

Government of Himachal Pradesh
Jal Shakti Vibhag

No.IPH(A)2(B)8-2/2013-Part-I Dated:-Shimla-171002, the 14th August, 2024

ORDER

WHEREAS, Sh. Mukesh Chand was appointed as Junior Engineer (Civil) in the Jal Shakti Vibhag and he was considered for promotion to the post of Assistant Engineer (Civil) in the year, 2013 and subsequent years 2014 & 2015 whereas due to a case FIR No. 1/2001 registered on 10.04.2001 under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code against Sh. S.K. Vats Executive Engineer (now Retd.) and others including the petitioner i.e. Sh. Mukesh Chand, Junior Engineer (Retd.) recommendations of Departmental Promotion Committee were kept in sealed covers.

AND WHEREAS, Sh. Mukesh Chand, Junior Engineer had filed O.A. No. 2004/2015-Mukesh Chand Vs. State of H.P. & Ors. before the erstwhile Himachal Pradesh Administrative Tribunal which was transferred to Hon'ble High Court of H.P. as CWPOA No. 5331/2019-Mukesh Chand Sharma Vs. State of H.P for promotion to the post of Assistant Engineer.

AND WHEREAS, the said CWPOA was listed in the Hon'ble High Court of H.P. on 01.01.2024 and the Hon'ble High Court of H.P. has disposed of the Civil Writ Petition with the direction to the respondent-department to open the sealed cover, in which, the case of the petitioner was kept in Sealed Cover after consideration by the DPC. However, the operative part of the judgment of Hon'ble High Court of H.P. is re-produced as under:-

11. Accordingly, this writ petition is allowed and direction is issued to the respondents to forthwith open the sealed cover, in which, the case of the petitioner was kept after consideration by the DPC.

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It is further ordered that in case the petitioner is found recommended for promotion by DPC, then promotion be conferred upon him as from the date when other incumbents who were also recommended by the said DPC alongwith him for promotion to the post of Assistant Engineer, were promoted, with all consequential benefits, including seniority as well as monetary.

AND WHEREAS, the said judgment passed by the Hon'ble High Court of H.P. was examined in consultation with the Law Department who have opined that the judgment passed by the Hon'ble High Court of H.P. shows that the Hon'ble High Court while allowing the same has relied upon the law laid down by the Hon'ble Apex Court in Jankiraman's case & by the Hon'ble High Court of H.P. in Rajeshwar Dayal Janartha's case i.e. CWP No. 3466 of 2021 as well as relevant instruction of the Govt. of H.P. in this regard as contained in Handbook on Personnel Matter and accordingly observed that no prosecution for criminal charges can be said to be pending against an employee before the charges are framed. In view of the above facts and circumstances, the judgment passed by the Hon'ble High Court of H.P. is just, proper, reasoned and based on the proper appreciation of evidence on record, it would, therefore, be advisable to contemplate implementing the same.

AND WHEREAS, as per the judgment of the Hon'ble High Court of H.P. and the legal opinion tendered by the Law Department, it has been decided by the Government to open the "Sealed Cover(s)" of the petitioner for the different years.

NOW THEREFORE, as per the recommendations of the Departmental Promotion Committee and in pursuance to the instructions

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issued by the Finance Department vide letter No.Fin-E-1-C-(17)-6/08 dated 31.07.2024, Sh. Mukesh Chand, Junior Engineer (Civil) is hereby promoted to the post of Assistant Engineer (Civil) (Class-I, Gazetted) in the Level-18 of Pay Matrix i.e. Rs. 56,100-Rs. 1,77,500/- with effect from 04.11.2013 i.e. from the date of promotion of his juniors to till his superannuation i.e. upto 31.07.2015 in Jal Shakti Vibhag.

AND WHEREAS, the name of Sh. Mukesh Chand, Assistant Engineer (Civil) will figure at 227-A i.e. below the name of Sh. Bhim Singh, Assistant Engineer (Civil) (Seniority No. 227) and above the name of Sh. Prakash Chand, Assistant Engineer (Civil) (Seniority No. 228) in the final seniority list of Diploma Holder Assistant Engineer (Civil)/Planning Officer circulated vide OFFICE MEMORANDUM No. IPH(A)2(B)8-3/2016 dated 31.01.2017.

The officer shall also exercise option for fixation of pay under the provisions of FR-22, within a period of one month from the date of issuance of this order.

BY ORDER

Onkar Chand Sharma
Additional Chief Secretary (Jal Shakti) to the
Government of Himachal Pradesh

Regd./A.D.

Shri Mukesh Chand

Assistant Engineer (Retd.)

S/o Late Sh. Sita Ram R/o Village Chuhuwal,

P.O. Nalagarh, Tehsil Nalagarh Distt. Solan, H.P.

Endst. No.IPH(A)2(B)8-2/2013-Part-I

Dated:

14th August, 2024

Copy forwarded for information & necessary action to:-

1. The Accountant General (Audit) H.P. Shimla-171003.
2. The Accountant General (A&E) H.P. Shimla-171003.
3. The Engineer-in-Chief, Jal Shakti Vibhag, Jal Shakti Bhawan, H.P.-171005.

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4. The Chief Engineer, Jal Shakti South Zone, Shimla, H.P.
5. The Secretary, HP Public Service Commission, Nigam Vihar Shimla-171002.
6. The Superintending Engineer, Jal Shakti Circle, Solan H.P.
7. The Dy. Chief Executive Officer, BBND, Baddi, H.P.
8. The Executive Engineers, Jal Shakti Division, Solan/Nalagarh/Baddi/Arki, H.P.
9. Guard file.

M. Verma
(Mahi Pal Verma)

Deputy Secretary (Jal Shakti) to the
Government of Himachal Pradesh
Phone No. 0177-2880484