

HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT

MEMORANDUM

The department upon the approval of government initiated the process for selection for filling up of 125 Nos. post of Junior Draughtsman on contract basis in accordance with R&P Rules. Accordingly 62 Nos. of posts as per sanction and provision of R&P Rules were to be filled through batch-wise as well as through Ex-men Cell.

The committee convened interview from 03.07.2014, 04.07.2014 and 05.07.2014 and accordingly selected the candidates i.e. General-27 Nos., General IRDP-3 Nos., Schedule Caste-13 Nos., Schedule Tribe- 1 No. and Other Backward Class-7 Nos., total-51 Nos. The selection process was completed on 21.07.2014 and appointment orders were issued on the same date, but against such selection following court cases were received by the department: -

Sr.No.	CWP No.	Title
1	5134/2014	Labh Singh Vs State
2	5220/2014	Gurbachan Singh Vs State
3	6045/2014	Sunita Devi Vs State
4	5806/2014	Tuley Ram Vs State
5	5807/2014	Chaman LalVs State
6	7640/2014	Bhagi Rath ChauhanVs State
7	7764/2014	Hansa Devi Vs State
8	7867/2014	Bhagi RathVs State
9	8532/2014	Rita Devi Vs State
10	TA No. 1795/2015	Suresh Kumar Vs state of HP and others

Accordingly when large number of court cases received and it also found that by way of misstatements of facts as conveyed by Employment Exchange few incumbents have also been able to obtain selection/ appointment wrongly. Accordingly in CWP No.7867/2014 titled as Bhagi Rath Vs state of HP decided on 29.10.2014 and following decision has been passed: -

The petitioner belongs to a Scheduled Castes category. He also belongs to a Below Poverty Line (BPL) family. He got his name registered with Sub Employment Exchange, Bhoranj, distt. Hamirpur vide annexure P-2. Respondents No.1 and 2 advertised 125 posts of Junior Draughtsman (Civil) to be filled upon contract basis on 17.06.2013. The petitioner was fully eligible and qualified. The petitioner's name was not sponsored by respondent No.3 and persons junior in batch i.e. respondents No.4 and 5 were appointed as Junior Draughtsman(Civil).

2. Respondent No.3 informed the Superintending Engineer vide request annexure P-3 dated 28.07.2014 that the name of the petitioner could not be sponsored inadvertently. The particulars of the petitioner were supplied to his with a request to consider his case for the post of Junior Draughtsman (Civil).

3. The non-sponsoring the name of the petitioner by respondent No. 3, in time, to respondent No. 1 and 2 for the post of Junior Draughtsman (Civil) has resulted in gave miscarriage of justice. The ground taken for not sponsoring the name of the petitioner in time is too flimsy. Though, the name of the petitioner has been sponsored on 28.07.2014, but belatedly. The petitioner has been deprived of his right to be considered for appointment as Junior Draughtsman (Civil) on batch wise basis. He belongs to 1987 batch. It violates Articles 14 and 16 of the Constitution of India.

4. Accordingly, the writ petition is allowed. The respondents are directed to appoint the petitioner as Junior Draughtsman (Civil) from the date persons junior in batch to the petitioner have been appointed, within a period of eight weeks, with all consequential benefits on the basis of Annexure P-3 dated 28.07.2014. It is made clear that if all the posts are filled up, one supernumerary posts be created for the petitioner belonging to SC/BPL families. Pending applications, if any, are also disposed of.

And in CWP No. 5220/2014 titled as Gurbachan Singh Vs State of HP, CMP was filed before the Hon'ble High Court of Himachal Pradesh by the department, seeking its permission to permit for redrawing the merit of the said batch-wise selection by reviewing earlier merit. Accordingly this CMP was allowed with orders as under:-

"CMP on behalf of the state for seeking permission to reconsider selection of candidates for the post of Junior Draughtsman has been allowed with the direction to consider the case in six weeks."

