IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP(M) No.1760 of 2026 &
LPA No.641 of 2026
Date of Decision : 29.10.2026

Kamlesh

…… Applicant-Appellant

Versus

State of Himachal Pradesh and Others

…… Respondents

Coram:

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

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

Whether approved for reporting?[1]

For the appellant : Mr. Lovneesh Singh Thakur, Advocate.

For the respondents : Ms. Gobind Korla, Additional Advocate General.

G.S. Sandhawalia, Chief Justice (Oral)

CMP(M) No.1760 of 2026

Delay of 41 days in filing the present appeal is condoned in view of the averments made in the application duly supported by an affidavit of the official. The application stands disposed of.

LPA No.641 of 2026

2. Notice. Mr. Gobind Korla, learned Additional Advocate General, appears and waives service of notice on behalf of the respondents-State.

3. The present appeal is filed against the judgment of learned Single Judge, passed in ***Civil Writ Petition No.13720 of 2026***, titled

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

Kamlesh vs. State of Himachal Pradesh & others*,* decided on 11.08.2026, whereby the writ petition filed by the appellant was dismissed.

4. The learned Single Judge has upheld the order dated 07.07.2026 (Annexure P-9) passed by the State, rejecting the case of the present appellant whereby he sought consideration for appointment on account of being placed in the wait list, and on account of the resignation of a selected candidate in pursuance of a selection process held on 12.06.2013.

5. The respondent-authorities had set up a defence before the learned Single Judge that there was no legal right in favour of the appellant to claim appointment against the vacancy, as he remained inactive for several years after the disposal of proceedings before the Tribunal. Furthermore, during the intervening period, the statutory rules and service conditions governing the post had come into force, and the legal position governing the recruitment had undergone a material change.

6. Reliance was placed by the respondent-authorities upon various judgments, including the Constitution Bench decision of the Supreme Court in ***Shankarsan Dash v. Union of India, (1991) 3 SCC 47*** and ***Mukul Saikia and others vs. State of Assam and others***, ***(2009) 1 SCC 386*** to the effect that a select list stands exhausted once appointments are made and cannot be operated for subsequent or future vacancies. On the issue of delay and laches, reliance was placed upon the judgments in ***State of Madhya Pradesh and others vs. Bhailal Bhai***

and others, AIR 1964 SC 1006; Chennai Metropolitan Water Supply and Sewerage Board & others vs. T.T. Murali Babu (2014) 4 SCC 108; and ***Union of India & others vs. Tarsem Singh (2008) 8 SCC 648.***

7. The learned Single Judge also noticed that the selection process, as such, had been initiated in the year 2012 for appointment of two posts of Assistant Engineers under the Zila Parishad Cadre and the result of the said process was declared on 27.02.2013. Two candidates were selected, whereas the present appellant was placed at Serial No. 1 in the wait list. One of the selected candidates, namely Pramod Kumar resigned from the post on 12.06.2013, after serving for about three and half month's time. On that account, the appellant had approached this Court, which was subsequently transferred to the erstwhile Himachal Pradesh State Administrative Tribunal, registered as T.A. No.3892 of 2015 and came to be disposed of on 10.04.2017, whereby the same was withdrawn with liberty to approach the authorities for redressal of his grievances.

8. The learned Single Judge came to the conclusion that the vacancy which had so arisen, could not be filled up by operating the wait-list, as a fresh advertisement had to be issued for subsequent vacancies. Reliance in this regard was placed upon judgments of the Apex Court, in ***Bihar State Electricity Board vs. Suresh Prasad and Others, (2004) 2 Supreme Court Cases 681***; ***Vallampati Sathish Babu vs. State of Andhra Pradesh and others, (2022) 13 Supreme Court Cases 193***; ***State of Uttar Pradesh vs. Karunesh Kumar, (2022) SCC Online, SC***

1706; ***State of Karnataka & Ors. vs. Santosh Kumar C (2026 INSC 276), decided on 23.03.2026***; and ***Sudesh Kumar Goyal vs. State of Haryana and others, (2023) 10 Supreme Court Cases 54***, including the Division Bench judgment of this Court, in ***Dharmender Kumar vs. State of H.P. and others, 2020 SCC OnLine HP 1059*** holding that once appointments are made against the advertised posts, the select list/wait-list gets exhausted and candidates placed below the last appointee cannot claim appointment, as a matter of right.

9. Learned counsel for the appellant has sought to place reliance upon an inter-departmental communication dated 02.07.2013, addressed to the Director concerned by the Chief Executive Officer, Zila Parishad, District Kinnaur, whereby a request was made to fill up the said vacancy from the wait-list, and submitted that consideration had already been done by the department.

10. We are of the considered opinion that an inter-departmental communication by the said officer does not confer any vested, legal, or enforceable right upon the appellant to claim appointment to the said post.

11. Apparently, the Transfer Application was withdrawn vide order dated 10.04.2017, where after there was total inaction on the part of the appellant. The said order reads as under:-

> *"Rejoinder to the reply of respondent No.3 is not intended to be filed.*
>
> *2. The writ petition (now transferred application) stands already admitted vide order dated 20.06.2014.*
>
> *3. Heard.*

> *4. The transferred application has been filed on the following substantive prayer:-*
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> > *"The respondent No.3 may kindly be directed to issue appointment letter in favour of petitioner as Assistant Engineer on contract basis."*
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> *5. As prayed for, the applicant is permitted to withdraw the transferred application with liberty to approach respondents/competent authority for appointment as Assistant Engineer, Development (Civil) on contract basis against the vacancy caused due to the resignation of one of the selected candidates, on the strength of his (applicant's) position at No.1 (Sr. No.3) of the select/waiting list dated 27th February, 2013, Annexure P/2.*
>
> *6. The transferred application as also pending miscellaneous application(s), if any, stand disposed of in the above terms."* ,

12. A representation was belatedly filed only on 07.04.2026 (Annexure P-8) before the Director, Panchayti Raj Department, Shimla, leading to the passing of the order dated 07.07.2026 (Annexure P-9). In the attending facts and circumstances of the case, we are of the considered opinion that no plausible explanation or justification has been tendered for the delay, which has occurred. The said rejection order is a speaking order detailing not only the factual position, but also the absence of any subsisting legal right in favour of the appellant. Apart from the fact that the representation was filed after an inordinate delay of nine years from the date of passing of the Tribunal's order, the appellant possesses

no enforceable right to claim appointment against a post when the select list has lapsed and the recruitment rules have undergone a change.

13. Under such circumstances, we find no ground to interfere with the well-reasoned judgment passed by the learned Single Judge. There is no merit in the present appeal and the same is dismissed accordingly. Pending application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

October 29, 2026 **(KS)**