IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 2984 of 2010 along with
CWP No. 8631 of 2010-J,
CWP No. 2983 of 2010-D,
CWP No. 2990 of 2010-D,
CWP No. 3014 of 2010 and
CWP No. 5250 of 2010-F.

Date of Decision : December 28, 2011

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1. CWP No. 2984 of 2010

Shri Karam Singh Verma son of Shri Prabh Dayal, Resident of Village Uru, P.O. Singla Tehsil Rampur Bushehr, District Shimla, presently posted as Horticulture Development Officer in Progeny–cum-Demonstration Orchard Dut Nagar, Tehsil Rampur, District Shimla, H.P.

Petitioner

Versus

1. State of Himachal Pradesh through Principal Secretary (Horticulture) to the Government of Himachal Pradesh, Shimla-2.
2. Director of Horticulture, Himachal Pradesh, Shimla-2.
3. Shri Arvind Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
4. Dr. Neera Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
5. Shri Kamal Sheel Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
6. Shri Subodh Chander, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
7. Smt. Mala Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
8. Shri Rajesh Kumar Chaudhary, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
9. Shri Naresh Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
10. Shri Prem Singh Verma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
11. Dr. Sanjay Chaddha, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
12. Shri Deepak Kumar Gupta, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
13. Shri Baru Mal Chaudhary, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
14. Shri Sanjay Gupta, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.

High Court of H.P.

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15. Smt. Prabal Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
16. Dr. Nardev Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
17. Shri Rajeshwar Parmar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
18. Shri Devinder Singh Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
19. Shri Satya Parkash Kanojia, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
20. Shri Santosh Kumar Bakshi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
21. Shri Parmod Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
22. Shri Kamlesh Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
23. Smt. Shivali Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
24. Smt. Minakshi Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
25. Shri Bhupender Sigh Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
26. Smt. Sudershana Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
27. Shri Jagat Singh Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
28. Shri Vinay Kumar Bhardwaj, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.

Respondents

Civil Writ Petition under Article 226 of Constitution of India for issuance of an appropriate writ in the nature of writ of certiorari or any other appropriate writ, order or direction to the respondents

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2. <u>CWP No. 8631 of 2010-J</u>

Tek Chand Thakur son of Sh. Dagu Ram, working as Horticulture Development Officer, Development Block Balh, Distt. Mandi, H.P.

Petitioner.

Versus

1. State of Himachal Pradesh through Secretary Horticulture, to the Govt. of H.P. Shimla.
2. Himachal Pradesh Public Service Commission, through its Secretary, Nigam Vihar, Shimla-171002.

HighCourt of H.P.

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3. Sh. Kushmayudh Kumar MCC C/O Director, Department of Horticulture, H.P. Shimla-2.
4. Sh. Balam Ram Prashar STA, (FT) C/O Director, Department of Horticulture, H.P. Shimla-2.
5. Sh. Mahender Pal Gupta MCC C/O Director, Department of Horticulture, H.P. Shimla-2.
6. Sh. Amar Pal Singh Kochhar QCI C/O Director, Department of Horticulture, H.P. Shimla-2.
7. Sh. Chander Mohan Bali FPA C/O Director, Department of Horticulture, H.P. Shimla-2.
8. Shri Arvind Sharma, HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
9. Dr. Neena Thakur, HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
10. Shri Kamal Shel Negi, HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
11. Shri Subodh Chander HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
12. Smt. Mala Sharma HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
13. Shri Rajesh Kumar Chaudhary HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
14. Shri Naresh Kumar HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
15. Shri Prem Singh HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
16. Dr. Sanjay Chadha HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
17. Shri Deepak Kumar Gupta HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
18. Shri Baru Mal Chauhan HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
19. Shri Sanjay Gupta HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
20. Smt. Prabal Thakur HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
21. Sh. Nardev Thakur HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
22. Shri Rajeshwar Parmar HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
23. Shri Devinder Singh HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
24. Sh. Satya Prakash Kanojia HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
25. Sh. Santosh Kumar Bakshi HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
26. Sh. Parmod Kumar HDO C/O Director, Department of Horticulture, H.P. Shimla-2.

