

No. PER. (AP)-C-F (1)-1/2009
Government of Himachal Pradesh
Department of Personnel (AP-III).

From Dated: Shimla-171002, the 1st May, 2010.
To The Secretary (Personnel) to the
Government of Himachal Pradesh.

1. All the Principal Secretaries/Secretaries/ Joint Secretaries/ Deputy Secretaries and Under Secretaries to the Government of Himachal Pradesh.
2. All the Divisional Commissioners in H.P.
3. All the Heads of the Departments in Himachal Pradesh.
4. All the Deputy Commissioners in Himachal Pradesh.
5. All the Chairmen/Managing Directors/Secretaries & Registrars of all the Public Sector Undertakings/ Corporations/Boards/Universities etc. in Himachal Pradesh.

Subject: Implementation of Constitution (85th Amendment) Act, 2001 and assignment of seniority to SC/ST Government servants on promotion by virtue of rule of reservation/roster.

Sir,

I am directed to say that the State Government vide Department of Personnel letter No. PER.(AP)-C-F(1)-1/2005, dated 07.9.2007 had issued instructions regarding implementation of Constitution (85th Amendment) Act, 2001 and assignment of seniority to SC/ST Government servants on promotion by virtue of rule of reservation/roster.

2. The instructions dated 07.9.2007 were challenged by the Himachal Pradesh Samanaya Varg Karamchari Kalyan Mahasangh by filing an O.A.No.19/2008 in the erstwhile H.P. Administrative Tribunal. Due to the abolition of the H.P. Administrative Tribunal by the Government, the said O.A.No.19/2008 of HPAT was transferred to the Hon'ble High Court and registered as CWP-T. No.2628 of 2008. In this CWP, the Hon'ble High Court delivered judgment on 18.9.2009 and the instructions, dated 07.9.2007 were quashed by the Hon'ble Court.

3. In the light of judgment delivered by the Hon'ble High Court of Himachal Pradesh on 18.9.2009, the above instructions dated 07.9.2007 were rescinded by the Government and afresh instructions were issued vide this Department's letter of even number, dated 16.11.2009 thereby allowing the promotions as per provisions of the instructions/procedure as prevalent prior to 07.09.2007.

4. Thereafter, the H.P. Scheduled Tribes Employees Federation & Another filed Special Leave Petition (Civil) No.30143 of 2009 before the Hon'ble Supreme Court of India against the impugned Judgment of the Hon'ble High Court dated 18.9.2009 in CWP(T) No.2628 of 2008. The Hon'ble Supreme Court of India granted interim stay in this case on dated 4.12.2009.

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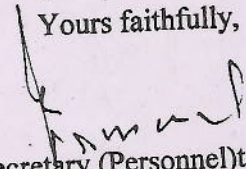
5. Pursuant to the interim stay granted by the Apex Court in the matter, the instructions dated 16.11.2009 were withdrawn by the Government and fresh instructions were issued vide letter of even number dated 20.01.2010, which were further amended vide letter of even number dated 16.03.2010 whereby the Departments were refrained from making further promotion where consequential seniority is involved.

6. The Special Leave Petition (Civil) No.30143 of 2009 came for hearing before the Hon'ble Apex Court on 26.04.2010 and the same was disposed off finally with the directions that the State Government will pass appropriate order after collecting the necessary details & data with regard to the representation of the SCs/STs.

7. Therefore, in view of the above circumstances, the instructions issued by the Government vide letter of even number dated 20.01.2010 and dated 16.03.2010 are hereby withdrawn and the instructions issued vide letter of even number dated 16.11.2009 are made operational.

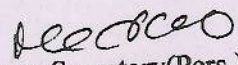
8. These instructions may kindly be brought to the notice of all concerned for compliance.

Yours faithfully,


Secretary (Personnel) to the
Govt. of Himachal Pradesh

Endst. No. as above. Dated: Shimla the 1st May, 2010.
Copy forwarded for information and necessary action to:-

1. The Secretary, H.P. Vidhan Sabha, Shimla-4.
2. The Registrar, H.P. High Court, Shimla-1.
3. The Secretary, H.P. Public Service Commission, Shimla-2.
4. The Secretary, H.P. Subordinate Services Selection Board, Hamirpur
5. The All Section Officers in H.P. Secretariat, Shimla-2.
6. Senior Law Officer (Opinion) H.P. Secretariat, Shimla.
7. Spare Copies (150).


Deputy Secretary (Pers.) to the
Govt. of Himachal Pradesh
