

No.Fin(Pen)E(1)-49/2024-
Government of Himachal Pradesh
Finance (Pension) Department

From

The Chief Secretary to the,
Government of Himachal Pradesh,
Shimla-171002.

To

1. All Administrative Secretaries to the Government of Himachal Pradesh.
2. All Heads of the Department, Himachal Pradesh.

Dated: Shimla- 2, the 14th November 2024

Subject: - CWPOA No.5137/2020 in OA No:5133/2018 titled as Shobhni Devi V/s State of HP & Ors. **Listed on 14.11.2024.**

Sir,

I am directed to say that the case of Ms. Shobhni Devi, petitioner in the CWPOA No.5137/2020, as mentioned in the subject cited above, relates to the Education Department and in the said case the HHC vide order dated 23.10.2024 has passed directions to the Ld. State Counsel and the Education Department to furnish the consolidated list of identical cases of all departments, where the claim for pension based on the judgment in Civil Appeal No.4792/2022 titled Balo Devi V/s State of H.P. & Ors, decided on 18.07.2022, is involved.

In this regard, it is intimated that the case of Balo Devi in Civil Appeal No.4792/2022 (Jal Shakti Vibhag) is based upon the Hon'ble Apex Court judgment dated 08.03.2018 rendered in Civil Appeal No.6309/2017 titled Sunder Singh V/s State of HP & Ors.

In Sunder Singh case, the Hon'ble Apex Court vide judgment dated 08.03.2018 has held that the appellants or other similarly placed Class-IV employees, who were recruited initially as daily wagers, such as peon/chowkidar/sweeper/Farrash/malis/rasoia etc and their services were regularized pursuant to the Hon'ble Apex Court decision in Mool Raj Upadhyaya V/s State of H.P. & Ors. 1994 Supp.(2) SCC 316, will be entitled to pension if they have been duly regularized and have completed total eligible service for more than 10 years. Daily wage service of five years will be treated equal to one year of regular service for pension. If on that basis, their services are more than eight years but less than ten years, their service will be reckoned as ten years.

In compliance to the Hon'ble Apex Court decision dated 08.03.2018 rendered in Civil Appeal No.6309/2017 titled Sunder Singh V/s State of H.P., the State Government has issued detailed instructions to regulate such cases vide letter No.Fin(Pen)A(3)-10/2016 dated 14.02.2019.

Further, the Hon'ble Apex Court vide para 8 (a) to (c) of the judgement dated 18.07.2022 in Civil Appeal No. 4792 of 2022 titled 'Balo Devi V/s State of H.P. & Ors' has clarified the intent of para 6 of the judgment dated 08.03.2018 in Sunder Singh case, as under:-

- a. the services rendered as a **regular employee** may be first computed,
- b. the component at the rate of one year of regular service for every five years of service as a daily wager will be added to the service rendered on a regular basis.
- c. Thereafter, if both the components as detailed in (i) and (ii) take length of service to a level of more than eight years but less than ten years in terms of last sentence of para-6 of the order dated 8.3.2018, the service shall be reckoned as ten years.

In view of the instructions issued vide letter dated 14.02.2019 and the intent of para 6 of judgment dated 08.03.2018 *ibid*, clarified vide para 8 (a) to (c) of the judgment dated 18.07.2022 in Balo Devi case, it is crystal clear that five years daily wage service deemed as one year regular service, has to be clubbed only with the regular service of Class-IV employees for the purpose of grant of pensionary benefits w.e.f. 01.01.2018. Infact, the Hon'ble Apex Court, in Sunder Singh and Balo Devi cases has not passed any specific directions to count/club the work charged service with the regular service to extend the benefit in terms of para 6 of the judgment dated 08.03.2018 in Civil Appeal No.6309/2017.

Now, as per directions dated 23.10.2024 of the HHC in CWPOA No.5137/2020 titled Shobhni Devi V/s State of HP & Ors all the Administrative Secretaries and Head of the Departments are requested to prepare and send the consolidated list of cases identical to Balo Devi, keeping in view the Government instructions dated 14.02.2019 and the Hon'ble Apex Court judgment dated 18.07.2022 rendered in Balo Devi case, to the Secretary (Education) to the Government of H.P., in reference to his letter No. EDN(D)1-984/2018 dated 30.10.2024, so as to enable him to furnish the requisite information to the Ld. Advocate General H.P. immediately.

Yours faithfully,

**Special Secretary (Finance) to the
Government of Himachal Pradesh.**

Endst. No. Fin(Pen)A(3)-1/2007- Dated: Shimla, November 2024

The copy is forwarded to:

1. Ld. Advocate General, State of Himachal Pradesh for necessary action.
2. The Secretary (Education) to the Government of H.P. with a request to consolidate the information as received from the departments and send the same to the Ld. Advocate General, State of HP for further action at their end.

**Special Secretary (Finance) to the
Government of Himachal Pradesh**