¹ *Whether the reporters of the local papers may be allowed to see the Judgment? Yes*

official for stepping up of his pay at par with his junior was held not to be considered.

2. The learned Single Judge has directed the stepping up of pay of the petitioner at par with his junior, Atma Ram, from the date when the anomaly arose. However, the monetary benefits as such were restricted notionally up to three years prior to the date of filing of the writ petition and the employee was held entitled to actual monetary benefits thereafter, keeping in view the fact that the writ petition had been filed in the year 2024. The reason which persuaded the learned Single Judge to grant the said relief was that the employee had joined on 14th November, 2002 as a Clerk in contrast to the joining of Atma Ram on 10th November, 2023, and there was almost a gap of one year between the date of joining of the employee and Atma Ram. The reason as such to deny by the Appellant-Board was that the time-bound promotional scale was conferred upon the petitioner, which led to the pay anomaly. Resultantly reliance was placed upon the judgments in ***Union of India & others vs. C.R. Madhava Murthy & another, (2022) 6 SCC 183 and Gurcharan Singh Grewal & another vs. Punjab State Electricity Board and others, (2009) 3 SCC 94***, in which it was held that benefits were to be granted and on account of the fact that it would not be an act or omission on the part of the senior and pay had to be stepped up as per the date when the anomaly occurred, since the junior employee could not draw more pay than a senior.

3. We have gone through the paper book and find that a specific representation was filed by the employee (Annexure P-8), claiming that from 1.10.2013, Atma Ram's pay was fixed higher than his pay and an anomaly in the pay had occurred. Therefore, he had sought the benefit of instructions dated 6th December, 1994, which were placed on record by the appellant-Board as Annexure R-3. Resultantly, he sought the raising of his pay from Rs. 11,350 + Rs. 3,800 = Rs. 15,150 to Rs. 11,790 + Rs. 3,800 = Rs. 15,590, raising his claim on the strength of the instructions Annexure R-3. Vide office order dated 29th December, 2023 (Annexure P-9) the said prayer was rejected on the ground that due to the grant of the first TBS time-bound promotional scale, anomaly had occurred. The order did not deal with the instructions dated 6th December, 1994. We have also perused, the comparative statement of two employees, and it is not disputed that the private respondent-original writ petitioner was also thereafter promoted as Senior Assistant on 23.07.2016, whereas Atma Ram had been promoted on 28.04.2017 and continued till his junior, as such.

4. In such circumstances, apparently, the learned Single Judge granted the benefit on the basic principle that the junior cannot be allowed to draw higher pay scales. A perusal of the instructions Annexure R-3 of the writ petitioner would also go on to show that his claim was based on the said instructions and in the reply filed by the appellant-Board also, it is admitted that the instructions as such were issued on the persistent demand of the employees and the case had to

be examined on merits for the benefit of the stepping up. Relevant portion of the said written statement reads as under:-

1. That the para No.2 of the petition is admitted to the extent of the office memorandum issued by respondent-Board on 06.12.1994 (Annexure-R-III). It is furthermore submitted that the respondent-Board vide this office memorandum had issued instructions with regard to removal of anomaly by stepping up the pay of senior employee drawing pay less than a junior employee. As per aforesaid memorandum, some senior employee one who could not avail the benefit of promotional scale and was promoted to the next rank started getting less pay than the junior who was promoted on the same post on which the senior was promoted after availing the benefit of promotional scale, had become anomalous position. But the instructions on the subject did not entitle the seniors to claim anomaly on this account. Therefore, on the persistent demand of the employees, the case was considered by the Board and decided that to avoid hardship in the individual cases; such like cases may be examined on its merits. The anomaly of senior employee with junior employee had to be removed by stepping up the pay w.e.f. 01.05.1990 in individual cases where the senior employee started/starts drawing less pay than the junior employee strictly due to grant of promotional/devised promotional time bound scales on the following terms and conditions:-

a) Anomaly of senior employee directly recruited will be removed only with directly recruited junior employee and not with the promotee employee on the same post/cadre/scale.

b) Both the Board employee should belong to the same cadre and the post in which they have been promoted should be identical in the same cadre.

c) The Board employees who is senior is promoted to the higher post without availing the benefit of time bound promotional/devised promotional scales and had been drawing equal or more pay than that of the Board employees who is junior.

d) Both the Board employees should be in the same scale of pay in the lower as well as in the higher posts in which they are entitled to draw pay but the pay of the junior increased on the lower post on grant of time bound scale of higher post.

e) The promotion of both the Board employees is regulated by the provisions of the same rules.

f) The anomaly should be directly as a result of grant of or one two promotional/devised promotional scales increment(s) on account of completion of 9/16 years service in the same cadre. If in the lower post, the Board employee who is junior, draws from time to time higher rates of pay than the Board employees who is senior by virtue of fixation of pay under the normal rules or if any advance increments is granted to him, the provisions contained in these instructions shall not be invoked to step-up the pay of the Board employee.

5. Further, the relevant portion of the instructions in question reads as under:-

The anomaly/hardship cases which have become due after 01.05.1990 should also be decided on the same lines. The pay of the senior employee shall be stepped up to an amount equal to the pay as fixed for the Board employee who is junior in that lower/higher post. The stepping up shall be done w.e.f. 01.05.1990 in respect of the cases pertaining to the period prior to this date, and in respect of cases falling on or after 01.05.1990, it shall be done w.e.f. the date of occurrence of the anomaly by virtue of grant of promotional/devised promotional time scales to the employee who is junior or from the date such Board employee starts drawing more pay than that of a Board employee who is senior.

6. The order relating to re-fixation of pay of the senior Board employee on account of the stepping up of pay shall be issued under the provision of the regulations applicable in HPSEB with prior consultation of the F&A Wing of the Board, and pay fixation will be got pre-audited from the concerned Accounts Officer and such a Board employee shall be granted next increment on the date it is admissible to the Board employee junior to him. The pay so refixed shall neither be reduced at the time of reversion of the Board employee who is junior nor shall it be stepped up again, when the Board employee who is junior is repromoted.

In view of the above decision, the anomaly/hardship cases of an individual employee covered under these instructions shall be sent to the concerned Admn. Section of the Board Sectt. by the Head of the Department after its proper scrutiny along with service record of both the senior and junior employees giving full justification, financial implication and recommendations thereon for obtaining approval of the competent authority by the concerned establishment sections.

6. Thus, from the above reading of the instructions, it would be clear that the Board was under an obligation as such to take into consideration that stepping up of pay has to be done, and the anomaly of any individual employee had to be seen and considered by the Board by

properly scrutinizing the service record of both the senior and junior employee, and full justification had to be given.

7. The order as such, which had rejected the claim, does not find any reference to the said instructions at all, and thus can be termed as a non-speaking order. In such circumstances, we are of the considered opinion that the learned Single Judge, while relying upon the two celebrated judgments of the Hon'ble Supreme Court, has not erred in any manner in allowing the writ petition and granting the relief.

8. In view thereof, we do not find any plausible reason to take a different view. Therefore, the present appeal is dismissed, being devoid of merits, so also, the pending miscellaneous application(s), if any.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

6th October, 2026
(Tarun Singh)