HighCourt of H.P.

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27. Sh. Kamlesh Kumar HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
28. Smt. Shivali Thakur HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
29. Smt. Meenakshi Sharma HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
30. Sh. Bhupender Sigh Negi HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
31. Smt. Sudershana Negi HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
32. Sh. Jagat Singh Negi HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
33. Sh. Vinay Kumar Bhardwaj HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
34. Surat Singh Negi HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
35. Sh. Om Dutt Verma HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
36. Sh. Kamla Nand HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
37. Sh. Karam Chand HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
38. Sh. Jagdish Chand HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
39. Sh. Pardeep Kumar HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
40. Sh. Karnail Singh Guleria HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
41. Sh. Baldev Chand HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
42. Sh. Surat Ram Negi HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
43. Sh. Piar Chand HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
44. Sh. Umesh Chand HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
45. Sh. Garib Dass HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
46. Sh. Ujagar Singh HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
47. Sh. Pritam Singh HDO C/O Director, Department of Horticulture, H.P. Shimla-2.
48. Sh. Pritam Singh HDO C/O Director, Department of Horticulture, H.P. Shimla-2.

Respondents

High Court of H.P.

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Civil Writ Petition under Article 226 of Constitution of India for appropriate writ, order or directions.

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3. <u>CWP No. 2983 of 2010-D</u>

Shri Surat Ram Negi son of Shri Krishan, resident of Village Karaba, Post office Katgaon, Tehsil Nichar, District Kinnaur, H.P. presently posted as Horticulture Development Officer in the office of Deputy Director of Horticulture, District Kinnaur at Reckongpeo.

Petitioner

Versus

1. State of Himachal Pradesh through Principal Secretary (Horticulture) to the Government of Himachal Pradesh, Shimla-2.
2. Director of Horticulture, Himachal Pradesh, Shimla-2.
3. Shri Arvind Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
4. Dr. Neera Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
5. Shri Kamal Sheel Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
6. Shri Subodh Chander, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
7. Smt. Mala Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
8. Shri Rajesh Kumar Chaudhary, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
9. Shri Naresh Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
10. Shri Prem Singh Verma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
11. Dr. Sanjay Chaddha, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
12. Shri Deepak Kumar Gupta, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
13. Shri Baru Mal Chaudhary, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
14. Shri Sanjay Gupta, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
15. Smt. Prabal Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
16. Dr. Nardev Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
17. Shri Rajeshwar Parmar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
18. Shri Devinder Singh Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.

High Court of H.P.

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19. Shri Satya Parkash Kanojia, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
20. Shri Santosh Kumar Bakshi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
21. Shri Parmod Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
22. Shri Kamlesh Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
23. Smt. Shivali Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
24. Smt. Minakshi Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
25. Shri Bhupender Sigh Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
26. Smt. Sudershana Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
27. Shri Jagat Singh Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
28. Shri Vinay Kumar Bhardwaj, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.

Respondents

Civil Writ Petition under Article 226 of the Constitution of India for issuance of an appropriate writ in the nature of writ of certiorari or any other appropriate writ, order or direction to the respondents.

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4. CWP No. 2990 of 2010-D

Shri Ramesh Kumar son of Shri Paras Ram, resident of village Tarot, P.O. Kanaid, Tehsil Sundernagar, Distt. Mandi, H.P. presently posted as Horticulture Development Officer c/o Assistant Project Officer, Bagaura, District Kullu, H.P.

Petitioner

Versus

1. State of Himachal Pradesh through Principal Secretary (Horticulture) to the Government of Himachal Pradesh, Shimla-2.
2. Director of Horticulture, Himachal Pradesh, Shimla-2.
3. Shri Arvind Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
4. Dr. Neera Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
5. Shri Kamal Sheel Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
6. Shri Subodh Chander, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.

