

2011
9/6/15

Most Immediate
High Court Matter

No. Fin (PR)E(3)2/2014
Government of Himachal Pradesh
Finance (Pay Revision) Department

From: The Principal Secretary (Finance) to the
Government of Himachal Pradesh.

- To
1. The Addl. Chief Secretary (Edu) to the
Government of Himachal Pradesh,
 2. The Director (Higher Education)
Himachal Pradesh, Shimla-171001

Dated Shimla-171002, the 3rd June, 2015.

Subject: - Regarding grant of pay scales to the Laboratory Attendants- CWP
No 9519/2014 titled Rakesh Kumar & Ors Vs State of H.P. and
Ors.

Sir,
I am directed to refer to the subject cited above and to enclose a
copy of Order No Fin(PR)E(3)2/2014 dated 26/05/2015 passed by the Principal
Secretary (Finance) to the Government of Himachal Pradesh, in compliance to
the directions given by the Hon'ble High Court on 05/01/2015 in the matter. It is
requested that all the petitioners may be informed of the above decision and all
other Court cases of Laboratory Attendants may also be decided in the light of
this order.

P.A. Cell
496727
04.06.15
Legal

Yours faithfully,
offshore

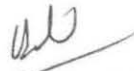
Under Secretary (Finance) to the
Government of Himachal Pradesh
M

Directorate of Hr. Education
Himachal Pradesh



Endst. No. EDN-H(1)B(6)1/2014- CWP/2015 Dated Shimla – 171001 the
Copy for information and further necessary action is forwarded to :-

1. The Principal Secretary(Finance) to the Govt. of Himachal Pradesh, Shimla-2 w.r.t. No.FIN(PR) E (3)2/2014 dated 03.06.2015 for information please.
2. The Addl.Chief Secretary (Hr.Education) HP Shimla-2.
3. The Additional Director of Hr. Education (Admn.), H.P.
4. The Additional Director of Hr. Education (C), H.P
5. The Addl.Director Director of Hr. Education (S), H.P.
6. The Joint Controller (F&A), Dte. of Hr. Education, H.P.
7. All the Principal, GDC/ GCTE Dharamshala/ Skt Colleges in Pradesh.
8. ***All the Deputy Directors of Hr. Education in Himachal Pradesh with the remarks that being a court case inform all the effective petitioners of your district as per list attached accordingly at once under intimation to this office.***
9. The Superintendent, Legal Cell(internal)Dte. of Hr. Edu.HP for information please.
10. The Chief Librarian, Center State Library Solan.
11. ***The Incharge Computer Cell, Dte. of Hr. Education, H.P with the remarks to upload the said orders on the deptt. Website.***
12. Guard File.


Addl. Director of Hr. Education (A)
Himachal Pradesh

No. FIN (PR) E(3) 2/2014
Department of Finance (Pay Revision)
Government of Himachal Pradesh

ORDER

The Division Bench of Hon'ble High Court of Himachal Pradesh, while deciding CWP No. 9519/2014 titled Rakesh Kumar & Ors Vs State of Himachal Pradesh & Ors on dated 05/01/2015 alongwith connected matters has given the following directions (operative portion) and disposed of the writ petition:-

"With the consent of the learned counsel for the parties, we deem it proper to dispose of all these writ petitions with a command to the respondents to examine the cases of the writ petitioners in light of the averments contained in the writ petitions and make a decision within six weeks from the date of receipt of the copy of this judgment"

2. In compliance to the directions of the Hon'ble High Court, as referred to above, the undersigned has called for the entire record pertaining to large number of CWPs filed by the Lab Attendants of Education Department, individually or collectively. From the perusal of the record, it is seen that the Petitioners have sought relief from the Hon'ble High Court directing the respondents to grant the revised pay scale of Rs 10300-34800 + 3200 grade pay, seeking parity with Clerks/ Junior Technician w.e.f 01/10/2012 with all consequential benefits alongwith interest and to re-designate the category of Lab Attendants as Laboratory Assistants.

3. It is submitted that the State Government suitably considers the pay scales of Punjab Government, for its own employees as recommended by the Punjab Pay Commissions, from time to time. However, these pay scales are suitably adjusted/ adopted/ modified by the State Government depending on its own staffing pattern, R&P Rules and working conditions etc. which are duly taken care of while taking a decision. The pay scales are allowed by framing statutory rules under Article 309 of the Constitution, with the approval of the competent authority.