Based upon the above direction passed by Hon'ble High Court of Himachal Pradesh the committee members met on 15.12.2014 and reviewed the earlier merit/ selection list. Similarly the candidates who have now been found fit for selection, but earlier not selected viz-a-viz name of candidates with category are as under:-

Sr. No.	Name	Date of birth	Batch year	Category	Remarks
1	Kamlesh Kumar Sharma S/o Shri Tek Ram	01.03.1969	1986-88	General	-
2	Gurbachan Singh S/o Shri Sant Ram	19.10.1969	1986-88	General	-
3	Vijay Kumari W/o Shri Shiv Lal	02.07.1970	1986-88	General	-
4	Bhagi Rath S/o Mansa Ram	01.02.1967	1985-87	SC	On the orders of Hon'ble High court in CWP No.7867/2014
5	Rup Chand S/o Shankar	01.03.1966	1985-87 but compartment cleared in Feb. 1988	SC	

In the mean time an another CWP No. 9621/2014 titles as Suresh Kumar Vs state of HP and others has been filed in Hon'ble High Court of Himachal Pradesh which was listed on 23.12.2014 and the process of new appointment has been stayed. Later on above case was transferred to Hon'ble HPAT and listed on 21.08.2015 the same was disposed of with the following orders:

On establishment of the Himachal Pradesh Administrative Tribunal, this matter has been received from the Hon'ble High Court of Himachal Pradesh by transfer, vide order dated 10.03.2015. It be registered.

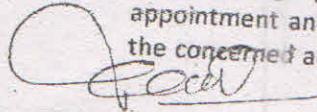
2. Respondents No.1 and 2 are yet to enter upon replies. Fresh notices to private respondents No.3 to 7 after receipt of the writ petition (now transferred application) from the Hon'ble High Court by transfer, are also yet to be issued. However, with the consent of the appearing parties, the transferred application which has been files on the following substantive prayers (i), (ii) and (iii), is taken up for disposal at this very stage:-

"i. That the respondents No.1 and 2 may kindly be directed to offer appointment to the petitioner to the post of Junior Draughtsman (Civil) in the Public Works Department of Himachal Pradesh immediately with further direction to consider him appointed from 21.07.2014, i.e. from the date of appointment of candidates lower in merit for all intents and purposes with all consequential benefits including seniority and financial benefits AND

ii. That omissions and commissions on the part of the respondents No.1 and 2 by not offering of appointment to the petitioner and offering appointment to the one of the respondents No.3 to 7 ignoring the petitioner whoever to be considered at last in select list to replace the petitioner by declared wrong, null and void and the same may kindly be quashed and set aside being illegal, unreasonable, irrational, arbitrary, malafide and unconstitutional being violative of provisions of the Constitution AND

iii. That the Respondent No.1 and 2 may also be directed to pay remuneration from the date of payment of the same to other appointees with interest @ 9% from the date of accrual till full and final payment of the same AND."

3. The precise grievance raised by the applicant who belongs to a scheduled caste, is that though in the process for recruitment to the post of Junior Draughtsman (Civil) on batch-wise basis, he has secured more marks than the candidates belonging to his category as well as general category, yet candidates securing less marks have been offered appointment and he has been ignored for the reasons best known to the concerned authorities. It is also stated that the applicant is elder in



age to some of the selected candidates in the open/reserved categories of the batch in question.

4. In the facts and circumstances and interest of justice, the original application is disposed of with the stipulation that subject to the applicant making a detailed representation, supported by documents along-with certified copy of this order, highlighting the above aspects, to respondent No.2, the Engineer-in-Chief, Public Works Department, Himachal Pradesh, within a week from today, who shall consider and decide the same in accordance with law, by 30th September, 2015, after affording an opportunity if being heard to the applicant as well as private respondents No.3 to 7 or any other person likely to be affected by such exercise.

5. The transferred application stands disposed of in the above terms.

Accordingly all the private respondents and petitioner were summoned for personal hearing. The hearing was scheduled for 19.09.2015 in the chamber of Engineer-in-Chief, HPPWD Shimla. On the date fixed, he appeared in person and made oral statement as well as in writing also. In his statement he requested that he belongs to Scheduled Caste IRDP family and also unemployment. He has done is Draughtsman-ship Diploma in the years 1986-88 and he may be given appointed from 22.07.2014.

