

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****CWPOA No.1704 of 2020**  
**Decided on: 6<sup>th</sup> May, 2026**

Rama Nand

.....Petitioner

versus

State of H.P and another

...Respondents

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*Coram****Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.******Whether approved for reporting?<sup>1</sup>*****For the petitioner: Mr.Bimal Gupta, Senior  
Advocate with Ms.Kusum  
Chaudhary, Advocate.****For the respondents: Mr.Amandeep Sharma,  
Additional Advocate General.**

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**Jiya Lal Bhardwaj, Judge (Oral)**

The petitioner, by way of present petition, has approached this Court against the rejection of his claim vide order dated 11.01.2017, whereby services rendered by him from the year 1987 to 1996 have not been counted prior to his joining as Clerk on the recommendations of the Himachal Pradesh Public Service Commission.

2. The facts as emerge from the pleadings are that the petitioner was initially appointed as Computer with the respondents-State on 18.09.1987. However, he was asked to discharge the duties of Clerk as per office orders placed on record vide Annexures A-2 to A-4. The petitioner has placed

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<sup>1</sup> *Whether the reporters of Local Papers may be allowed to see the judgment?*



on record the certificate dated 05.06.1996(Annexure A-5) issued by the Block Medical Officer, Syri, District Solan, H.P., wherein it has been mentioned in unequivocal terms that the petitioner had been performing multifarious duties such as Diary/Dispatch, Establishment matters, periodical returned, cash and accounts specially of Family Planning accounts since the date of his posting. In this certificate, even the joining of the petitioner has been mentioned as 18.09.1987.

3. The petitioner vide memorandum dated 5<sup>th</sup>June, 1996 (Annexure A-6) issued by the Assistant Director of Health Services, Himachal Pradesh was appointed as Clerk. Since the period of previous service rendered by him was not being considered by the respondents from 18.09.1987 to 17.06.1996, since he had joined on 18.06.1996 in pursuance to memorandum dated 05.06.1996, he made a representation to respondent No.2 counting the aforesaid period of service for the purpose of seniority and subsequent benefits. However, when no decision was taken by the respondents, he filed the Original Application before the HP Administrative Tribunal, bearing No.1721 of 2001 which was disposed of on 12.04.2002 with direction to the respondents to decide the matter, in view of decision rendered in O.A. No.2434 of 1999



filed by one Padam Chauhan. However, when no relief was granted to the petitioner, he had again filed the Original Application, which came to be transferred to this Court and registered as CWP(T) No.10326 of 2008, titled, **Rama Nand vs. State of H.P and another** and the learned Single Judge of this Court had allowed the petition in terms of the decision given in Prem Prakash Sharma's case.

4. The respondents-State feeling aggrieved by the said decision passed in the petition preferred an appeal, which came to be registered as LPA No.86 of 2011, **titled, State of H.P and another vs. Rama Nand** and the same was disposed of on 28.10.2014 holding that the writ Court has not decided whether the case is covered by the judgment in Prem Prakash Sharma (supra) and thus, directed the respondents to examine the case of the petitioner in the light of judgment passed in CWP(T) No.2498 of 2008, titled, Prem Prakash Sharma vs. State of H.P and others. After the decision in the appeal, the Additional Chief Secretary (Health) to the Government of Himachal Pradesh had conveyed the approval to respondent No.2 to grant the benefits to the petitioner on the analogy of the judgment passed by this Court on 10.04.2019 in **Prem Prakash Sharma's case (supra)**.



5. However, respondent No.2 instead of implementing the said directions, wrote back to the Additional Chief Secretary (Health) to the Government of Himachal Pradesh vide communication dated 20.11.2015 (Annexure A-18) stating that the some co-related cases like that of the petitioner had already been rejected by the detailed speaking order. Hence, it is requested that there is no need to review/re-take the matter of the petitioner again at Government level. However, the Additional Chief Secretary (Health) to the Government of Himachal Pradesh in response to the said communication had written to respondent No.2 on 08.03.2016 (Annexure A-19) stating that necessary decision in the matter had already been conveyed to him vide communication dated 08.10.2015 (Annexure A-17) and, therefore, he was requested to do the needful in the matter accordingly.

6. After receipt of the communication dated 08.03.2016, respondent No.2 instead of granting the benefits to the petitioner of the judgment passed in ***Prem Prakash Sharma's case (supra)*** rejected the claim vide office order dated 11.01.2017 (Annexure A-1), holding that the case of the petitioner is quite different as he had never discharged the



duties of Clerk since his appointment as Computer in the year 1987 till the recommendations of the H.P. Public Service Commission when he was subsequently appointment as Clerk. Further, he had not objected to his appointment as Computer in the year 1987 nor filed any representation and his case is not akin to the case of *Prem Prakash Sharma's* case. Further, no other person working in the category of Computer in the Department either senior or junior to the petitioner has ever been granted the benefit of clerical cadre till date, except Sh.Prem Prakash Sharma, who also has been granted the said benefits in view of the judgment passed by the High Court in CWP(T) No.2498 of 2008.