4. The pay scales of Himachal Pradesh Government employees have been revised w.e.f 01/01/2006 under H.P. Civil Services (Revised Pay) Rules, 2009 notified under article 309 of the Constitution of India. Subsequently, pay scales of certain categories of employees have been re-revised w.e.f 01/10/2012 or thereafter under the H.P. Civil Services (Category/Post wise Revised Pay) Rules, 2012. This re-revision of pay scales is not applicable to all categories of employees. It is category specific and is applicable only to the categories mentioned to the Schedule attached to the Rules *ibid*.

5. There is no established parity between the post of Lab. Attendants and Clerks as the service conditions and job profile of both these categories are different and cannot be compared at all. The category of Clerks have to handle important and sensitive work of the offices relating to establishment, budget, compilation of data, correspondence with other offices and maintenance of records including service records etc. The Laboratory Attendants in Education Department are required to assist in Laboratories of educational institution only. The essential qualification of Clerk is 10+2 or its equivalent from a recognized Board of School Education / University with knowledge of Computer/Type writing whereas the essential qualification in case of Lab Attendants is Matric or its equivalent from a recognized Board / University or Matric with Diploma of Lab. Attendant or its equivalent from recognized Board/University. Prior to the revision of pay scales of 1996, there were two separate pay scales for under matric and matriculate Lab. Attendants under class IV and Class-III categories. The posts of Clerks are filled up by 90% direct recruitment and 10% promotion whereas the posts of Lab. attendants are filled up by 75% promotion from amongst Class-IV employees and 25% by direct recruitment.

6. The parity of two posts for granting equivalent pay scales needs to be also examined on the basis of law laid down by Hon'ble Apex Court regarding determination of parity of two posts. While deciding the following cases in the Apex Court has held/observed that parity of pay can be claimed by invoking the

et cetera

provisions of Articles 14 & 39 (d) of the Constitution of India if it is established that eligibility, mode of selection/recruitment, nature and equality of work, duties and effort, reliability, confidentiality, dexterity, functional need and responsibilities and status of both the posts are identical. There are number of posts/ categories in Government departments for which essential qualification may be same but all these posts cannot be equated for the purpose of pay scales for want of wholesome parity as per law laid down by the Apex Court and various other Courts in the following cases:-

1. Civil Appeal No. 9480 of 2010 arising out of SLP (C) No. 26495/2008 titled as Steel Authority of India Ltd. & others Versus Dibyundu Bhattacharya (AIR 2011 Supreme Court 897).
2. Civil Appeal of 2009 arising out of SLP (C) No. 25682 of 2008 titled as State of Madhya Pradesh & others Versus Ramesh Chandra Bajpai, decided on 28th July, 2009 {2010 AIR (SCW) 2748} {(2009) 13 SCC 635}.
3. Hukum Chand Gupta Vs Director General, ICAR and others. (2012) 12 Supreme Court Cases 666.
4. Division Bench of Hon'ble High Court of H.P. dated 22/09/2014 in LPA 11/2008 titled State of Himachal Pradesh Vs Pratap Thakur
5. Division bench of Hon'ble High Court of H.P. dated 27/10/1994 in CWP No 873/1993- Roshan Lal Vs Hon'ble High Court of H.P and anr.

7. Similarly, two posts carrying the same pay scale at a particular time does not justify grant of same pay scales after general revision of pay scales. If this had been the position, there would have been no justification for constitution of a Pay Commission as also stated by Hon'ble Supreme Court vide judgment dated: 15th March, 2010 in Civil Appeal No. 3855 of 2007 titled as State of West Bengal Vs. West Bengal Minimum Wages Inspector Association {2010 AIR (SCW) 1892} {(2010) 5 SCC 225}. The pay scales of two categories i.e. Lab. Attendants and Clerks might have been the same at some particular point of time but there is no similarity in the mode of

recruitment, R&P Rules, feeder & promotional categories, working conditions/ geographical area of service, etc. Therefore, there is no wholesome parity between the posts of Laboratory Attendants of the Education Department and the category of Clerks which would justify the grant of pay scale at par with the category of Clerks.

8. After having gone through the entire record and relevant factors as discussed above one finds no merit in the case of Lab Attendants to grant higher pay scale or a different designation and accordingly reject the same.

9. A copy of the above orders may be made available to the Additional Chief Secretary (Edu) to the Government of Himachal Pradesh and Director (Hr. Edu) H.P. with the request to apprise all the petitioner Lab Attendants about the aforesaid decision.

