

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 4735 of 2026

Date of decision: 13.5.2026

Anil Kumar and others.

...Petitioners.

Versus

State of H.P. & others.

...Respondents.

Corum

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

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?¹

For the Petitioners.

Mr. Ashok Kumar, Advocate.

For the Respondents:

Mr. Yashwardhan

Chauhan,

Senior

Additional Advocate General.

Vivek Singh Thakur, Judge

Petitioners, invoking provisions of Article 226 of the Constitution of India, has filed the present Writ Petition, praying for the substantive reliefs:-

“i) That this Hon'ble Court may be pleased to issue the Writ in the nature of Certiorari or any other appropriate writ order of direction may kindly be issued quashing and setting aside the Impugned Act i.e., ***Himachal Pradesh Recruitment and Conditions of Services of Government Employees Act, 2024 (Annexure P-4)*** being illegal, arbitrary and ultra virus to the Constitution of India.

ii) That respondents may kindly be directed to count the services rendered by the petitioner's on contract basis against the post of pump operator w.e.f. 09.11.2006 for the purpose of pension under the Central

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

CWP No. 4735 of 2026

Civil Service (Pension Rules, 1972, grant of annual increments, seniority, promotion and other consequential benefits on the basis of the law laid down by this Hon'ble Court in CWP No. 2004/2017, titled as Taj Mohammed Versus State of H.P. and Others, which judgment has been duly implemented by the respondents.”

2. 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).

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

CWP No. 4735 of 2026

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).”

3. 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.

4. Consequently, rejection order, if any, of the claim of the petitioners, on the basis of Government Employees Act also stands quashed and set aside with direction to the competent Authority to consider and decide the claim of the petitioners afresh by passing speaking and reasoned order, after giving opportunity of heard, if so desired, on or before **30.06.2026** 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.

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

CWP No. 4735 of 2026

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.

3. Employees initially appointed on contract basis by following procedure prescribed in Recruitment and Promotion Rules/Service Rules 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) etc. depending upon peculiar facts and circumstances of a given case benefit of seniority may be extended retrospectively or prospectively, particularly keeping in view the timing of claiming seniority.”

5. Decision so taken shall be communicated to the petitioner immediately.

6. Needless to say that for redressal of surviving grievance, petitioners shall be at liberty to avail appropriate remedy, including filing

fresh petition with respect to issue raised in present petition or not raised in present petition.

7. Accordingly, this petition is also 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.**

13th May, 2026
(Keshav)