**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWP No.3522 of 2026
Date of decision: 03.07.2026

Dr. Ajay Kumar and others

....Petitioners

Versus

State of Himachal Pradesh
and others ....Respondents

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge
Hon'ble Mr. Justice Ranjan Sharma, Judge

[1] *Whether approved for reporting?*

For the petitioners:	Mr. Anirudh Sharma, Advocate.
For the respondents:	Mr. Anup Rattan, Advocate General with Mr. Sushant Keprate, Additional Advocate General, for respondent No.1-State.
	Mr. Hamender Singh Chandel and Ms. Salochna Rana, Advocates, for respondents No.2 and 3-H.P. State Pollution Control Board.
	Mr. Nitin Thakur, Advocate, for the applicants-proposed respondents-Banita and Renu Bala, in CMP No.15545 of 2026.

Vivek Singh Thakur, Judge *(Oral)*

CMP No.15545 of 2026

This application has been filed by applicants-Banita and Renu Bala, for impleading them as respondents, on the ground that the outcome of present petition shall have impact on their interests.

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

2. No objection has been communicated for and on behalf of petitioners to allow the application.

3. Accordingly, applicants-Banita and Renu Bala, are directed to be arrayed as party respondents No.4 and 5 to the main petition. Necessary corrections be made in the Memo of Parties accordingly. Amended Memo of Parties be filed within one week. Registry is also directed to carry out necessary correction in record.

4. Application is allowed and disposed of.

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5. Petitioners, invoking provisions of Article 226 of the Constitution of India, have approached this Court, seeking the following substantive reliefs:-

> "20(a) Issue an appropriate writ, order or direction, more particularly in the nature of certiorari, for quashing and setting aside the Final Seniority List dated 07.03.2026 Annexure P-7) issued by the Respondents, being illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India;
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> (b) Issue an appropriate writ, order or direction directing the Respondents to re-fix the seniority of the Petitioners by counting their entire length of service from the date of their initial appointment i.e. 24.02.2020, along with all consequential benefits including consideration for promotion;

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(c) Issue an appropriate writ, order or direction restraining the Respondents from acting upon the impugned Final Seniority List dated 07.03.2026, including holding of Departmental Promotion Committee (DPC), during the pendency of the present writ petition;

(d) Issue an appropriate writ, order or direction for quashing the rejection communication dated 07.03.2026 (Annexure P-8), being arbitrary, non-speaking and violative of principles of natural justice;

(e) Issue an appropriate writ, order or direction declaring that the provisions of Section 6 of the Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024, insofar as they deny counting of contractual service for the purpose of seniority, are unconstitutional, arbitrary and violative of Articles 14 and 16 of the Constitution of India."

6. Claim of the petitioners for counting their contract service for seniority has been rejected by the respondents, on the basis of enactment of Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (Act No. 23 of 2025), vide communication dated 07.03.2026 *[Annexure P-8],* issued by Respondent No.3-Member, Secretary, H.P. State Pollution Control Board.

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7. Admittedly, main issue involved in present petition with respect to validity, legality and constitutionality of 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'**] has 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).**
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> 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.
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> ....

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> 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.
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> 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)."

8. 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.

9. Consequently, impugned communication dated 07.03.2026 *[Annexure P-8]* rejecting the claim/prayer of the petitioners in present petition in view of Government Employees' Act also stands quashed and set aside, with direction to the respondents/competent authority to decide the same afresh by passing speaking and reasoned

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order, on or before ***14.08.2026,*** after giving opportunity of hearing to the petitioners, if so desired, and by taking into consideration following settled principles of law, *inter alia,* amongst others as applicable:-

> "1. Where there is adjudication and verdict of the Court in favour of employee(s) or category of employees, benefits to such employee(s) shall be governed and extended in terms of such mandate of the Court notwithstanding anything else.
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> 2. Where there is no specific mandate of Court, such category of employees, appointed on contract in terms of Policy for appointment on contract, but without following the procedure prescribed in Recruitment and Promotion Rules or akin to such provided for regular appointments, followed by regular appointment without interruption, regularization, shall be entitled for counting of contract period of service as qualified service for pensionary/retiral benefits in addition to period of regular service in terms of Rule 17 of CCS (Pension) Rules as well as for mandate of the Courts, and consequently shall be entitled for taking into consideration annual increments for contract period of service by adding the same on notional basis for the purpose of calculation of last pay drawn for determining pension/retiral benefits but not for arrears on account of increment during contract period of service, and such contract period shall not be counted for determining the seniority.
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> 3. Employees initially appointed on contract basis by following procedure prescribed in Recruitment and Promotion Rules/Service Rules

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framed under Article 309 of the Constitution, after subjecting to rigors of such process as applicable for regular appointments including prescribed essential eligibility, with wide publicity inviting all eligible persons to participate in open competition, similar to competition to be adopted for regular appointments, OR any other prescribed mode of recruitment in terms of/following procedure prescribed in Recruitment and Promotion Rules for recruitment including batch-wise etc., on regularization, shall be entitled for all consequential benefits like counting of contract period of service as qualifying service and financial benefits including increments as well as seniority from the date of their initial appointment.

4. Being a recurring cause of action with respect to claim of pensionary and retiral benefits, but for delay in putting forth claim with Authority or in the Court, financial benefits may be restricted to 3 years prior to putting forth such claim or may be awarded prospectively by taking into consideration the facts and circumstances of each individual case. However, where there is verdict of the Court to extend such benefits without any restriction, the State or its Officers are not empowered to curtail the same without expressed order of the competent Court.

5. Claim of seniority has to be considered and decided in consonance with settled principle of service jurisprudence, including all relevant factors, such as stage of claiming seniority, accrual of third party right, opportunity of being heard to all stakeholders (claimants as well as persons likely to be affected), legal objections like delay and laches etc. depending upon peculiar facts and circumstances of a given case benefit of seniority may be extended retrospectively or

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prospectively, particularly keeping in view the timing of claiming seniority."

10. Decision so taken shall be communicated to the petitioners immediately.

11. Needless to say that for redressal of any surviving grievance(s), petitioners shall be at liberty to avail appropriate remedy, including filing fresh petition with respect to issue raised or not raised in present petition.

12. Accordingly, present petition is also disposed of in aforesaid terms alongwith pending miscellaneous application(s), if any.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

July 03, 2026
[Bhardwaj]