SKB
(Dr. Shrikant Baldi)
Principal Secretary (Finance) to the
Government of Himachal Pradesh.

Dated: 26-05-2015

89	CWP No3350,9652,9653,9709/2014	Ram Sawroop V/s State of HP	
90	CWP No. 9656/2014	Tilak Raj V/s State of HP	
91	CWP No. 10043/2014	Ganga Ram V/s State of HP	
92	CWP No. 133,224/2015	Jiwana Devi V/s State of HP	
93	CWP No. 898/2015	Shyam lal V/s State of HP	
94	CWP No. 46/2015	Vijay Kumar V/s State of HP	
95	CWP No. 279/2015	Rakesh Verma V/s State of HP	
96	CWP No. 144/2015	Rakesh Kumar V/s State of HP	
97	CWP No. 891/2015	Hari Singh V/s State of HP	
98	CWP No126/2015	Ram Singh V/s State of HP	
99	CWP No. 807/2015	Roop Singh V/s State of HP	
100	CWP No. 899/2015	Mag Singh V/s State of HP	
101	CWP No. 888/2015	Tej Singh V/s State of HP	
102	CWP No. 889/2015	Sohan Singh V/s State of HP	
103	CWP No. 203/2015	Sushma Devi V/s State of HP	
104	CWP No. 1090/2015	Ramesh Singh V/s State of HP	01.04.2015
105	CWP No. 1806/2015	Rangila Ram V/s State of HO & ors,	
106	CWP NO. 1820/2015	Narain Singh V/s State of HP & ors.	
107	CWP No 1818/2014	Jai Prakash V/S State of HP	
108	CWP No 9191/2014	Jalap Ram, V/s State of HP &ors.	
109	CWP No9518/2014	Ram Dutt V/s State of HP & ors.	
110	CWP No4532/2014	Girdhari Lal V/s State of HP & ors.	
111	CWP No8752,8753,8754,8755,8756,87 57,8758,8759,8771,8797,8798,87 99,8800,8804,8805,8985,8986,89 87,8988,8989,8990,8992,8994,91 91,9193,9194,9195,9196,9197,91 98,9199,9200,9201/2014 9369/2014		
112	CWP No945/2015	Raju Ram V/s State of HP.	
113	CWP No4531/2015	Sanjeev Kumar V/s State of HP . judgement Passed on 05.01.2015,06.01.2015,8.1.15,26.02 .2015,28.02.15,3.3.15,4.3.15,23.3.15,30.0 3.15,1.4.15	
114	CWP No123/2015	Kashmir singh V/s State of HP	
115	CWP No1814/2015	Gopal Singh V/s State of HP.	
116	CWP No124/2015	Ssntosh Kumari V/s State of HP.	
117	CWP No9706/2015	Kuldeep Singh V/s State of HP.	
118	CWP No999/2015	Chirangi Lal V/s State of HP.	
119	CWP No1408/2015	Mohan Chand V/s State of HP.	
120	CWP No996/2015	Surya parkash V/s State of HP	
121	CWP No994/2015	Om Chand V/s State of HP	
122	CWP No940/2015	Santosh Kumari V/s State of HP.	
123	CWP No997/2015	Hari Krishan V/s State of HP.	
124	CWP No995/2015	Mand Singh V/s State of HP	
125	CWP 9922015	Puran Chand V/s State of HP	