High Court of H.P.

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7. Smt. Mala Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
8. Shri Rajesh Kumar Chaudhary, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
9. Shri Naresh Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
10. Shri Prem Singh Verma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
11. Dr. Sanjay Chaddha, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
12. Shri Deepak Kumar Gupta, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
13. Shri Baru Mal Chaudhary, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
14. Shri Sanjay Gupta, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
15. Smt. Prabal Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
16. Dr. Nardev Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
17. Shri Rajeshwar Parmar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
18. Shri Devinder Singh Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
19. Shri Satya Parkash Kanojia, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
20. Shri Santosh Kumar Bakshi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
21. Shri Parmod Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
22. Shri Kamlesh Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
23. Smt. Shivali Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
24. Smt. Minakshi Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
25. Shri Bhupender Sigh Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
26. Smt. Sudershana Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
27. Shri Jagat Singh Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
28. Shri Vinay Kumar Bhardwaj, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.

Respondents

Civil Writ Petition under Article 226 of the Constitution of India for issuance of an appropriate writ in the nature of writ of

HighCourt.H.P.

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certiorari or any other appropriate writ, order or direction to the respondents.

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5. CWP No. 3014 of 2010

1. Madan Thakur son of Shri Dila Ram Thakur, resident of Gullo, post office Jais, Tehsil Theog, District Shimla, Himachal Pradesh presently posted as Horticulture Development Officer in the office of Bee Keeping Development Officer, Kangra, Himachal Pradesh.
2. Deep Ram Thakur son of Late Shri Narotam Dass Thakur, resident of Village Madolghat, post office Joni, Tehsil Sunni, District Shimla, Himachal Pradesh presently posted as Horticulture Development Officer Development Block Ani, District Kullu, Himachal Pradesh.
3. Ujagar Singh son of late Shri Basti Ram, resident of village Thaula, PO Bhalona, development block Sangrah Tehsil Renuka Ji, District Sirmaur, Himachal Pradesh presently posted as Horticulture Development Officer, Development Block Sangrah, Tehsil Renukaji District Sirmaur, Himachal Pradesh.
4. Gian Singh Verma son of Late Shri Narain Singh Verma resident of Village Bhaggi, Jubbar post office Baldeyan, Tehsil & District Shimla, Himachal Pradesh presently posted as Horticulture Development Officer in the office of Bee Keeping Development Officer Shimla.

Petitioners

Versus

1. State of Himachal Pradesh through Principal Secretary (Horticulture) to the Government of Himachal Pradesh, Shimla-2.
2. Director of Horticulture, Himachal Pradesh, Shimla-2.
3. Shri Arvind Sharma, Horticulture Development Officer office of Director Horticulture, Himachal Pradesh, Shimla-2.
4. Dr. Neera Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
5. Shri Kamal Sheel Negi Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
6. Shri Subodh Chander Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
7. Smt. Mala Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
8. Shri Rajesh Kumar Chaudhary, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
9. Shri Naresh Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
10. Shri Prem Singh Verma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
11. Dr. Sanjay Chaddha, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.

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12. Shri Deepak Kumar Gupta, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
13. Shri Baru Mal Chaudhary, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
14. Shri Sanjay Gupta, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
15. Smt. Prabal Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
16. Dr. Nardev Thakur Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
17. Shri Rajeshwar Parmar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
18. Shri Devinder Singh Thakur Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
19. Shri Satya Parkash Kanojia, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
20. Shri Santosh Kumar Bakshi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
21. Shri Parmod Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
22. Shri Kamlesh Kumar, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
23. Smt. Shivali Thakur, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
24. Smt. Minakshi Sharma, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
25. Shri Bhupender Sigh Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
26. Smt. Sudershana Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
27. Shri Jagat Singh Negi, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.
28. Shri Vinay Kumar Bhardwaj, Horticulture Development Officer c/o Director Horticulture, Himachal Pradesh, Shimla-2.

