

Important
Personal Attention

PER(AP)-C-B(19)-3/96-VOL-VII
Government of Himachal Pradesh
Department of Personnel (AP-III)

Dated: Shimla-2, the

30th January, 2018

From

The Chief Secretary
Government of Himachal Pradesh

To

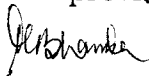
1. All the Administrative Secretaries to the Government of Himachal Pradesh
2. All Divisional Commissioners in Himachal Pradesh
3. All Heads of Departments in Himachal Pradesh
4. All Deputy Commissioners in Himachal Pradesh
5. All the Chairmen/Managing Directors/Registrars/ Secretaries of various Corporation/Boards/ Universities etc. in Himachal Pradesh.

Subject: - Special Leave Petition (Civil) No. 8710 of 2009- R.K. Barwal & ors. versus State of H.P. & ors.

Sir,

I am directed to refer to this department's letter of even number dated 17.05.2013 on the subject cited above and to say that the Civil Appeal No. 011060 of 2017 arising out of the Special Leave Petition (Civil) No. 8710 of 2009- R.K. Barwal & Ors. Versus State of H.P. & Ors. alongwith other Civil Appeals has been dismissed by the Hon'ble Supreme Court of India on 25.08.2017. Consequently, the judgment delivered by the Hon'ble High Court of Himachal Pradesh on 29.12.2008 in Civil Writ Petition No.488 of 2001-titled as V.K. Behal and Others Versus State of H.P. and Others has been upheld. As per judgments of the Hon'ble Courts in the matter, the benefit of counting the past army service towards seniority in civil employment in the case of Ex-Servicemen who have not joined the Armed forces during the period of emergency cannot be allowed. The benefit of pay fixation extended to Ex-Servicemen has not been altered by the Hon'ble courts.

2. Therefore, the benefits of seniority extended under the provisions of the Demobilized Armed Forces Personnel (Reservation of

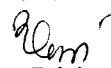


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Vacancies in the Himachal State Non-technical Services) Rules, 1972 and Ex-servicemen (Reservation of Vacancies in the Himachal Pradesh Technical Services) Rules, 1985 are to be reviewed. The seniority lists in all cadres are to be reframed accordingly showing position as on 29.12.2008 when the Hon'ble High Court of Himachal Pradesh had read down and declared the rule 5(1) of the Demobilized Armed Forces Personnel (Reservation of Vacancies in the Himachal State Non-technical Services) Rules, 1972 unconstitutional in so far as it gives benefit of counting of past army service towards seniority in civil employment in case of Ex-Servicemen who have not joined the Armed forces during the period of emergency. However, the Ex-Servicemen appointed against the vacancies reserved for Ex-Servicemen in civil employment shall be entitled to avail the benefit of fixation of pay from a date when the Ex-Servicemen attain minimum age and educational qualification eligibility criteria prescribed in the rules. The fixation of pay will be in accordance with the instructions issued by the Finance Department from time to time. The above referred instructions dated 17.05.2013 are rescinded accordingly.

3. These instructions may kindly be adhered to strictly and brought to the notice of all concerned.


Yours faithfully,


(R.D. Dhiman)

Principal Secretary (Personnel) to the
Government of Himachal Pradesh

Ends.No.PER(AP)-C-B(19)-3/96-VOL-VII Dated: Shimla-2 the, 30th Jan. 2018
Copy is forwarded to: -

1. The Secretary to the Governor, Himachal Pradesh, Shimla-2.
2. The Secretary(GAD) to the Government of Himachal Pradesh, Shimla-2 w.r.t. item No.7 of cabinet meeting held on 04-01-2018
3. The Secretary, H.P. Vidhan Sabha, Shimla-4.
4. The Registrar, H.P. High Court, Shimla-1.
5. All Section Officers in H.P. Secretariat, Shimla-2.
6. Spare copies (100).


(Om Prakash Bhandari)

Deputy Secretary (Personnel) to the
Government of Himachal Pradesh