126	CWP No37/2015	Jagan Nath V/s State of HP	
127	CWP No1402/2015	Inder Singh V/s State of HP.	
128	CWP No810/2015	Ramesh Kumar V/s State of HP & ors.	
129	CWP No915/2015	Ramesh Kumar V/s State of HP & ors.	
130	CWP No816/2015	Prem pal V/s State of HP & ors.	
131	CWP No 121/2015	Usha Rani V/s State of HP & ors.	
132	CWP No919/2015	Devender Kumar V/s State of HP & ors.	
133	CWP No916/2015	Ram Dutt V/s State of HP .	
134	CWP No950/2015	Jeet Singh V/s State of HP .	
135	CWP No943/2015	Harminder Singh V/s State of HP .	
136	CWP No942/2015	Joginder pal V/s State of HP .	
137	CWP No941/2015	Romla Devi V/s State of HP .	
138	CWP No914/2015	Hem Singh V/s State of HP .	
139	CWP No817/2015	Madan Lal V/s State of HP .	
140	CWP No192/2015	Kulbhushna Devi V/s State of HP .	
141	CWP No892/2015	Jamna Devi V/s State of HP .	
142	CWP No9651/2015	Subhash Chand V/s State of HP .	
143	CWP No9987/2015	Jagdish Chand V/s State of HP .	
144	CWP No998/2015	Balak Ram V/s State of HP .	
145	CWP No1812/2015	Desh Raj V/s State of HP .	
146	CWP No921/2015	Ramesh Chand V/s State of HP .	
147	CWP No8805/2015	Sunder Singh V/s State of HP .	
148	CWP No9526/2015	Amar Nath V/s State of HP .	
149	CWP No1819/2015	Narender Kumar V/s State of HP .	
150	CWP No 918/2015	Lekh Raj V/s State of HP .	
151	CWP No1815/2015	Rampal V/s State of HP .	
152	CWP No920/2015	Pardeep Kumar V/s State of HP .	
153	CWP No8760/2015	Khimi Ram V/s State of HP .	
154	CWP No940/2015	Santosh Kumari V/s State of HP .	
155	CWP No8988/2015	Dhale Ram V/s State of HP .	
156	CWP No9191/2015	Jalap Ram V/s State of HP .	
157	CWP No8768/2014	Tek Singh p Kumar V/s State of HP .	
158	CWP No1830/2015	Jai Dutt V/s State of HP .	
159	CWP No1829/2015	Dalip Singh V/s State of HP .	
160	CWP No1828/2015	Jai Ram V/s State of HP .	
161	CWP No1807/2015	Bishan Chand V/s State of HP .	
162	CWP No1824/2015	Santosh Devi V/s State of HP .	
163	CWP No 1810/2015	Om Prakash V/s State of HP .	
164	CWP No1822/2015	Sat pal V/s State of HP .	
165	CWP No1823/2015	Anil Kumar V/s State of HP .	

List of Judgment passed by the Hon'ble High Court passed on
05.01.2015,06.01.2015,08.01.2015,09.01.2015,23.02.2015,26.02.2015,&03.03.2015,25.02.2015,09.03.2015,03.06.
2015,19.05.2015

Sl no	CWP NO.	Name of petitioner	Designation
1	CWP NO.901/2015	Satya Devi V/s State of HP& ors	Laboratory Attendant
2	CWP NO.900/2015	Panna Lal V/s State of HP& ors	
3	CWP NO.812/2015	Durga Dutt V/s State of HP& ors	
4	CWP NO.136/2015	Man Singh V/s State of HP& ors	
5	CWP NO.902/2015	Dev Raj V/s State of HP& ors	
6	CWP NO.953/2015	Chinta Devi V/s State of HP& ors	
7	CWP NO.958/2015	Om Prakash V/s State of HP& ors	
8	CWP NO.220/2015	Shyam Singh V/s State of HP& ors	
9	CWP NO.127/2015	Raj Pal V/s State of HP& ors	
10	CWP NO.1401/2015	Satish Kumar V/s State of HP& ors	
11	CWP NO.120/2015	Partap Chand V/s State of HP& ors	
12	CWP NO.1398/2015	Yashwant Singh V/s State of HP& ors	
13	CWP NO.1399/2015	Khem Raj V/s State of HP& ors	
14	CWP NO.1400/2015	Ram Singh V/s State of HP & ors	
15	CWP NO.128/2015	Soma Devi V/s State of HP& ors	
16	CWP NO.132/2015	Ram Sawroop V/s State of HP & ors	
17	CWP NO.129/2015	Meera Devi V/s State of HP& ors	
18	CWP NO.948/2015	Amar Nath V/s State of HP	
19	CWP NO.949/2015	Manchli Devi V/s State of HP	
20	CWP NO.818/2015	Ashok Kumar V/s State of HP	
21	CWP NO.951/2015	Nika Ram V/s State of HP	
22	CWP NO.193/2015	Sandeep Sood V/s State of HP	
23	CWP NO.954/2015	Prakash Chand V/s State of HP	
24	CWP NO.955/2015	Ghanshayam V/s State of HP	
25	CWP NO.189/2015	Uttam Chand V/s State of HP	
26	CWP NO.956/2015	Meera Devi V/s State of HP	
27	CWP NO.959/2015	Ramesh Chand V/s State of HP	
28	CWP NO.813/2015	Raj Kumar V/s State of HP	
29	CWP NO. 196/2015	Chain Singh V/s State of HP	
3	CWP NO.186/2015	Nirjla Devi V/s State of HP	
31	CWP NO.946/2015	Jagat Singh V/s State of HP	
32	CWP NO.903/2015	Darbasha V/s State of HP	
33	CWP NO.944/2015	Dilu Ram V/s State of HP	
34	CWP NO.143/2015	Subhash Chand V/s State of HP	
35	CWP NO.198/2015	Subhash Chand V/s State of HP	
36	CWP NO.145/2015	Prakash Chand V/s State of HP	
37	CWP NO.276/2015	Rajender Kumar V/s State of HP	
38	CWP NO.893/2015	Om Chand V/s State of HP	
39	CWP NO.895/2015	Kushma Devi V/s State of HP	
40	CWP NO.195/2015	Gujrat Singh V/s State of HP	
41	CWP NO.889/2015	Sohan Singh V/s State of HP	
42	CWP NO.952/2015	Roshan Lal V/s State of HP	
43	CWP NO.890/2015	Tara Devi V/s State of HP	

