

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**CMP No. 757 of 2026 in
LPA No.317 of 2026**

Decided on: 21.05.2026

Salochna Devi

....Appellant.

Versus

H.P.S.E.B.L.

...Respondent.

Coram

***The Hon'ble Mr. Justice Gurmeet Singh Sandhawalia,
Chief Justice.***

The Hon'ble Mr. Justice Bipin C. Negi, Judge.

Whether approved for reporting?¹

For the appellant : Mr. Vishal Singh Thakur,
Advocate.

For the respondent : Ms. Sunita Sharma, Senior
Advocate, with Ms. Ranjana
Sharma, Advocate.

G.S. Sandhawalia, Chief Justice (Oral)

CMP(M) No. 757 of 2026

Keeping in view the averments made in the application, duly supported by the affidavit of the official,

¹ *Whether reporters of the local papers may be allowed to see the judgment?*

delay of 169 days in filing the appeal is condoned. The application stands disposed of.

LPA No. 317 of 2026

The present appeal has been filed by the unsuccessful writ petitioner seeking consideration of the order passed by the learned Single Judge in CWPOA No. 3788 of 2019, titled as Salochna Devi Vs. Himachal Pradesh State Electricity Board, dated 17.11.2025.

2. The learned Single Judge dismissed the writ petition by upholding the order dated 20.05.2010, (Annexure P-1,) whereby the claim of the petitioner for grant of seniority as Clerk from the date of her initial ad hoc promotion i.e. 28.06.1991 till 17.11.1995, when regular promotion to the said post was granted, came to be rejected.

3. The reasons which weighed with the learned Single Judge were that the promotion was not made in accordance with the Recruitment and Promotion Rules, which was in excess of the prescribed quota and was only a stop-gap arrangement. Therefore, the benefit of such ad

hoc service could not be granted for the purpose of seniority. Therefore, the claim for regularization, arrears, and promotion, as raised in the writ petition initially filed before the erstwhile H.P. State Administrative Tribunal and upon its abolition, transferred back to the High Court for decision, came to be rejected.

4. Learned Single Judge has relied upon various judgments of the Hon'ble Apex Court on the issue i.e. in ***Direct Recruit Class II Engineering Officers' Association Vs. State of Maharashtra and others, (1990) 2 SCC 715***, and ***Keshav Chandra Joshi and Others Vs. Union of India and others, 1992 Supp. (1) SCC 272***, and has quoted the relevant portions thereof, which we do not wish to repeat again.

5. Similarly, reliance has also been placed upon the judgment of the Hon'ble Apex Court in ***State of West Bengal and others Vs. Aghore Nath Dev and others (1993) 3 SCC 371*** and ***Vinod Giri Goswami and others Vs. State of Uttarakhand and others (2020) 13 SCC 161***, for the said relief to be denied.

6. Learned Single Judge, while keeping in view the aforesaid settled principles of law in mind, came to the conclusion that the claim for grant of seniority as Clerk with effect from 28.06.1991 was not sustainable, as the petitioner had already been granted regular promotion on 17.11.1995 and no retrospective promotion could be granted. However, it has been noticed that the persons who were appointed as Clerks by way of direct recruitment and promotion between 28.06.1991 and 17.11.1995 had not been arrayed as party respondents. The grant of the relief claimed would certainly unsettle the seniority and would amount to passing an adverse order behind their back, which was impermissible in law. Moreover, the initial promotion being in excess of quota which was *dehors* the Rules and could not be counted for the said purpose.

7. It was factually recorded that 143 Class-IV posts were in excess upto 14.08.1990 and beyond the prescribed 15% quota meant for the category of the petitioner i.e. Class-IV (Non-Technical Staff) in the

promotional cadre. The same was not in accordance with law and, therefore, such promotion, being purely a stop-gap arrangement made in exigencies of service, did not confer any legal right to claim the benefit of the said service for the purpose of seniority and that no indulgence was shown to the petitioner.

8. We have also gone through the order dated 22.03.2010(Annexure P-2), whereby the claim was rejected by the authorities, the same having been passed in pursuance to the earlier directions issued in CWP No. 4653 of 2008, decided on 28.03.2010. It is pertinent to note that the writ petition was disposed of and the Board had been directed to consider the case of the petitioner, keeping in view the plea raised that the Board had issued an order prescribing the manner in which the services rendered by the incumbents on ad hoc basis were to be counted for the purpose of seniority from time to time.

9. During the course of arguments, learned counsel for the petitioner conceded that there was nothing on record to show the existence of any such

instructions. This fact was also noticed by the Secretary, HPSEB, Shimla, while rejecting the claim, vide order dated 20.05.2010 (Annexure P-1), as despite having been afforded an opportunity to produce a copy of the instructions dated 29.06.2002, the petitioner failed to do so.

10. It is a settled principle of law that no mandamus can be issued in the absence of statutory rules/policy. Therefore, no indulgence can be granted *dehors* any such instructions in the manner, the petitioner was seeking the claim having no vested legal right to claim that the said period be counted for the purpose of seniority. The authority has specifically reproduced the order dated 28.06.1991, wherein she was promoted on ad hoc basis, whereby Clause-2 specifies that the offer of appointment was purely on ad hoc basis and that the seniority for the category of Class-III employees and their initial appointment which is being considered in excess of quota, will have no bearing

whatsoever on this account. The relevant portion thereof reads as under:-

"Since the offer as Clerk/Meter Reader is purely on ad-hoc basis, his/her services will be regularized strictly according to the provisions in the R&P Regulations of Class-III Ministerial services of the Board and after making direct recruitment through the Employment Exchanges. That this adhoc appointment shall not confer any right on him/her to continue with the post or to claim seniority on any account. His/her seniority will also be fixed in accordance with the quota fixed for Class-IV employees and their initial appointment which is being considered in excess of quota will have no bearing what so ever on this account"

11. Keeping in view the above, we are of the considered opinion that the petitioner was well aware of the ad hoc exigencies, on the basis of which she had been granted the benefit of promotion. The order dated 20.05.2010 (Annexure P-1) would go on to show that due to the ban imposed by the State of Himachal Pradesh on the direct recruitment, there was acute shortage of Clerks in the HPSEB-Board.

12. In these circumstances, the reasoning given by the learned Single Judge does not suffer from any infirmity in denying the claim and there are no plausible reasons for us to take a different view in light of the settled principles governing the matter.

13. Accordingly, the appeal is dismissed.
14. Pending miscellaneous application, if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

21st May, 2026
(sushma)