Respondents

Civil Writ Petition under Article 226 of the Constitution of India for issuance of appropriate writ, order or directions in the nature of writ of certiorari or any other appropriate writ, order or directions to the respondents.

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6. <u>CWP No. 5250 of 2010-F</u>

1. Garib Dass Bhatia s/o Sh. Sukh Ram r/o village Gadyara (Bhuwani) P.O. Darpa, Tehsil Sarkaghat, District Mandi, H.P. Presently posted as Horticulture Development Officer in o/o Deputy Director, Horticulture, Mandi, H.P.

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2. Pardeep Kumar s/o Sh. Ram Narayan Sharma r/o village Masyani, P.O. Dhalwan, Tehsil Sarkaghat, District Mandi, H.P. Presently posted as Horticulture Development Officer, Block Padhar, District Mandi, H.P.
3. Baldev Chand s/o Sh. Late Sh. Durga Singh VPO Brang, Tehsil Sarkaghat, District Mandi, H.P. Presently posted as Horticulture Development Officer, Block Dharampur, District Mandi, H.P.
4. Guler Chand s/o late Sh. Ayodya Dass r/o VPO Marera (Gander) Tehsil Jaisinghpur, District Kangra, H.P. Presently posted as Horticulture Development Officer, Block Lambagaon, District Kangra, H.P.
5. Pritam Singh Thakur s/o late Sh. Sohan Singh r/o Village Greyoh, P.O. Karg-ka-Gehra, Tehsil Sarkaghat, District Mandi, H.P. Presently posted as Horticulture Development Officer, Block Sadar, District Hamirpur, H.P.
6. Tek Chand Thakur s/o Late Sh. Dagu Ram Thakur r/o Village Morla P.O. Brang, Tehsil Sarkaghat, District Mandi, H.P. Presently posted as Horticulture Development Officer at Plant Protection Centre (PPC), Bagsaid (Gohar), District Mandi, H.P.

Petitioners

Versus

1. State of Himachal Pradesh through Secretary (Horticulture) to the Government of HP Shimla-2.
2. Sh. Arvind Sharma, posted as Horticulture Development Officer (HDO), Block Baijnath, District Kangra, H.P.
3. Dr. Neena Thakur, HDO, presently working at Directorate of Horticulture, Navbhar, Shimla, H.P.
4. Sh. Kamal Sheel Negi, HDO, in the office of Additional Director, Horticulture, Kangra, H.P.
5. Sh. Subodh Chander, HDO, presently working at Directorate of Horticulture, Navbhar, Shimla, H.P.
6. Smt. Mala Sharma, HDO, presently posted at Azadpur Mandi, New Delhi.
7. Sh. Rajesh Kumar Chaudhary, HDO, presently in the office of Deputy Director, Horticulture, Dharamshala, H.P.
8. Sh. Naresh Kumar, HDO, presently Incharge, Progeny cum Demonstration Orchard, Pangna, Tehsil Karsog, District Mandi, H.P.
9. Sh. Prem Singh Verma, HDO, Development Block, Chopal, District Shimla, H.P.
10. Sh. Sanjay Chaddha, HDO, presently Incharge, Progeny cum Demonstration Orchard, Patta Malog, Tehsil Kasauli, District Solan, H.P.
11. Sh. Deepak Kumar, HDO, presently working at Directorate of Horticulture, Navbhar Shimla, H.P.
12. Sh. Baru Mal, HDO, Development Block, Poanta Sahib, District Sirmaur, H.P.

