

**HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT**

NO.PWE-95-3-75(Gen-Cir)-34/ES-I-

7899-8019

Dated: 29/8/2022

From:

Engineer-in-Chief,
HP.PWD, Shimla-2.

To

The Engineer-in-Chief (Project),
The Architect-in-Chief, HPPWD., Mandi.
The Chief Architect, HP.PWD Shimla.
All the Chief Engineers in HP.PWD.
All the Superintending Engineers in HP.PWD.
All the Executive Engineers in HP.PWD.
All the LAOs in HP.PWD.

Subject:-

‘Compassionate Employment’ – Clarification on already rejected case(s).

I am directed to enclose herewith a copy of Office memorandum No. Fin-F-(A)-16-1/2013-1 dated 22.08.25022 received from the Special Secretary (Finance) to the Govt. of Himachal Pradesh on the subject cited above for strict compliance of these directions as envisaged in the said letter.

Encl:- As above.

*FR. Shalin
EE(IT) 2018*

Copy to the Executive Engineer (ICT Wing) HP.PWD Shimla-2 with direction to upload this letter a/w Govt. Notification dated 22.08.2022 on the official website of the Department.

Copy to the Superintendent Gr.-I ES-III and EA-I, EA-IV in ES-I for strict compliance of these directions as envisaged in the aforesaid letter.

Encl:- As above.

(Lobzang Namgyal)
Registrar,
HP.PWD., Shimla-2.

LMN
(Lobzang Namgyal)
Registrar,
HP.PWD., Shimla-2.

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Government of Himachal Pradesh
Finance Department
(Expenditure Control - II)

No. Fin-F-(A)-16-1/2013-I Dated: Shimla - 171 002, the 22.08.2022

OFFICE MEMORANDUM

Subject:- 'Compassionate Employment' - Clarification on already rejected case(s).

1. This Department is in receipt of some proposal(s) from Departments seeking clarification whether the compassionate employment case(s) already rejected on the basis of high income or some other reason(s) at a particular time of their consideration can be re-considered/reviewed.

2. Attention of the Departments is invited to Para-17 (f) of the Policy dated 07.03.2019 which reads as under:-

"The Supreme Court in its judgment dated 05.04.2011 in Civil Appeal No. 2206 of 2006 filed by Local Administration Department vs. M. Selvanayagam @ Kumaravelu has observed that "an appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependents as a result of his death , simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Articles 14 & 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind".

Further, the Para-17 (g) of the policy dated 07.03.2019 also refers to the Apex Court Judgment in Civil Appeal No. 988 of 2019 (Arising out of SLP (C) No. 7079 of 2016) titled State of Himachal Pradesh & Anr. versus Shashi Kumar.

In this case of Shashi Kumar Vs. State of H.P. the Apex Court had observed as under:-

"We see no reason or purpose in now directing the State to reconsider its decision in the case of the respondent which would only result in another round of fruitless litigation. In our view, the respondent is debarred from seeking compassionate appointment by the delay as well as by the lapse of time which has taken place."

Since this particular case stands decided as per the Rules prevalent at that particular time, such persons may not be considered under the policy, and re-considering the appointment afresh would be in conflict with Articles 14 & 16 of the Constitution and the principles of merit in appointment to public services.

Further, as per the Supreme Court decision in the case of State of HP Vs. Sanjay Kumar SLP No. 1709/2015 eligibility of a candidate for compassionate appointment must be considered with regard to the income limits fixed at the time of such consideration and not on the date on which the application is made. The income criterion is enhanced prospectively unless provided otherwise.

3. In view of the aforesaid Supreme Court ruling(s), the Departments may, take a decision at their level keeping in view the income criteria at the time when the indigency was determined and if a case is already decided/rejected, it may not be appropriate to consider the case afresh.

4. This instruction may be brought to the notice of all concerned for information and compliance.

5. This Office Memorandum/instruction may also be seen on www.himachal.nic.in/finance under the link "Expenditure."

[PRABODH SAXENA, IAS],
Additional Chief Secretary (Finance) to the
Government of Himachal Pradesh, SHIMLA - 2.

To

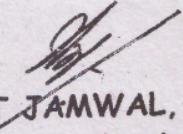
All the Administrative Secretaries to the
Government of Himachal Pradesh, SHIMLA - 2.

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Endst. No. Fin-F-(A)-(16)-1/2013 Dated:

22.08.2022

1. The Secretary to Governor, H.P., Shimla -2.
2. The Divisional Commissioner(s), Shimla/Kangra/Mandi.
3. The Secretary, H. P. Vidhan Sabha, Shimla - 4.
4. All Heads of Departments in Himachal Pradesh.
5. The Secretary, H. P. Public Service Commission, Shimla -2.
6. The Secretary, H. P. Staff Selection Commissin, Hamirpur.
7. The Registrar General, H. P. High Court, Shimla.
8. The Secretaries/Chairman/Managing Directors/Registrar of the Public Sector Undertakings/Autonomous Bodies and Boards/Corporations etc. in Himachal Pradesh.
9. 100 Spare Copies.


[ROHIT JAMWAL, IAS]
Special Secretary (Finance) to the
Government of Himachal Pradesh, SHIMLA - 2.