7. The petitioner feeling aggrieved by the said rejection of his claim of not counting the services rendered by him from the year 1987 to 1996, has approached this Court on the grounds that once the competent authority had taken a decision to grant the benefits to the petitioner on the analogy of ***Prem Prakash Sharma (supra)***, the impugned order passed by respondent No.2 is bad in law. The action on the part of the respondents is arbitrary, *malafide*, illegal, ultra vires and against the Articles 14 and 16 of the Constitution of India. Further, the respondents are estopped due to their



own act, deed and conduct as well as on the principle of promissory estoppel.

8. The respondents filed reply to the petition and supported the stand in the order under challenge. The entire emphasis is based on the fact that the petitioner was initially appointed on the post of Computer and while working in the capacity of Computer, the petitioner had applied for appearing again for the Clerk cadre and on the recommendations of the HP Public Service Commission in the year 1995 and accordingly got selected as Clerk in a fresh manner and the petitioner was factually not discharging the duties of Clerk while working as Computer for the period from 1987 to 1996 and had he been doing so, he would have not got himself selected as Clerk by appearing in the examination.

9. The petitioner filed rejoinder to the reply and controverted the facts as stated in the reply.

10. I have heard Mr. Bimal Gupta, Senior Advocate duly assisted by Ms. Kusum Chaudhary, Advocate and Mr. Amandeep Sharma, learned Additional Advocate General. The record has also been perused carefully.

11. It is not in dispute that as per judgment in ***Prem Prakash Sharma's case (supra)***, his appointment was



treated as Clerk from the initial date of his appointment in the same Department where he was also appointed as Computer like the petitioner and the said judgment has been implemented. It is also not in dispute that respondent No.1 had given the approval to extend the benefits of the said judgment, as is evident from the perusal of communication dated 8.10.2015 (Annexure A-17). Despite the said decision having been taken by the State Government and granting approval, respondent No.2 had again written to Additional Chief Secretary (Health) to the Govt. of H.P.to have a re-look in the matter. The said authority had again directed respondent No.2 to take the decision as per earlier decision conveyed to him, as is evident from the perusal of communication dated 08.03.2016 (Annexure A-19).

12. Once the State Government had taken the decision, in principle, to extend the similar benefits to the petitioner on the analogy of the decision passed in **Prem Prakash Sharma's case (supra)**, respondent No.2 could not have rejected the claim of the petitioner by taking different stand. In the order passed by respondent No.2, he had taken note of the fact that **Prem Prakash Sharma (supra)** has been granted the benefit, but it was in view of the decision passed



by this Court in his case. Once respondent No.2 had also admitted the fact that the case of the petitioner is also similar to that of *Prem Prakash Sharma's* case, he could not have taken a different view, more particularly, when the State Government had already conveyed the decision to confer the similar benefits to the petitioner on the analogy of the judgment passed in ***Prem Prakash Sharma's*** case supra. If the said decision is allowed to stand, it will lead to indiscipline and the very purpose of having the hierarchy would be in jeopardy. Respondent No.2 had to act on the advice of the competent authority who had given the approval to extend the benefits of the judgment to the petitioner. He had no authority to take a different view and assign his own reasons. This act on the part of respondent No.2 amounts to indiscipline and has unnecessarily dragged the petitioner to again approach the Court. Though, this Court was inclined to impose costs, but on the persuasive attempt made by the learned Additional Advocate General, the Court has refrained itself from imposing costs.

13. From the record it is evident that though the petitioner was appointed as Computer, but he has discharged the duties of Clerk and thus the case of the petitioner was



akin to the decision passed by this Court in **Prem Prakash Sharma's case (supra)**. The respondents while filing reply had not disputed the issuance of certificate dated 05.06.1996 (Annexure A-5) issued by the Block Medical Officer, Syri, District Solan, H.P. where the petitioner has been discharging the duties of Clerk, though posted as Computer.

14. Consequently, the present petition is allowed and the impugned order dated 11.01.2017 (Annexure A-1) passed by respondent No.2 is quashed and set aside with a direction to the respondents to grant the similar benefits to the petitioner as approved by the State Government on the analogy of judgment passed in **CWP(T) No.2498 of 2008, titled, Prem Prakash Sharma vs. State of H.P. and another**. Needless to say that since petitioner is litigating in the Court and this is 5<sup>th</sup> round of litigation, the entire benefits will be given to him within three months from today on the analogy of the judgment referred-to-above.

15. The petition is disposed of in the aforesaid terms, so also the pending applications, if any.

6<sup>th</sup> May, 2026  
(naveen)

( **Jiya Lal Bhardwaj** )  
**Judge**