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13. Sh. Sanjay Gupta, HDO, presently in office of Deputy Director Horticulture, Dharamshala, H.P.
14. Smt. Prabal Thakur, HDO, presently pursuing PhD. from Horticulture and Forestry University, Nauni, Solan, H.P.
15. Dr. Nardev Thakur, HDO, Development block, Gopalpur at Sarkaghat, District Mandi, H.P.
16. Sh. Rajeshwar Parmar, HDO, presently in the office of Deputy Director Horticulture, Shimla, H.P.
17. Sh. Devinder Singh, HDO, presently in office of Deputy Director Horticulture, Shimla, H.P.
18. Sh. Satya Parkash, HDO, presently working at Directorate of Horticulture, Navbhar Shimla, H.P.
19. Sh. Santosh Kumar Bakshi, HDO, presently in office of Deputy Director Horticulture, Nahan (Sirmaur), H.P.
20. Sh. Parmod Kumar, HDO, presently in office of Deputy Director Horticulture, Chamba, H.P.
21. Sh. Kamlesh Kumar, HDO, presently Incharge, Progeny cum Demonstration Orchard, Saloh, District Una, H.P.
22. Smt. Shivali Thakur, HDO, presently working at Directorate of Horticulture, Navbhar Shimla, H.P.
23. Smt. Minakshi Sharma, HDO, presently working at Indo Italian Fruit Development Project, Bajaura, District Kullu, H.P.
24. Sh. Bhupender Singh Negi, HDO, presently working at Directorate of Horticulture, Navbhar Shimla, H.P.
25. Smt. Sudershana Negi, HDO, presently working at Directorate of Horticulture, Navbhar Shimla, H.P.
26. Sh. Jagat Singh Negi, HDO, Development Block, Kalpa, District Kinnaur, H.P.
27. Sh. Vinay Kumar Bhardwaj, HDO, Development Block, Sadar, District Kullu, H.P.

Respondents

Civil Writ Petition under Article 226 of the Constitution of India for issuance of writ of mandamus, certiorari or any other order or direction.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] *No.*

For the petitioner(s) : Mr. Ramakant Sharma, Advocate, for the petitioner(s) in CWP No. 2984 of 2010, CWP No. 2983 of 2010, CWP No. 2990 of 2010 and CWP No. 3014 of 2010.

Whether reports of Local Papers may be allowed to see the judgment?

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Mr. K. B. Khajuria, Advocate, for the petitioner in CWP No. 8631 of 2010.

Mr. Vinod Thakur, Advocate, for the petitioners in CWP No. 5250 of 2010.

For the respondent(s) : Mr. Ram Murti Bisht, Dy. Advocate General with Mr. Vinod Thakur, Dy. A.G. for the respondents/State (in all the petitions).

Mr. D. K. Khanna, Advocate, for respondent No. 2 in CWP No. 8631 of 2010.

Mr. Ramakant Sharma, Advocate, for respondent No. 42 in CWP No. 8631 of 2010.

Justice Sanjay Karol, J. (Oral)

The facts in these petitions are similar and question of law same. Except for difference in the names of the petitioners, their dates of appointment on adhoc basis and annexures filed by them everything else is same. Hence facts of CWP No. 2984 of 2010, titled as Shri Karam Singh Verma versus State of H.P. and others are being referred to.

2. Private respondents No. 3 to 28 are same in all these petitions. In CWP No. 8631 of 2010 they were served twice both prior and subsequent to admission of the petition. On 7.12.2011 this Court had also directed the Director (Horticulture) to inform all the private respondents, in writing about pendency of the present petitions and their listing for today. In spite of the same none of the

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private respondents have chosen to come forward and contest the petitioners' claim.

3. Petitioners have essentially prayed for the following reliefs:-

> "It is therefore respectfully prayed that this writ petition may kindly be allowed with costs throughout and a writ of certiorari be issued against the respondents by quashing the impugned seniority list Annexure –P6 so far it relates to the petitioner thereby directing the respondents to assign appropriate seniority to the petitioner at appropriate place with effect from October, 1998 till date, after summoning the record and perusing the same. The cost of the writ petition may also be awarded in favour of the petitioner, such other or further order as may be deemed just and proper in the facts and circumstances of the case may also be passed to which the petitioner is found entitled to in the facts and circumstances of the case, in the interest of justice."