It is true that Shri Suresh Kumar has done his diploma from Haridwar in the year 1986-1988. During the course of Interview he has not submitted his IRDP certificate. Now, he has submitted his IRDP certificate which was issued by Panchayat- Kanaid, Development Block Sundernagar, Distt.-Mandi on 18.09.2015, wherein the interview for the same has been completed in July 2014. Some posts for of Junior Draughtsman are lying vacant due to non-availability of eligible candidate against this vacancy/ post he can be appointed from the date of appointment of other candidates. The total 51 posts were filled in against the total 62 Nos. batch-wise notified vacancies. The total 6 persons are required to be appointed against various orders of various Courts of Law.

Sr. No	Name	Date of birth	Batch year	Category
1	Kamlesh Kumar Sharma S/o Sh. Tek Ram	01.03.1969	1986-88	Gen.
2	Gurbachan Singh S/o Shri Sant Ram	19.10.1969	1986-88	Gen.
3	Vijay Kumari W/o Shri Shiv Lal	02.07.1970	1986-88	Gen.
4	Bhagi Rath S/o Mansa Ram	01.02.1967	1985-87	SC
5	Rup Chand S/o Shankar	01.03.1966	1985-87 but compartment cleared in Feb.1988	SC
6	Suresh Kumar, S/o Tulsi Ram	05.03.1967	1986-88	SC

Exccel

Now therefore, in compliance to Hon'ble High Court of Himachal Pradesh judgment delivered in CWP No.7867/2014, CMP No. 5220/2014 titled as Gurbachan Singh Vs State of HP and TA No. 1795/2015 of Hon'ble HPAT and the committee members met on 15.12.2014 and reviewed the earlier merit/ selection list, the following candidates are hereby offered a purely temporary post of Junior Draughtsman on contract basis on consolidated monthly emoluments i.e. initial start of the pay scale i.e. Rs.5910-20200+grade pay 2400 Per month with posting as mentioned below against each:-

Sr. No.	Name & Father/ Husband name	Permanent Home address	Place of posting	Name of emp. exchange
1	2	3	4	5
1	Kamlesh Kumar Sharma S/o Sh. Tek Ram	Vill. Sares ,PO Kaagoo Teh Sunder Nagar Distt Mandi (HP)	Dodra-Kawar Divn.	Sundernagar
2	Gurbachan Singh S/o Shri Sant Ram	Vill.-Berimian, PO-Gherwin, Tehsil-Jhandutta, distt.- Bilaspur-174034	Killar Division	Ghamarwin
3	Vijay Kumari W/o Shri Shiv Lal	Vill.-Ganyora P.O. Baggi Tehsil & Distt. Mandi	Chopal Division	Mandi
4	Bhagi Rath S/o Mansa Ram	R/o V&PO- Awahdevi, Tehsil- Bhoranj, Distt.-Hamirpur	Kalpa Division	Bhoranj
5	Rup Chand S/o Shankar	Vill.-Rugrian PO Brikhmani Distt Mandi	Kaza Division	Sundernagar
6	Suresh Kumar, S/o Tulsi Ram	Vill.-Rakar, PO-Kanaid, Teshil- Sundernagar, Distt.-Mandi	Rohru Division	Sundernagar

In view of above, these speaking orders be not treated as a precedent.

The above appointments have been ordered notionally w.e.f. 01.08.2014 when other 51 candidates were issued appointment order by this office and on actual basis from the date of physical joining subject to the following terms and conditions: - The appointment shall be on contract basis initially for a period of one year from the date of joining the post, but contract can be reviewed thereafter on yearly basis which will stand terminated automatically at the end of contractual period without notice.

1. His/her appointment is on contract basis and he/she will be paid consolidated contractual amount i.e. Rs.8310/- (BP-Rs.5910/-+Rs.2400/-grade pay) per month.
2. No travelling allowance will be paid to him/her for joining the post.
3. He/she shall not claim any right for the regularization in service at any time in future.
4. The appointment shall further be subject to terms and conditions of attached agreement and surety Bond for Rs. 10,000/- on Non-judicial paper of Rs.3/- and Rs. 15/- respectively which are to be executed before the Executive Magistrate before acceptance of joining report.
5. He/she will be entitled for one day casual leave after putting one month service. This leave can be accumulated up to one year, In addition to this other leave(s) shall be granted in accordance with instructions issued by govt. from time to time. He/she shall not be entitled for medical reimbursement and LTC etc.
6. The appointment may be terminated at any time or on one month notice given by either side, viz, the appointment or the appointing authority. However, the appointing authority reserves the rights of terminating the services of the appointee forthwith or before expiry of the

stipulated period of notice by making payment of a sum equivalent to the pay and allowances for the period of notice of the unexpired period thereof.