44	CWP NO.9560/2014	Ram Lal V/s State of HP	
45	CWP NO.9910/2014	Desh Raj V/s State of HP	
46	CWP NO.9975/2014	Dharam Chand V/s State of HP	
47	CWP NO.9986/2014	Santosh Kumar V/s State of HP	
48	CWP NO.9911/2014	Ramesh Chand V/s State of HP	
49	CWP NO.9665/2014	Hardev Singh V/s State of HP	
50	CWP NO.9519/2014	Rakesh Chand V/s State of HP	
51	CWP NO.9662/2014	Gopal Dass V/s State of HP	
52	CWP NO.9654/2014	Pritam Singh V/s State of HP	
53	CWP NO.9660/2014	Sudershan Singh V/s State of HP	
54	CWP NO.9711/2014	Nand Lal V/s State of HP	
55	CWP NO.9707/2014	Puro Devi V/s State of HP	
56	CWP NO.9647/2014	Harnam Singh V/s State of HP	
57	CWP NO.9755/2014	Baldev Raj V/s State of HP	
58	CWP NO. 9710/2015	Bimlesh Kour V/s State of HP	
59	CWP NO.9655/2014	Rajesh Sood V/s State of HP	
60	CWP NO.9536/2014	Asha Rani V/s State of HP	
61	CWP NO.9672/2014	Dev Raj V/s State of HP	
62	CWP NO.9755/2014	Baldev Raj V/s State of HP	
63	CWP NO.9663/2014	Pawan Kumar V/s State of HP	
64	CWP NO.10045/2014	Budhi Singh V/s State of HP	
65	CWP NO.9982/2014	Hans Raj V/s State of HP	
66	CWP NO.9974/2014	Kamal Singh V/s State of HP	
67	CWP NO.9542/2014	Pawan Kumar V/s State of HP	
68	CWP NO.9977/2014	Bir Singh V/s State of HP	
69	CWP NO.9713/2014	Prakash Chand V/s State of HP	
70	CWP NO.9535/2014	Ram Sawroop V/s State of HP	
71	CWP NO.9976/2014	Naval Kishor V/s State of HP	
72	CWP NO.9667/2014	Roop Lal V/s State of HP	
73	CWP NO.9659/2014	Prem Lal V/s V/s State of HP	
74	CWP NO.9661/2014	Karnail Singh V/s State of HP	
75	CWP NO.9703/2014	Mahashu Ram V/s State of HP	
76	CWP NO.9705/2014	Sanjeev Kumar V/s State of HP	
77	CWP NO.9534/2014	Jagat Ram V/s State of HP	
78	CWP NO.9531/2014	Bhajan Lal V/s State of HP	
79	CWP NO.9668/2014	Ashok Kumar V/s State of HP	
80	CWP No.9650/2014	Ravinder Kumar V/S State of HP	
81	CWP No.9612/2014	Iqbal Singh V/S State of HP	
82	CWP No. 9704/2014	Jiwana Devi V/s State of HP	
83	CWP No.35 to 44 /2014	Chet Ram V/s State of HP	
84	CWP No. 2851/2014	Jai Singh V/s State of HP	
85	CWP No. 212to 219,223&280/2015	Karam Singh V/s State of HP	
86	CWP No. 130,131,184 to 209,225 to 228,281 to 285/2015	Pinga Devi & ors. V/s State of HP	
87	CWP No. 211to 223/2015	Urmila Devi & ors. V/s State of HP	
88	CWP No.773,776,777,808,809,811, 812,814/2015 /2014	Sh. Surat Singh V/s State of HP	