4. Annexure P-6 is the memorandum dated 2.3.2010 circulating final seniority list of officers of the H.P. Horticulture Services Class-I (Gazetted) as on 30.1.2010. It reads as under:-

> "Memorandum
>
> Subject: Final Seniority List of the officers of H.P. Horticulture Services, Class-I (Gazetted) as on 30.01.2010.
>
> The tentative seniority list of the officers of Horticulture Department under common cadre viz. H.P. Horticulture services (Class-I) indicating position as stood on 16.9.2009 was circulated vide this Department Memorandum of even number dated 28.10.2009 for inviting suggestion /objections, if any, from the person likely to be affected thereby within a period of fortnight.

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Thirty seven suggestions/objections from the officers of the Horticulture Department received in this Department within the prescribed period were examined in detail. Now, therefore, the final seniority list of the above officers indicating the position as it stood on 30.1.2010 has been prepared which is circulated herewith for information of the concerned officers of the Department of Horticulture. No representation except clerical omission/mistake, which may be intimated to the undersigned within the fortnight from the date of circulation of this seniority, will be entertained.

The seniority list shall be subject to the final outcome of the C.W.P. No. 2547/2009 titled Sh. Kushmayudh Kumar & ors. Vs. State of H.P. in the Hon'ble High Court of H.P.

By order

Ram Subhag Singh
Secretary (Hort.) to the
Government of Himachal Pradesh"

Foot note 5 of the list so circulated reads as under:-

"The adhoc period of the H.D.Os shown at seniority No. 146 to 205 shall be counted for the purpose of further placement/promotion to the next higher stage".

5. It is the petitioners' grievance that while preparing the final seniority list, period of adhoc services rendered by them has not been accounted for the purposes of their placement in the seniority list.

6. State in its reply has clarified that period of adhoc service rendered by the petitioners has been considered for according all benefits and would also be counted for further promotion in hierarchy, keeping in view the R & P rules in vogue. It appears that there is not much contest by the Government. It is also not disputed

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that petitioners are otherwise eligible for being considered for placement/promotion. It cannot be disputed that petitioners' selection at the first instance was also in accordance with the Rules. Not only that, their subsequent promotion, even on adhoc basis, was in accordance with the Rules. It appears that only after cases of each of the petitioners were individually scrutinized and they were otherwise found to have fulfilled the eligibility criteria/essential qualification they were promoted.

7. Significantly Government of H.P. themselves have issued instructions dated 30.6.2001 (Annexure P-12). Relevant extract thereof reads as under:-

> "(i) Where an incumbent is eligible to be promoted in accordance with relevant Recruitment and Promotion Rules but initial promotion on adhoc/temporary basis is made against existing vacancy by not following the procedure laid down in relevant rules for adjudging suitability of promotee for the post and the promotee continued in the post uninterruptedly till regularization of his promotion in accordance with the rules, in that event his subsequent, regularization after adjudging suitability shall relate back to the date of his initial promotion and entire adhoc/temporary service shall be counted towards seniority."

8. It appears that while preparing seniority list (Annexure P-6), these instructions (Annexure P-12) escaped the attention of the authorities, even though note No. 5 appended to the seniority list itself clarified that "The adhoc period of the H.D.Os shown at

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seniority No. 146 to 205 shall be counted for the purpose of further placement/promotion to the next higher stage". It is not in dispute that present petitioners are the ones whose names are reflected at Sr. No. 146 to 205.

9. As such, present petitions need to be allowed. The seniority list circulated in terms of Annexure P-6 dated 2.3.2010 is quashed. Respondents are directed to prepare a fresh seniority list by taking into account the adhoc services rendered by the petitioners and instructions dated 30.6.2001 issued by the State. Needful shall positively be done within a period of three months from the date of receipt of certified copy of the judgment.

Petitions stand disposed of, so also the pending application(s), if any.

(Justice Sanjay Karol),
Judge.

December 28 , 2011
(PK)

High Court of H.P.

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