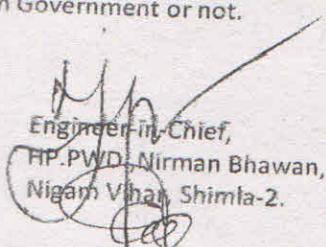
7. He/she will produce medical certificate of fitness signed by the Chief Medical officer indicating specifically whether he/she is suffering from any communicable disease or not.
8. If he/she has worked anywhere in any capacity, he should bring a clearance certificate from the authorities concerned before he can be permitted to take up the appointment in the department.
9. He/she should produce a certificate of approved character from 1st Class Magistrate or from two Gazetted Officers known to him at least for the last three years.
10. He/she will have to serve at any place where Himachal Pradesh Public Works Department has its Administrative units.
11. He/she should produce original certificates of educational qualification/ technical education i.e. Matric/ Higher Secondary/ 10+2 /Diploma in Draughtsmanship (Civil) etc. age proof/ SC/ST/ Backward class/ freedom fighter and I.R.D.P. certificates issued by competent authority.
12. Original certificates and testimonials in support of his qualification, experience should also be produced at the time of joining the department.
13. He/she will be required to take oath/ affirm in the following lines:-

"I do swear and solemnly affirm that I shall be faithful and bear true allegiance to India and to the constitution of India as be law established and that I will carry out the duties of office loyally, honestly and with impartiality, so help me God".

14. He/she will have to give a declaration that he has got only one living spouse and that he/she shall take prior permission of the Government before keeping more than one spouse in accordance with provision of Central Civil Services (Conduct) Rules-1964.
15. He/she should produce a certificate duly attested by the Magistrate 1st class to the effect that he is a bona fide resident of Himachal Pradesh, before he/she can be permitted to join the appointment in the department.
16. In case any declaration given for information furnished by the candidate proved to be false/ incorrect or if the candidate is found to have wilfully suppressed any material information, he/she will be liable to be removed from service and for such other action as the government may deem necessary.
17. He/she will be subject to the condition of services applicable to temporary civil Government servant and Central Civil Services (Conduct) Rules-1964 as applicable to Himachal Pradesh Government employees.
18. These orders can be withdrawn without notice on administrative grounds.

If he/she is willing to accept the offer on the terms and conditions as mentioned above, he/she should report to the station/place of posting but not later than 15 days issuance of this order failing which the appointment orders shall be deemed to be withdrawn automatically. No specific orders with reference to withdrawal of appointment will be issued separately. His/her joining will be accepted after satisfying all above mentioned conditions and diploma of Draughtsmanship may be verified whether it is affiliated from Government or not.

Engineer-in-Chief,
HP.PWD, Nirman Bhawan,
Nigam Vihar, Shimla-2.



No.PWE-119-1-JDM-contract./ESI- 14218-58

Dated: - 8 - 2 - 2016

Copy is forwarded to the following:-

1. The Registrar, Hon'ble High Court of Himachal Pradesh Shimla-1.
2. The Registrar, Hon'ble Himachal Pradesh Administrative Tribunal, HP Shimla-2.
3. All the concerned Chief Engineers, in HPPWD.
4. All the concerned Superintending Engineer, in HPPWD.
5. All the concerned Executive Engineers, in HPPWD.
6. All the concerned Employment Exchange, mentioned in Column No.5.
7. All individual concerned (Regd.).
8. The Supdt. Cash /CR Cell in this office.
9. Guard file/Seniority file

Amogji
Registrar,
HP.PWD, Nirman Bhawan,
Nigam Vihar, Shimla-2.
QW